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FUTURE OF HONG KONG - ADVANCE COPIES 13

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TO IMMEDIATE F C O

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INFO IMMEDIATE PEKING

FUTURE OF HONG KONG : MAIN NEGOTIATIONS : THE END GAME.

1. I THINK THE TIME HAS COME FOR US TO TAKE STOCK AND CONSIDER WHAT WE CAN NOW REASONABLY EXPECT TO ACHIEVE IN THE FINAL AGREEMENT ; AND HOW WE CAN BEST ACHIEVE IT.

2. WHAT WE HAVE BEEN ABLE TO OBTAIN IN THE NEGOTIATIONS IN THE TWO GROUPS IN PEKING SINCE THEY RESUMED IN THE MIDDLE OF AUGUST HAS BEEN DISAPPOINTING. THIS IS NOT THE FAULT OF OUR NEGOTIATORS WHO HAVE BATTLED MANFULLY. THE CAUSE HAS BEEN THE INTRANSIGENCE OF THE CHINESE. NEVERTHELESS WHEN THE RESULTS ARE REVEALED, THE REACTION IN HONG KONG TO THE AGREEMENT AS A WHOLE IS LIKELY TO BE MORE GUARDED AND LESS ENTHUSIASTIC THAN IT WAS TO THE SECRETARY OF STATE'S ANNOUNCEMENT AT THE BEGINNING OF AUGUST.

3. AS REGARDS THE MAIN SUBJECTS NOW UNDER DISCUSSION IT LOOKS AS IF WE MAY BE ABLE TO ACHIEVE A REASONABLE SETTLEMENT ON THE LAND ISSUE, PROVIDING THE CHINESE CONFIRM THEIR RECOGNITION OF EXISTING RIGHTS, THE ARRANGEMENTS FOR THE RENEWAL OF NEW TERRITORIES AND OTHER LEASES, ETC. THE PRICE WE SHALL HAVE TO PAY IN THE ESTABLISHMENT OF THE LAND COMMISSION AND DIVISION OF PREMIA SHOULD BE TOLERABLE.

4. CIVIL AVIATION IS STILL SOMETHING OF AN UNKNOWN QUANTITY. MUCH DEPENDS ON WHETHER THE OTHER CHINESE DEPARTMENTS ARE PREPARED TO REDUCE THE AMITIONS OF CAAC. THE KEY IS WHETHER

4. CIVIL AVIATION IS STILL SOMETHING OF AN UNKNOWN QUANTITY. MUCH DEPENDS ON WHETHER THE OTHER CHINESE DEPARTMENTS ARE PREPARED TO REDUCE THE AMBITIONS OF CAAC. THE KEY IS WHETHER THE CHINESE WILL CONCEDE ENOUGH TO PERSUADE THE CPA THAT THEY HAVE A FUTURE HERE. BUT THE PROBLEM IS NOT ONLY THE FUTURE OF THE AIRLINE; IT IS THE SYMBOLIC SIGNIFICANCE WHICH THE DECISIONS IN THIS AREA WILL HAVE. IF SWIRE'S DECIDE THEY HAVE TO LOOK FOR A FUTURE ELSEWHERE THAT WOULD BE A HEAVY BLOW TO BUSINESS CONFIDENCE.

5. SO MUCH FOR THE ECONOMIC ISSUES. FOR LARGE NUMBERS IN THE COMMUNITY THE OUTCOME ON NATIONALITY WILL LOOM LARGE. ALTHOUGH IT MAY BE OF LITTLE PRACTICAL INTEREST TO THE MAJORITY OF THE POPULATION, WHAT EMERGES WILL HAVE A POWERFUL INFLUENCE ON THE PROFESSIONAL MIDDLE CLASS WHO ARE BOTH ARTICULATE AND A KEY ELEMENT IN HONG KONG'S ECONOMY. THE LOSS OF TRANSMISSIBILITY - I.E. THE FACT THAT ANY CHILDREN BORN AFTER 1997 WILL BE ONLY CHINESE NATIONALS IF THEY ARE BORN IN HONG KONG, WILL ENCOURAGE A NUMBER OF THEM TO LEAVE ANY WAY IN ORDER TO SEEK SOME OTHER FORM OF NATIONALITY FOR THEIR OFF-SPRING. THOSE WHO DO STAY WILL BE VITALLY CONCERNED ABOUT THEIR ABILITY TO TRAVEL FREELY ON BRITISH PASSPORTS. THEY WILL NOT ACCEPT ANY FUDGING OF THAT RIGHT; AND WHAT HAPPENS ON THIS ISSUE WILL BE TAKEN AS A MEASURE BOTH OF HMG'S COMMITMENT AND OF THE WEIGHT WHICH HMG HAVE PUT BEHIND THEIR NEGOTIATING EFFORT. IF THEREFORE TRANSMISSIBILITY IS TO BE CONCEDED, AT THE COST I HAVE SET OUT, IT MUST ONLY BE IN RETURN FOR SPECIFIC ACCEPTANCE BY THE CHINESE OF THE RIGHT OF THESE PEOPLE TO TRAVEL ON BRITISH PASSPORTS AND TO CONTINUE TO OBTAIN THEM AFTER 1997. REFERENCE TO "TRAVEL DOCUMENTS" WILL NOT DO.

6. ON CONSTITUTIONAL MATTERS IT IS ALREADY OUR AGREED OBJECTIVE TO ALLOW NOTHING TO APPEAR IN THE CONSTITUTIONAL ANNEX WHICH RULES OUT AN ELECTED CHIEF EXECUTIVE BOTH BEFORE AND AFTER 1997, AND TO SPECIFY THAT THERE WILL BE AN ELECTED LEGISLATURE. WE OUGHT ALSO TO AIM TO HAVE IT RECORDED THAT THE EXECUTIVE WILL BE ACCOUNTABLE TO THE LEGISLATURE. BEYOND THESE MAJOR POINTS THERE WILL BE NOTHING VERY SPECIFIC IN THE AGREEMENT ABOUT HOW THE GOVERNMENT AFTER 1997 WILL BE CONSTITUTED, SAVE THAT IT WILL BE UNDER THE DIRECT AUTHORITY OF THE CPG. IT CAN BE REASONABLY EXPLAINED THAT, AS THE GREEN PAPER SHOWS, WE ON OUR SIDE ACCEPT THAT THE CONSTITUTIONAL STRUCTURE HERE MUST CHANGE WITH THE TIMES. EVEN SO THE LACK OF CERTAINTY AND PRECISION AS TO THE CHANGES TO COME WILL WORRY PEOPLE. THIS ELEMENT OF UNCERTAINTY AND ANXIETY WILL THEN REMAIN UNTIL THE PUBLICATION OF THE BASIC LAW OVER WHICH THEY SEE THE U.K. AS HAVING LITTLE INFLUENCE.

7. TO THIS MUST BE ADDED THE FAILURE OF THE PUBLIC SERVICE ANNEX TO SPECIFY THE CONTINUATION OF SOME ASPECTS OF THE CIVIL SERVICE SYSTEM TO WHICH THE SERVICE WILL ATTACH IMPORTANCE. THE CONCERN OF THE PUBLIC SERVICE ON THIS WILL CARRY MORE WIDELY INTO THE COMMUNITY.

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9. THE END-GAME HAS THEREFORE BECOME VITALLY IMPORTANT. BEFORE THE WORKING GROUP AND THE AD HOC GROUP GET MUCH FURTHER INTO THEIR DISCUSSIONS WE OUGHT TO DECIDE WHICH ISSUES REMAIN OF KEY IMPORTANCE TO US; AND IN MY VIEW THESE SHOULD BE THE SUBJECT OF A MESSAGE FROM THE SECRETARY OF STATE TO THE CHINESE FOREIGN MINISTER TO BE DELIVERED IN THE SECOND HALF OF THIS WEEK. SUBJECT TO THE AMBASSADOR'S VIEWS I WOULD SEE IT AS ESSENTIAL THAT IT SHOULD BE DELIVERED DIRECT TO WU XUEQIAN. IT SHOULD NOT BE FILTERED THROUGH THE UNHELPFUL ZHOU NAN.

10. THE MESSAGE COULD COVER THE ISSUES WHICH I HAVE REFERRED TO ABOVE. UNLESS THE CHINESE HAD ALREADY ACCEPTED SATISFACTORY REFERENCES TO THE USE OF BRITISH PASSPORTS IN THE ANNEX AND OUR MEMORANDUM, WE WOULD NOT CONCEDE TRANSMISSIBILITY IN THE AD HOC GROUP. ANY BARGAIN WOULD BE OFFERED ONLY IN THE SECRETARY OF STATE'S MESSAGE. THE SAME APPLIES TO OUR KEY REQUIREMENTS ON CONSTITUTIONAL ISSUES. THE MESSAGE MIGHT ALSO URGE ON WU THAT THE WAY IN WHICH THE CHINESE TREAT CPA WILL BE TAKEN AS A TEST OF THE REAL INTENTIONS OF THE CHINESE TOWARDS FOREIGN INVESTMENT IN HONG KONG.

11. TO GIVE WEIGHT TO THE PROPOSALS COVERED IN THE MESSAGE THE SECRETARY OF STATE MIGHT WISH TO OFFER TO VISIT PEKING AGAIN PERSONALLY IF WU SAW DIFFICULTY WITH WHAT HE PROPOSED.

12. DEPENDING ON PROGRESS IN THE FIRST HALF OF THE WEEK THERE MAY BE ADDITIONAL ISSUES TO BE COVERED, E.G. CONFIRMATION OF THE RIGHT OF THE SAR TO RECRUIT JUDGES FROM OTHER COMMON LAW JURISDICTIONS.

13. I RECOMMEND THIS COURSE BECAUSE IN MY JUDGMENT IF WE DO NOT SUCCEED IN OBTAINING MOST OF WHAT WE WANT, PARTICULARLY ON NATIONALITY AND CONSTITUTIONAL MATTERS IT WILL SUBSTANTIALLY REDUCE THE DEGREE OF ACCEPTABILITY OF THE AGREEMENT IN HONG KONG.

14. IF YOU AGREE WITH THIS APPROACH NO DOUBT AN APPROPRIATE TEXT COULD BE DISCUSSED WHEN I ARRIVE IN PEKING TOMORROW. I ALSO PROPOSE TO GO OVER THE OUTSTANDING ISSUES WITH EXCO TOMORROW.

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