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PRIVY COUNCIL OFFICE

WHITEHALL, LONDON SW1A 2AT

10 September 1984

Dear Geoffrey

requested

Reflects outcome of OD(K). NBPM

CJP 10/9

FUTURE OF HONG KONG

Thank you for your minute of 28 August which we discussed in OD(K) on 4 September.

There are it would seem to me, two issues on which we must now decide, the content and the timing of the Hong Kong Bill. The timing is not wholly within our control, and, as the two are interrelated, it is not possible to take final decisions on either until we have agreement with the Chinese about the date of ratification. I cannot, however, stress too strongly the need for work on legislation to proceed as quickly as possible, if necessary on a contingency basis. We must be ready to introduce it soon after Parliament has debated the White Paper.

What I suggest, therefore, is that work should go ahead rapidly on the following basis.

- a. There will be legislation on Hong Kong in the next Session.
- b. The date when Royal Assent is required will depend on negotiations with the Chinese about the date of ratification. As Business Managers, the Lord Privy Seal and I require the maximum possible time for the passage of the Bill, bearing in mind that it cannot be introduced until January. Our negotiators should therefore press for ratification in July. However, if this cannot be achieved and it is necessary to give Hong Kong legislation enhanced priority, this can be done within limits, provided that the adverse consequential effects on the legislative programme are recognized.
- c. The content of next Session's Bill can only be finalised when the timing is clear. In the meantime it is essential to decide:
 - i. what legislative changes would be absolutely necessary to enable us to ratify the agreement with the Chinese;

The Rt Hon Sir Geoffrey Howe QC MP

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- ii. what other changes in UK law will be necessary in order to implement the agreement, together with an indication of the timescale for their introduction.
- d. We also need to know to what extent the changes in c.ii. could be effected by enabling legislation, followed by secondary legislation dealing with the detail.

When this information is available, I suggest that you should present it to QL - I hope no later than early October - so that we can decide whether the obvious disadvantages for next Session of doing more than the minimum can be balanced by other advantages. We will then be able to consider the effect of the required timescale, including on other legislation, whether a separate Bill dealing with non-ratification issues could be contemplated in the same Session or whether all other legislation but the bare minimum must be postponed until later Sessions.

The Lord Privy Seal shares my view and this reply may be regarded as his reply to your minute to him.

I am sending copies of this letter to the Prime Minister, the members of QL and of OD(K) and to Sir Robert Armstrong.

James
Little

- 9 SEP 1984





FCS/84/230

LORD PRIVY SEAL

Future of Hong Kong

1. The talks with the Chinese are, as you know, progressing well and we hope to be in a position to initial a draft agreement before the end of September.
2. If we are successful, we shall need legislation on a future transfer of sovereignty before we can ratify and I have written separately to Willie Whitelaw about this.
3. The immediate problem is that we need to agree with the Chinese a date for ratification of the agreement, which will be included in the Joint Declaration. The Chinese originally insist that this should be within 30 days of sovereignty, which, as you know, we have agreed should take place before the end of the year. We have told the Chinese that ratification will require legislation in the British Parliament, and will take months rather than days. Since the Chinese wish to complete work soon on the draft agreement, we need to form a view quickly on the timetable for putting a Hong Kong Bill through both Houses.
4. My considered view is that July 1985 is the latest date at which ratification would be acceptable to the Chinese. I have written to Willie Whitelaw about the exact timetable of a Hong Kong Bill, but I should be grateful for your confirmation that the pressure of business in the House will not preclude us from putting a Hong Kong bill through all its stages by the end of June. My best guess at present is that the bill will not be controversial, though it is likely to attract considerable interest.



5. We have in mind a short bill dealing with the termination of British sovereignty over Hong Kong as from 1 July 1997. We hope that any other matters, consequent on the agreement can be left until later. We cannot be sure exactly what form the bill will take before the agreement and its annexes have been finalised at the end of September, but a paper on this matter will be prepared for OD(K) and QL.

6. I am copying this minute to Sir Michael Havers and Sir Robert Armstrong.

A handwritten signature in dark ink, appearing to be 'G. Howe', written in a cursive style.

(GEOFFREY HOWE)

Foreign and Commonwealth Office
28 August 1984

bc: Sir R Engle
Parliamentary Counsel



FCS/84/229

LORD PRESIDENT OF THE COUNCIL

Future of Hong Kong: Legislation

1. You will remember that we have spoken briefly about the possible need for legislation on Hong Kong in the legislative programme for 1984-85.
2. We are now working for an initialled agreement with the Chinese by the end of September. This will be followed by a period of assessment of the acceptability of the agreement to the people of Hong Kong and a debate in the House of Commons, probably early in December. We have undertaken to sign the agreement before the end of the year.
3. One of the factors in the negotiation is the date of ratification of the agreement. The Chinese attach considerable importance to early ratification, and originally proposed that the agreement should stipulate that the exchange of instruments of ratification should take place within 30 days of signature. We have explained to them that ratification can only follow legislation in the British Parliament to allow the United Kingdom to divest itself of sovereignty. The Chinese appear to accept this, but insist that we should include within the Agreement (to be called a Joint Declaration) a date for ratification. Since the Chinese want to complete work on the draft agreement by 10 September, we need to reach a view quickly on the timetable for completing the passage of a Hong Kong Bill. Early ratification is also important from our own point of view to put an end to uncertainty in Hong Kong.
4. In all the circumstances my considered view is that July 1985 is the latest date which we could reasonably put to the Chinese for ratification. Even this will not be easy for them.

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It is clear that they attach considerable importance to this point and a row about it could well make the conclusion of the agreement more difficult. But before we do agree to insert the date of July 1985 into the Joint Declaration, we will need your agreement that the necessary legislation can be completed by the end of June 1985.

5. We have in mind a short bill, essentially dealing with the termination of British sovereignty over Hong Kong as from 1 July 1997. We shall try to avoid the necessity for it to deal with other matters, such as nationality, which might complicate its passage, and are in my view better left until the dust settles at a later date. We cannot however be absolutely certain which aspects the bill will need to cover until we complete negotiations at the end of September.

6. Subject to your agreement, I assume that we would need to prepare a paper for the Queen's Speeches and Future Legislation Committee setting out the position, with a view to giving instructions to Parliamentary Counsel shortly after the initialling of the agreement in September.

7. I hope that you will be able to agree that it would be possible to include a Hong Kong Bill in the legislative programme 1984/85, and to put it through all the necessary stages by the end of June 1985. I am writing separately to the Leader of the House on this subject.



8. I am copying this minute to the Attorney General and to Sir Robert Armstrong.

A handwritten signature in dark ink, appearing to be 'G. Howe', written in a cursive style.

GEOFFREY HOWE

Foreign and Commonwealth Office

28 August 1984

bc: Sir R Engle
Parliamentary Counsel