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Foreign and Commonwealth Office

London SW1A 2AH

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6 October 1983

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Dear John,
Hong Kong

In preparation for the Prime Minister's meeting this afternoon, I enclose:

- (a) a draft telegram of instructions to Sir P Cradock;
- (b) an outline of points which would need to be covered in negotiating a system of assurances for Hong Kong.

The second paper is not necessarily an exhaustive list. We have not been authorised to discuss the negotiations with other Whitehall departments. We would need to do this in order to ensure that every area had been covered in detail before any paper was handed over to the Chinese. Otherwise there would be a risk that important points might go by default. But the note does list the main areas of concern and could be used for discussion, initially with EXCO and later with the Chinese.

Yours ever
John Holmes

(J E Holmes)
Private Secretary

A J Coles Esq
10 Downing Street

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DRAFT TELEGRAM

TO IMMEDIATE PEKING
RFI IMMEDIATE HONG KONG

FUTURE OF HONG KONG

1. Following consultation with the Unofficial Members of EXCO, Ministers have now considered the future course of the talks. They have taken particularly into account the serious situation created by the Chinese insistence that continued British administration after 1997 is ~~totally unacceptable~~ and the risk of an early breakdown in the talks with consequent severe damage to the Hong Kong economy and to the well-being of its people.

2. The British Government's aim throughout has been to preserve ~~as far into the future as possible~~ the essential freedoms and commercial and financial vitality of Hong Kong. They continue to see the best interests of Hong Kong people being served by a negotiated settlement, (to the successful implementation of which both Britain and China would be committed.) They recognise that confrontation would bring irretrievable damage in its train.

3. Against this background you should seek an early meeting with Vice Foreign Minister Yao Guang at which you should convey the following message, saying you are speaking on the instructions of the Prime Minister.

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4. The Prime Minister recalls her visit to Peking in September 1982 and the important discussions she then held with Chairman Deng Xiaoping and Premier Zhao Ziyang. At the conclusion of those talks both sides agreed to hold diplomatic discussions on Hong Kong with the object of maintaining its future stability and prosperity. The British Government remain of the view that with statesmanship on both sides an agreement can be achieved that would be in both Chinese and British interests and, most important of all, would continue to assure the well-being of the people of Hong Kong.

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5. In her letter of 10 March to Premier Zhao Ziyang Mrs Thatcher said that, provided agreement could be reached between the British and Chinese Governments on administrative arrangements which would guarantee the future prosperity and stability of Hong Kong and would be acceptable to the British Parliament and to the people of Hong Kong as well as to the Chinese Government, she would be prepared to recommend to Parliament that sovereignty over the whole of Hong Kong should revert to China. In the negotiations so far the British side have made plain their sincere view that a continuation of British administration is the best and surest basis for the continued stability and prosperity of Hong Kong. That view has not changed. However the Chinese Government take a different view. The British Government believe that a confrontation with China would not serve the common aim of maintaining stability and prosperity in Hong Kong and would be in the interests of neither side. The future of Hong Kong can be assured only on the basis of a negotiated settlement.

6. The Chinese Government have in the negotiations so far, in various public statements and in the talks between Foreign Minister Wu and Sir Geoffrey Howe in New York, given some indication of the kind of regime they envisage for Hong Kong after 1997. The British Government is particularly interested in those elements which with adequate safeguards might ensure (a high degree of) autonomy for the Hong Kong people, the preservation of their existing freedoms, economy and lifestyle, a continuing important role for Britain, and a ^{guarantee} provision that these special arrangements for Hong Kong would last for 50 years.

7. In the circumstances, the Prime Minister proposes, in pursuance of her letter of 10 March, and without prejudice to any final agreement that the negotiators on the two sides should discuss what other effective methods might be devised to maintain the stability and prosperity of Hong Kong and should explore further the Chinese ideas. Their purpose would be to see whether Britain and China could together construct on the foundation of the Chinese plan something of lasting value to the people of Hong Kong. If, on this ^{guarantee} basis, arrangements can be agreed that will ensure the maintenance of stability and prosperity in Hong Kong, the British Government will be prepared to recommend to Parliament a bilateral agreement

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enshrining them and to do its utmost to help with the introduction and implementation of such arrangements. Ends.

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HONG KONG: POSSIBLE PATTERN OF FUTURE ADMINISTRATION

Introduction

1. This paper lists the main areas to be covered in a future administration in which the administrative link with London had ceased. It is intended particularly to underline those points on which effective guarantees would be required from China. It is not a legal document or outline constitution, nor is it the complete list of all the points which could feature in an agreement.

Sovereignty

2. Sovereignty would pass to China at 1997. But effective autonomy for Hong Kong would be stipulated in a bilateral UK/China agreement and would be included in legislation by China under Article 31 of the Constitution.

Time Limit

3. A stipulation that the autonomous arrangements would last for at least 50 years should be written into an agreement and into legislation.

Governor/Administrator

4. He should be elected or appointed (eg by LEGCO/EXCO). There should be no nomination or endorsement by the Chinese or British Governments.

Legislation

5. The power to enact new legislation would remain with the Governor/Administrator in Council but the right of disallowance by the Crown would cease. Specific undertakings should be made in the agreement and in any relevant Chinese legislation that the present system of laws, including common law, should continue. An independent Legal Commission would be established to monitor any relevant changes in law, eg in Britain or the Commonwealth and propose corresponding amendments to Hong Kong legislation. The Commission would be composed of legal experts from Hong Kong and the Commonwealth.

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Local Administration

6. The Sino-British agreement and associated legislation would stipulate that the power of administration would rest with the Hong Kong authorities, both for local affairs and for external commercial relations. Explicit undertakings of non-interference would be made by both Britain and China.

Flags

7. The Chinese and British flags would be flown in the buildings of their respective representatives. Elsewhere a new Hong Kong flag would be flown.

Freedoms

8. Explicit provision should be made for freedoms of:

- (a) Speech/correspondence;
- (b) Press;
- (c) Assembly;
- (d) Travel/change of domicile, in and out of Hong Kong;
- (e) Political activity/religion.

These should be specified in a separate Bill of Rights and explicitly mentioned in a bilateral agreement.

Judiciary

9. The existing system of courts would continue. Appeals to the Privy Council would be transferred to the Hong Kong Supreme Court. Judges would be appointed by the Governor/Administrator but with the present constraints on their removal.

Finance and Economic Independence

10. The independence and convertibility of the local currency would be guaranteed. (Its real value would of course depend on the degree of confidence that the economy was truly independent.) The following would need to be specified:

- (a) Independence of Hong Kong's free port system;
- (b) Free flow of capital, specie, foreign exchange in and out of Hong Kong;
- (c) Private ownership of property and industrial investment;
- (d) Undertakings of non-interference by Peking in the Exchange Banks Association and the Exchange Fund Advisory Commission.

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International Economic Relations

11. Maximum autonomy should be specified for the Territory's economic representation abroad and participation in international economic organisations. This would be particularly important in covering commodity agreements.

Defence and Internal Security

12. British forces would be withdrawn. Specific undertakings by China and Britain not to send forces to Hong Kong would be needed. Adequate provision would be necessary for a strong local police force, to avoid giving China any excuse for interference.

Nationality

13. Arrangements would be needed to protect the interests of existing BDTCs in Hong Kong. Those born in Hong Kong after 1997 would be Chinese citizens.

Treaties

14. Treaties already applied to Hong Kong would in principle be continued but a joint UK/China/Hong Kong commission would be set up to examine and recommend on these.

Autonomy and the British role

15. Continued participation by British personnel (as local residents) in Hong Kong Government could assist confidence. Particular jobs to be filled by Britons might be specified, eg Chief Secretary and Attorney General. But the key-note must be Hong Kong's autonomy. We should not insist on any special British position which would give the Chinese Government an excuse to demand a comparable role.

16. This would apply to the position of a "British Commissioner". While a representative would be necessary it would not help HMG or Hong Kong to demand for him eg the right to advise on the appointment of a Governor or on major policy or legislation. This would allow a "Chinese Commissioner" to exercise a similar function.

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International Attitude

17. HMG would have a major role in persuading other Western governments and organisations, including the European Community, to back the new arrangements, both politically and by encouraging investment in Hong Kong. In the field of international trade we could also persuade allies and partners to make clear to China that the continuation of favourable regimes for Hong Kong goods (eg in the MFA) would depend on China abiding by its undertakings of non-interference.

Hong Kong Department

6 October 1983

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