

HONG KONG STUDY

ANNEX O

CROWN LAND LEASES IN THE NEW TERRITORIES

Present Situation

1. The New Territories, which constitute about seven-eighths of the land area of the colony of Hong Kong, are held under an international lease granted by the Convention of 1898 (regarded by the PRC as an 'unequal treaty') which is due to expire on 30 June 1997.

2. The Hong Kong Government has always taken the view that it cannot grant leases of Crown land in the New Territories beyond 30 June 1997. As this date approaches, this inhibition is causing increasing embarrassment since the New Territories are an important area of commercial development.

3. The inhibition rests on three propositions:
 - (a) the jurisdiction of the UK in the New Territories is insufficient under international law to allow the UK to grant leases running beyond 30 June 1997;
 - (b) it would be politically objectionable to the PRC for such leases to be granted by the British administration in Hong Kong;

/(c)

(c) the Order in Council of 1898 providing for the administration of the New Territories as part of the colony of Hong Kong does not confer power in municipal law to provide for the grant of such leases and the municipal law cannot be amended to make it possible.

4. While propositions (a) and (c) are open to contrary arguments as a matter of law, the Hong Kong Government cannot rely on those arguments because of the risk of legal challenge in the Hong Kong courts.

5. Any attempt by the UK or the Hong Kong Government to proceed 'unilaterally' might provoke the PRC into a severe adverse reaction and it would not be safe to make it.

UK Requirement

6. It is most important for the UK to remove the impediment at an early date since the inability of the Hong Kong Government to grant leases running beyond 30 June 1997 will progressively hamper the economic development of the New Territories, with a resultant loss of business confidence and a diminution of investment and profitability. It is understood that if a public company incorporated in the USA invests in leasehold property for a term of less than fifteen

/years

years, its published accounts have to be 'qualified' by a statement showing how the investment will be recouped during the currency of the lease. In any case, a short lease without rights of renewal is not a satisfactory basis for short-term projects.

Previous Attempt

7. A previous attempt in 1979 to persuade the PRC to agree that the UK might take power to administer the New Territories after 30 June 1997 and meanwhile to grant leases running after that date failed, possibly because the PRC were not ready at that time to commit themselves in any way.

Present Obstacle

8. No progress in this matter can be made until such time as it is possible to convince the PRC that, if the Hong Kong Government cannot be enabled to grant leases in the New Territories running after 30 June 1997 the economic development of Hong Kong will be severely damaged, to the detriment of China's modernisation programme.

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THE FUTURE OF HONG KONG

A SPECIAL STUDY

BY THE FOREIGN & COMMONWEALTH OFFICE

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FUTURE OF HONG KONG

SPECIAL STUDY

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- P. Illustrative Questions and Answers following the Prime Minister's Visit to China



PRIME MINISTER
FIRST LORD OF THE TREASURY

FUTURE OF HONG KONG

SPECIAL BRIEFING

To Be Retained
Do Not Destroy

FUTURE OF HONG KONG

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