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PP HONG KONG

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FM FCO 031300Z MAY 83

TO PRIORITY HONG KONG

TELEGRAM NUMBER 414 OF 3 MAY

INFO PRIORITY PEKING (PERSONAL FOR AMBASSADOR)

MIPT : FUTURE OF HONG KONG : FOLLOWING ARE TEXTS OF MAIN PAPER AND ANNEXES A AND C

FUTURE OF HONG KONG

UK/CHINA TALKS - FORWARD STRATEGY.

INTRODUCTION

1. THE PURPOSE OF THIS PAPER IS TO PREPARE A PLAN FOR HMG'S CONDUCT OF SUBSTANTIVE NEGOTIATIONS WITH THE PRC. IT ASSUMES THAT THE CHINESE RESPONSE TO THE PRIME MINISTER'S MESSAGE ENABLES DETAILED NEGOTIATIONS TO START WITHOUT UNCONDITIONAL ACCEPTANCE OF THE CHINESE PREMISE ON SOVEREIGNTY. ON MODALITIES, IT IS BASED ON THE PROPOSALS WHICH WERE PUT TO THE CHINESE MFA IN OCTOBER 1982.

UK AIM.

2. TO CONCLUDE AGREEMENT ON THE FUTURE OF HONG KONG INVOLVING THE CONTINUATION OF BRITISH ADMINISTRATION OF THE TERRITORY FOR AS LONG AS POSSIBLE BEYOND 1997.

PLACE - PEKING.

MEMBERSHIP OF BRITISH TEAM

3. AT LEAST INITIALLY THE TALKS WOULD BE THROUGH THE DIPLOMATIC CHANNEL WITH A TEAM LEAD BY THE AMBASSADOR. THE GOVERNOR OF HONG KONG WOULD PARTICIPATE AS NECESSARY. THE POSSIBILITY OF OTHER REPRESENTATIVES FROM HONG KONG WOULD BE KEPT IN MIND. AT A LATER STAGE MINISTERIAL PARTICIPATION MIGHT BE NECESSARY.

SEQUENCE OF SESSIONS

4. (A) FIRST SESSION - PROCEDURAL FOLLOWING AGREEMENT TO START SUBSTANTIVE TALKS, A PROCEDURAL ROUND INVOLVING THE AMBASSADOR AND THE MFA WOULD PROBABLY BE NECESSARY TO AGREE ON SUBSEQUENT ARRANGEMENTS. WE SHOULD AIM AT THESE FOLLOWING THE PATTERN OUTLINED BELOW.

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(B)SECOND SESSION

THIS SHOULD BE ATTENDED BY THE GOVERNOR OF HONG KONG. OUR GUIDELINES WOULD SO FAR AS POSSIBLE FOLLOW THOSE IN ANNEX A. THE OBJECT WOULD BE AGREE ON SUBSEQUENT DETAILED WORK, AVOIDING CONFRONTATION ON MATTERS OF PRINCIPLE, PARTICULARLY ON SOVEREIGNTY. THIS SESSION SHOULD INCLUDE A PRESENTATION BY THE GOVERNOR, SETTING OUT HOW HONG KONG OPERATES IN ORDER TO ILLUSTRATE THE VALUE OF THE PRESENT SYSTEM OF ADMINISTRATION.

(C)THIRD PHASE (SEPARATE SESSIONS AS REQUIRED)

THIS WOULD CONCENTRATE ON SPECIFIC AREAS (CURRENCY LAWS, TRADE, EXTERNAL RELATIONS, FREEDOM OF MOVEMENT, CITIZENSHIP, ETC). IT MIGHT BE APPROPRIATE TO SUGGEST THAT THESE QUESTIONS COULD BE DEALT WITH BY SUB-COMMITTEES BUT IT IS IN FACT DOUBTFUL WHETHER THIS SYSTEM WOULD COMMEND ITSELF TO THE CHINESE OR WOULD LEAD TO MUCH PROGRESS. AT THIS STAGE, SUPPORT FOR THE UK NEGOTIATING TEAM MIGHT BE NECESSARY FROM LONDON BUT THIS WOULD MORE PROBABLY COME IN THE NEXT PHASE. AT THIS POINT WE MIGHT FIND IT USEFUL TO HAVE A QUESTIONNAIRE TO PUT TO THE CHINESE IN RESPECT OF THEIR OWN PROPOSALS. AN OUTLINE, BASED ON OUR EXISTING KNOWLEDGE OF THEIR VIEWS, IS AT ANNEX C. THE OBJECT WOULD BE BOTH TO POINT OUT WEAKNESSES IN THE CHINESE PLAN AND TO IDENTIFY COMMON GROUND.

(D)DISCUSSION OF PRINCIPLES

IF BROAD AGREEMENT COULD BE REACHED ON THE CONTINUATION OF THE PRESENT DETAILED SYSTEMS IN HONG KONG, WE SHOULD ENTER THE MOST DIFFICULT PHASE, WHERE WE SHOULD BE OBLIGED TO RETURN TO THE QUESTION OF SOVEREIGNTY. IN THIS ROUND, THE UK, WHILE STILL RESERVING ITS LEGAL POSITION, WOULD NEED TO BROACH THE IDEA OF A PACKAGE IN WHICH CHINESE SOVEREIGNTY WAS RECOGNISED BUT BRITISH ADMINISTRATIVE (OVERALL) CONTROL REMAINED. THIS WOULD BRING THE TEAMS UP AGAINST MAJOR ISSUES SUCH AS THE APPOINTMENT OF THE GOVERNOR, REPRESENTATION OF HONG KONG OVERSEAS, CITIZENSHIP AND DEFENCE. IF THE CHINESE WERE PREPARED TO CONTEMPLATE A DEAL OF THIS SORT, WE MIGHT WELL NEED TO RAISE THE LEVEL OF THE TALKS. THIS WOULD HOWEVER NEED TO BE VERY CAREFULLY CONSIDERED, BECAUSE THIS PHASE COULD IN ITSELF BE VERY PROTRACTED AND WE WOULD NEED

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IF POSSIBLE TO AVOID MINISTERS BECOMING INVOLVED IN DEADLOCK AT AN EARLY STAGE.

(E) AGREEMENT

THE NORMAL PROCEDURE WOULD BE:

(I) INITIALLING OF A DRAFT AGREEMENT, SUBJECT TO RATIFICATION.

(II) FORMAL SIGNATURE.

(III) PASSAGE OF THE NECESSARY BILL THROUGH PARLIAMENT.

(IV) EXCHANGE OF RATIFICATIONS.

OTHER METHODS.

5. THROUGHOUT THE SERIES WE SHOULD KEEP IN MIND THE POSSIBILITY OF USING SUPPLEMENTARY METHODS (EG MINISTERIAL MESSAGES OR VISITS: UNOFFICIAL INTERMEDIARIES) IN ORDER TO OVERCOME OBSTACLES OR CLARIFY OUR POSITION.

DISCUSSION WITH EXCO 6. CONTINUOUS REPORTS TO EXCO AND REVIEWS OF OUR POSITION WITH THEM WOULD BE NECESSARY.

ANNEX A

FUTURE OF HONG KONG: SUBSTANTIVE TALKS: UK INITIAL PRESENTATION

1. THE EXCHANGES WOULD PROBABLY BEGIN WITH A REHEARSAL BY THE CHINESE OF THEIR FORMAL POSITION ON SOVEREIGNTY, ON FAMILIAR LINES, INCLUDING THE POINTS THAT SOVEREIGNTY AND ADMINISTRATION WERE INDIVISIBLE AND THAT CHINA COULD NOT ALLOW OTHERS TO ADMINISTER HONG KONG ON ITS BEHALF. THE CHINESE MIGHT GO ON TO LAY DOWN SOME OF THEIR GENERAL PRINCIPLES FOR A FUTURE SETTLEMENT, IE THAT HONG KONG PEOPLE SHOULD GOVERN HONG KONG, THAT A SPECIAL ADMINISTRATIVE REGION SHOULD BE ESTABLISHED AND THAT CERTAIN SYSTEMS WOULD REMAIN UNCHANGED.

2. THE AMBASSADOR SHOULD RESPOND BY:

(A) INDICATING A FULL GRASP OF THE CHINESE POSITION:

(B) MAKING CLEAR THE BRITISH POSITION, IE THAT, AS DESCRIBED IN THE PRIME MINISTER'S LETTER, WE COULD BE FLEXIBLE ON SOVEREIGNTY PROVIDED THE REST OF THE PACKAGE WAS SATISFACTORY:

(C) MAKING PROPOSALS ON HOW THE TALKS SHOULD PROCEED.

(A) AND (B) ABOVE WOULD BE A REAFFIRMATION OF THE MESSAGE IN THE PRIME MINISTER'S LETTER TO ZHAO, ADDING THAT WE WERE NOT LOOKING TO THE PAST (IE THE TREATIES) BUT TO THE FUTURE.

3. THE AMBASSADOR WOULD THEN INVITE THE GOVERNOR TO DELIVER HIS

PRESENTATION, USING THE FOLLOWING FORMULA: 'WE HAVE LISTENED WITH INTEREST TO WHAT THE CHINESE SIDE HAS SAID ABOUT THE FUTURE ADMINISTRATION OF HONG KONG AND WE SHOULD LIKE IN DUE COURSE TO DISCUSS THE QUESTION OF ADMINISTRATIVE CHANGES IN MORE DETAIL. TO TAKE ONE ELEMENT OF WHAT YOU HAVE SAID, 'HONG KONG PEOPLE SHOULD RUN HONG KONG', THAT IS A PROPOSITION TO WHICH WE HAVE NO OBJECTION IN PRINCIPLE. INDEED, IF HISTORICAL AND POLITICAL CIRCUMSTANCES WERE DIFFERENT, HONG KONG WOULD LONG AGO HAVE BECOME INDEPENDENT.

BUT HONG KONG IS A SPECIAL CASE AND ITS UNIQUE STATUS IS SOMETHING THAT BOTH SIDES SHOULD EXAMINE TOGETHER IN THE COURSE OF THESE TALKS. AS A FIRST STEP, I SHOULD LIKE TO ASK THE GOVERNOR OF HONG KONG TO DELIVER A SHORT PRESENTATION ON HOW HONG KONG WORKS.'

4. THE GOVERNOR WOULD THEN SPEAK (SEE ANNEX B).

5. THE AMBASSADOR WOULD SUM UP AS FOLLOWS:

'BOTH SIDES AGREE THAT A SOLUTION TO THE PROBLEM OF THE FUTURE OF HONG KONG SHOULD BE SUCH AS TO MAINTAIN THE PROSPERITY AND STABILITY OF HONG KONG. SINCE THE CHINESE SIDE HAS STATED THAT IN ITS PROPOSALS THE 'SYSTEMS' OF HONG KONG WOULD REMAIN UNCHANGED, WE ASSUME THAT THE CHINESE SIDE RECOGNISE THAT THIS IS ESSENTIAL IN ORDER TO OBTAIN THIS OBJECT. A SIMPLE TRANSFER OF CONTROL OVER HONG KONG TO PEKING WOULD NOT ENABLE CONFIDENCE TO BE MAINTAINED IN THE HONG KONG ECONOMY, AND THIS WOULD NOT ENABLE PROSPERITY AND STABILITY TO BE MAINTAINED. THERE ARE TOO MANY DOUBTS ABOUT THE CONTINUITY OF CHINESE POLICY WHICH ARE FOUNDED IN RECENT CHINESE HISTORY AND IN PARTICULAR THE EXPERIENCE OF THE CULTURAL REVOLUTION. IT IS INEVITABLE TOO THAT THERE SHOULD BE DOUBTS WHETHER A COUNTRY WITH A SOCIALIST SYSTEM COULD ABSORB A REGION WITH A LIBERAL CAPITALIST SYSTEM WITHOUT ENDURING FUNDAMENTAL CHANGE IN THE LATTER. IT IS NOT SUGGESTED THAT THIS CONSIDERATION WILL APPLY FOR EVER: BUT IT CERTAINLY DOES APPLY AT PRESENT.

6. THE QUESTION THEREFORE IS HOW TO GUARANTEE THE CONTINUITY OF THE SYSTEMS AFTER 1997. THE BRITISH SIDE CANNOT SEE HOW A SUFFICIENT GUARANTEE CAN BE GIVEN UNLESS AN ARRANGEMENT IS REACHED WHICH

ALLOWS THE UK A CONTINUING ADMINISTRATIVE ROLE IN HONG KONG SUFFICIENT TO INSPIRE CONFIDENCE THAT THE SYSTEMS WILL NOT BE CHANGED, THOUGH WE ALL SHOULD AGREE THAT THERE WOULD BE INCREASED SCOPE FOR HONG KONG PEOPLE TO TAKE PART. IT IS RECOGNISED THAT TO MAKE THIS ACCEPTABLE TO THE CHINESE GOVERNMENT, IT WOULD HAVE TO BE COUPLED TO AN ACCEPTANCE BY BRITAIN OF CHINESE SOVEREIGNTY OVER THE WHOLE OF HONG KONG. AS WE HAVE MADE CLEAR THIS WOULD HAVE TO BE PART OF AN OVERALL PACKAGE WHICH PARLIAMENT AND THE PEOPLE OF HONG KONG COULD ACCEPT.

7. WE APPRECIATE THAT THIS VIEW CAUSES DIFFICULTY FOR THE CHINESE GOVERNMENT. BUT WE HOPE THEY WILL SHOW UNDERSTANDING OF OUR POSITION, WHICH IS BASED ON PRACTICAL CONSIDERATIONS. SPECIFICALLY WE SUGGEST THAT WE SHOULD NEXT DISCUSS:

(I) HOW GUARANTEES COULD BE GIVEN FOR THE FUTURE CONTINUITY OF THOSE SYSTEMS IN HONG KONG:

(II) WHAT PRACTICAL CHANGES MIGHT BE NECESSARY IN SPECIFIC AREAS, EG CURRENCY, LAWS, TRADE, SOCIAL SYSTEM AND WAY OF LIFE, ETC.'

ANNEX C

QUESTIONNAIRE ON CHINESE PROPOSALS

1. LEGAL SYSTEM

(A) WOULD HONG KONG'S PRESENT LAWS CONTINUE IN FORCE?

(B) IF SO, WHAT WOULD BE THE PROCEDURE FOR AMENDING THEM OR FOR INTRODUCING NEW LEGISLATION?

(C) IF NOT, WOULD CHINESE LAW REPLACE THE PRESENT BRITISH LAWS?

(D) WHAT COURTS WOULD BE MAINTAINED IN THE TERRITORY TO ADMINISTER THE LAW?

(E) WHAT ARRANGEMENTS WOULD BE MADE FOR THE INDEPENDENCE OF THE JUDICIARY?

(F) HOW WOULD BILLS BE HANDLED?

(G) WOULD THERE BE ANY FUNDAMENTAL LAW GUARANTEEING:

(I) FREE MOVEMENT OF GOODS IN AND OUT OF HONG KONG.

(II) FREEDOM TO EMIGRATE, AND, APART FROM NORMAL IMMIGRATION CONTROLS, FREE MOVEMENT OF PERSONS IN AND OUT OF HONG KONG.

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- (III) FREEDOM OF THE PRESS AND SPEECH.
- (IV) FREEDOM OF ASSEMBLY, PROTEST, PETITION, ETC.
- (V) BASIC HUMAN RIGHTS?

2. ECONOMY

- (A) HOW WOULD THE FREE MARKET SYSTEM BE GUARANTEED?
- (B) WHAT ARRANGEMENTS WOULD GOVERN AN INDEPENDENT CONVERTIBLE HONG KONG CURRENCY? WHAT AUTHORITY WOULD SUPERVISE IT? HOW WOULD OUTSIDE INTERFERENCE BE PREVENTED?
- (C) WHAT ARRANGEMENTS WOULD GOVERN HONG KONG'S PARTICIPATION IN INTERNATIONAL TRADING AGREEMENTS? HOW WOULD HONG KONG QUOTAS (EG FOR TEXTILES) BE KEPT SEPARATE FROM THOSE OF THE PRC?
- (D) WHAT WOULD BE THE SYSTEM OF BANKING SUPERVISION? HOW WOULD ITS INDEPENDENCE BE GUARANTEED?
- (E) WHAT GUARANTEES WOULD THERE BE FOR FREE MOVEMENT OF CAPITAL INTO AND OUT OF HONG KONG? HOW WOULD FOREIGN INVESTORS BE ASSURED OF FREE REPATRIATION OF DIVIDENDS ETC?

3. PUBLIC SERVICE

- (A) WHAT ARRANGEMENTS WOULD GUARANTEE THE INDEPENDENCE OF THE PUBLIC SERVICE? HOW WOULD SENIOR OFFICIALS IN THE CIVIL SERVICE, POLICE, ETC BE APPOINTED?
- (B) WHAT ARRANGEMENTS WOULD GOVERN PENSIONS?

4. LAW AND ORDER

- (A) WHAT WOULD BE THE CONTROLLING AUTHORITY FOR THE POLICE?
- (B) WHAT ARRANGEMENTS WOULD GOVERN MILITARY ASSISTANCE TO THE POLICE? HOW WOULD PUBLIC CONFIDENCE BE MAINTAINED IF THIS CAME FROM THE PRC?

5. IMMIGRATION AND CITIZENSHIP

- (A) WHAT ARRANGEMENTS WOULD CONTROL IMMIGRATION FROM CHINA?
- (B) WHAT CITIZENSHIP ARRANGEMENTS WOULD THERE BE FOR HONG KONG RESIDENTS? HOW COULD EXCLUSIVE PRC CITIZENSHIP MAINTAIN CONFIDENCE?

6. EXTERNAL RELATIONS

- (A) WHAT WOULD BE THE ARRANGEMENTS FOR REPRESENTATION OF HONG KONG OVERSEAS?
- () HOW WOULD HONG KONG RESIDENTS BE PROTECTED? WHAT WOULD BE THEIR CITIZENSHIP STATUS? WHAT ABOUT EXISTING BDTCS?

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FUTURE OF HONG KONG

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TO PRIORITY HONG KONG

TELEGRAM NUMBER 413 OF 3 MAY

INFO PRIORITY PEKING (PERSONAL FOR AMBASSADOR)

MY TELNO 390: FUTURE OF HONG KONG: STRATEGY FOR SUBSTANTIVE TALKS.

1. WE SAID THAT WE WERE WORKING ON OUR OVERALL STRATEGY IF SUBSTANTIVE TALKS GOT UNDERWAY AND ON A CRITIQUE OF THE CHINESE OWN PLAN.
2. MIFT CONTAINS TEXTS OF THE FOLLOWING DRAFTS:
 - A) A MAIN PAPER, SETTING OUT THE POSSIBLE COURSE OF TALKS. PARTICULARLY IN THE LATER STAGES THIS IS OBVIOUSLY SPECULATIVE.
 - B) ANNEX A. THIS CONTAINS THE PROPOSED LINE TO TAKE AT THE FIRST SESSION AT WHICH THE GOVERNOR WOULD BE PRESENT. IT IS BASED ON PEKING TELNO 327.
 - C) ANNEX C. AN OUTLINE QUESTIONNAIRE ON THE CHINESE PLAN.
3. ANNEX B WOULD BE THE PRESENTATION ON HONG KONG. THIS IS STILL UNDER REVISION (YOUR TELNO 509).
4. GRATEFUL FOR COMMENTS.

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