



PM/83/64

PRIME MINISTERFuture of Hong Kong: Reappraisal of Strategy

1. We are meeting on the afternoon of 5 September with Sir Edward Youde and Sir Percy Cradock to discuss the next steps in our negotiations with the Chinese. I propose to bring Richard Luce with me. Sir Antony Acland, Sir Ian Sinclair and Mr Alan Donald will also attend.
- / 2. I enclose a paper prepared in the FCO which reviews the present position and makes suggestions for our next moves. I also enclose telegrams reporting our talks with the Chinese during July and August together with a checklist of the main points which I think it would be useful for us to discuss.
3. The paper provides a frank survey of the present position and the problems which face us. It brings out particularly the dilemma we face, given our assessment of the Chinese position, if this is right, and the need to keep Hong Kong opinion, and particularly EXCO, closely in step with us.
4. We have now tested the Chinese out for a year on the concept of a sovereignty/administration deal. Sir P Cradock's assessment is that they do not accept this; indeed that they will reject any arrangement which involves a controlling link with Britain in the form of a Governor answerable to London beyond 1997. We need to look at this very carefully against our relationship with and the views of EXCO and the need to show convincingly here and in Hong Kong that we have fought for the best possible deal for Hong Kong, in the context of what is necessary to maintain confidence.



5. What we need to have in mind is the best ultimate position we are likely to be able to reach in negotiation with Peking and the best way of reaching this. The paper discusses this in the form of three options. There are some key questions here: how far should we be prepared to take a test of nerves with the Chinese, given the possible effect on Hong Kong confidence of a breakdown in the talks? If the Chinese definitively reject our present approach is there likely to be any mileage in trying a refined version of the British link to make it more palatable to the Chinese? Is moving relatively quickly on to Chinese ground, accepting the break of the British link, likely to increase the chances of negotiating in the end a reasonable package, or will the Chinese simply pocket the concession and demand more? Is it possible to devise an arrangement which would involve autonomy for Hong Kong free from mainland Chinese interference after 1997?

6. The timing of any change of position on our part is likely to be crucial. I am sure that at the next meeting with the Chinese on 22 September we should hold to our present position and test their reaction. But we must be ready to look beyond that. In any case I am sure that the Governor on his return to Hong Kong should give EXCO a very full and candid assessment of the position and of the options as we see them. He should not only seek their views but make clear that there may be a need for rapid decisions in the autumn. They will need very careful handling over this. Richard Luce's visit in late September will provide an opportunity for a further exchange of views. But it might well be necessary for EXCO to visit London again for further discussion here.

7. The essential minimum we need to decide on Monday is the line the Governor should take with EXCO and the Ambassador should take in the next round of talks..

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8. I am copying this minute, with its enclosures, to Michael Heseltine.

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

(GEOFFREY HOWE)

Foreign and Commonwealth Office

2 September, 1983

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PRIME MINISTER'S MEETING ON THE FUTURE OF HONG KONG

1600 MONDAY 5 SEPTEMBER 1983

AGENDA

1. Assessment of Chinese position (Ambassador).
2. Assessment of mood in Hong Kong, EXCO (Governor).
3. Discussion of the options set out in paragraph 7 of Reappraisal Paper.
4. Timing of any shifts of strategy; problems we are likely to face.
5. Line for Governor to take with EXCO on his return to Hong Kong.
6. Line for Ambassador to take at next session of talks on 22/23 September.

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THE FUTURE OF HONG KONG
TALKS WITH THE CHINESE
A REAPPRAISAL ONE YEAR ON
BY THE FOREIGN & COMMONWEALTH OFFICE

AUGUST 1983

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FUTURE OF HONG KONG

TALKS WITH THE CHINESE: A REAPPRAISAL OF OUR STRATEGY ONE YEAR ON

INTRODUCTION

1. Talks with the Chinese have gone into recess until late September. This paper considers the current position and reviews the options now open to us.

THE CHINESE POSITION

2. Although our talks with the Chinese have developed more rapidly since the exchange of letters between the Prime Minister and Premier Zhao in the spring, the Chinese have taken a very hard line against the continuation of British administration* in Hong Kong after 1997. They have said:

- (a) Sovereignty and administration are indivisible and both are non-negotiable;
- (b) China will never accept an arrangement whereby China had symbolic sovereignty and Britain retained administration;
- (c) arrangements should be made for Hong Kong people to run Hong Kong;
- (d) 1997 is the date for transfer of sovereignty; (this was confirmed on 15 August in a remark by the CCP General Secretary);
- (e) they intend to announce their plans for the future of Hong Kong in one or two years' time whether or not a bilateral agreement has been reached.

3. The Chinese proposals for the administration in Hong Kong after 1997 were outlined by Vice Minister Yao Guang in the talks on 25 July. This is the latest and most authoritative statement. It included the following points:

*British administration in its present form means ultimate control from London through a Governor responsible to HMG but with a large measure of de facto autonomy.

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- (a) Hong Kong would become a Special Administrative Region of China.
- (b) The Government would be drawn from the local people of Hong Kong.
- (c) The economy and way of life and basic freedoms would be "protected" and the laws would be "basically unchanged". There would be an independent convertible currency and "existing external relations in the economic and cultural fields" would be maintained.

The Chinese have not gone into detail on their proposals, which they claim will not damage confidence. However, if they stick to their position it is clear that they will not agree to the continuation of British administration, not merely in its present form but with any authoritative link through a Governor responsible to London. Our judgement is that they will stick on this essential point. They have published their position on the recovery of sovereignty and administration widely, and could only shift with unacceptable loss of face. They have made clear that where matters of national pride are concerned, they will not compromise. This means that we are unlikely to succeed in getting the Chinese to agree to preserve what we believe to be the most important requirement for sustaining confidence in Hong Kong. In any case the only prudent assumption on which to base our plans is that this will prove to be the case.

4. Thus, although the Chinese will study the case for continuing British administration, which we have made during the July and August sessions, this is unlikely to affect their position fundamentally. The best we can expect is that they will have learnt something about the complexity of Hong Kong administration. This may make them more ready to consider arrangements to preserve confidence in specific areas of administration, but on their own terms, and without the controlling British link through the Governor.

5. When or soon after talks resume in September, we may well face a Chinese demand for acceptance of their position on both sovereignty and administration in 1997: in effect a rejection of our

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position. They might even threaten to break off the talks. This could be accompanied or preceded by further Chinese leaks and wedge-driving propaganda, accusing HMG of footdragging or claiming that we had in fact conceded sovereignty.

BRITISH AIM AND CURRENT OBJECTIVES

6. HMG's publicly stated aim is to seek a solution on the future of Hong Kong acceptable to the British Parliament, the Government of China and the people of Hong Kong. At present our negotiating objective, agreed with EXCO but not publicly stated, is the continuation of British administration for as long as possible after 1997. We have opened substantive talks with the Chinese on the basis of an agreed agenda which, in our view, is consistent with the position in the Prime Minister's letter to the Chinese Premier. She could only recommend a transfer of sovereignty if an arrangement on administration acceptable to the three parties concerned could be agreed.

FUTURE STRATEGY OPTIONS

7. If, as expected, there is no shift in the Chinese position, when talks resume in September, HMG will face the following choices:

- (a) To maintain our present course aimed at the continuation of British administration on present lines, including the position and authority of the Governor, although continuing and possibly increasing internal autonomy. (In doing this we should have to be prepared to face the consequences of confrontation).
- (b) To seek to maintain the British link through a Governor, not necessarily an expatriate, appointed by and responsible to, HMG but with major administrative changes designed to make this more palatable to the Chinese.
- (c) To accept ending of an authoritative British link but to negotiate improvements to the Chinese proposals for autonomy in order to keep future Chinese interference to a minimum.

FACTORS AFFECTING HMG'S CHOICE

8. We must take into account:
- (a) Our assessment of the Chinese position;
 - (b) attitudes in Parliament and the UK generally;
 - (c) opinion in EXCO and Hong Kong generally.

Given the assessment of the Chinese position and the realisation in Hong Kong that HMG is obliged in any case to recognise the juridical implications of 1997, the arguments for accepting the Chinese conditions but trying to build in safeguards are strong. We believe that the chances of negotiating a better deal than this are slim and, if we waited too long the Chinese might be less willing to negotiate additional safeguards for Hong Kong which might provide some substitute for the withdrawal of the British link. They might moreover lose patience and announce their own proposals unilaterally.

9. However, HMG are obliged to show, both in the UK and Hong Kong, that they have done everything possible to achieve a deal for Hong Kong which is acceptable to the people of Hong Kong and will maintain confidence. Close consultation with EXCO is the key element in demonstrating that HMG are serious about acceptability. This means that HMG's strategy has to be tempered not only by our assessment of what Peking will accept, but also by an assessment of what Hong Kong, as represented by EXCO, regards as the minimum required to maintain stability and prosperity. EXCO's own credibility in Hong Kong is also at stake and their worries on these counts will affect their readiness to consider major shifts in our strategy as and when proposals are put to them. Our present negotiating objective, the continuation of British administration after 1997, is based to a great extent on Unofficials' advice and is not a stance from which they would easily be prepared to retreat. There will certainly be a body of opinion in EXCO which will favour digging in on our present position, taking the risk of a decline in confidence in Hong Kong and hoping that this will bring about a change of heart on the part of the Chinese. They will set particular store by the maintenance of an authoritative link through a British appointed Governor. They will be suspicious of

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suggestions by HMG that we should move in any other way than by cautious steps, allowing a long time to test the Chinese position on every essential point.

10. The possible options are considered in more detail against this background.

OPTION A- To maintain our present course.

11. In practical terms, we could stick to our present position either while continuing negotiation or during a suspension of the talks. Either course could give an initial impression of firmness and would probably be favoured at least initially by EXCO. But neither would be a realistic long-term option. There is no chance of the Chinese accepting confirmation of the administrative status quo. If we tried to continue talks on these lines we should before long run into stalemate. This would quickly become apparent in Hong Kong. Suspension of the talks would be even more public. Public knowledge of fundamental disagreement between Britain and China would lead to collapse of confidence in Hong Kong. The Chinese would be very likely to react by announcing their own proposals and possibly by threatening to take over earlier than 1997. Even if they did not go that far, we should be in a rapidly weakening position. People in Hong Kong would not believe that by holding firm, we could hope to obtain a better deal for Hong Kong in the long run. Our actions would be seen against the background of the approach of 1997 and the Chinese stranglehold on Hong Kong. There is no prospect at all that the Chinese would react to a rapid slide in confidence by reversing their position of principle and agreeing to the continuation of British administration. They might carry out Deng's threat to the Prime Minister in September 1982 to reconsider the timing 'of recovery of sovereignty'; if they did not go as far as this they could still cause considerable disruption by letting HMG take the responsibility and stepping up propaganda and subversion.

OPTION B - To propose modifications to make the British link more acceptable to Peking

12. Here the idea would be to work for the preservation of the British link through a Governor responsible to HMG but with administrative changes designed to remove elements of 'colonialism'

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and to make the system, particularly the position of the Governor, more palatable to the Chinese. The possible changes are discussed in Annex I.

13. The main problem is that there are clear indications that the Chinese would object the retention of a Governor responsible to HMG, however much this was dressed up. A new-look British administration on these lines would be acceptable to EXCO provided that measures designed to make it acceptable to the Chinese did not, in their cumulative effect, so obscure the British link as to destroy confidence in Hong Kong. The Governor's judgement is that they might agree to a negotiating position on these lines provided that our blueprint included a Governor appointed by and responsible to HMG.

14. There is thus already a large gap between what the Chinese are likely to concede and what EXCO would regard as adequate to preserve confidence. But the latter would moreover be likely to demand a long battle with the Chinese before they would accept that the position of the Governor should be given up. While that was in progress the danger would remain that the Chinese would unilaterally announce their plan for 'autonomy' with no additional guarantees. There could be an irreparable collapse of confidence for which HMG would be held responsible because it occurred under British administration. There could only one ultimate outcome, namely, a handover of the territory in circumstances which would add to the humiliation already caused by the collapse.

15. An additional factor is that, whatever the progress in the talks, it will be necessary to develop further the steps already taken towards internal autonomy, especially towards greater participation by Hong Kong Chinese in government. Not all of these will be welcome to Peking. Some may be regarded as a device intended to promote Hong Kong's independence. They therefore need to be introduced with caution and not allowed to cut across our discussion of changes with the Chinese.

OPTION C: Negotiation for Effective Safeguards for Autonomy for Hong Kong without an Authoritative Political Link with the UK

16. This would mean accepting that both sovereignty and at least

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ultimate control over administration would revert to China and that the British link would be cut. But we should not simply accept the Chinese 'plan' as it stands. It should be possible to improve on it considerably.

17. To move to this Option now would win Chinese goodwill. It would create an atmosphere in which Peking might be more inclined to agree to arrangements which would provide alternative insulators and incentives to the Chinese not to interfere. However the arguments against this course are:

- (a) We have not yet fully tested Chinese flexibility. The Chinese might on the contrary be more ready to agree to effective alternative insulators if we only conceded on the British link after a hardnegotiation. In other words, we should not give too much too early.
- (b) EXCO would not agree to the idea if taken as a single step. Nor would the people of Hong Kong be prepared for it. All the available evidence shows that the majority still want British administration to continue.
- (c) Therefore, even though agreement might be reached with Peking, HMG would risk a collapse of confidence in Hong Kong.

18. These objections would not apply so strongly if we reached Option C via Option B. There would of course still be serious damage to confidence in Hong Kong if the controlling British link were cut.

But, provided that we kept closely in touch with EXCO at each stage, they might accept the idea, although they would still argue that the process of testing the Chinese position should last for a long time.

19. Annex II considers a number of possible devices which might either bind or encourage China to respect Hong Kong's autonomy or provide alternative insulators to the present British link. We should be prepared to put these forward at the right time. We might start the process by probing the Chinese on the details of their own plans, in order to point up the need for additional insulation.

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SQUARING THE TRIANGLE

20. We face a gap which will require either a fundamental change of heart by the Chinese or substantial shift in the attitude of the people of Hong Kong, in particular the investors and professional classes. Neither is likely. British political interests demand a settlement acceptable to the people of Hong Kong. If British interests involved only the bilateral relationship with China and the advantages to us of maintaining a dependent territory in the Far East of which 92% would in any case revert to China in 1997, the right course would almost certainly be to negotiate on Chinese terms. But HMG's responsibilities to Hong Kong mean that we must only move ahead by carrying EXCO with us.

21. Ministers will wish to discuss with the Governor how far ahead we can look in our consultation with EXCO. By far the most satisfactory procedure would be to put to them frankly our assessment of the Chinese position and the options as we see them. We should make clear the dangers involved either in sticking to our present course (Option A) or even going for a modified form of British administration which may well not be successful (Option B). It would be wrong, for the sake of displaying resolution in defending Hong Kong's interests, to give EXCO the impression that we were more likely to succeed in retaining the British link than in fact appears to be the case. The object would be to give them a frank assessment of the situation as we see it and the likely consequences of pursuing the options open to us. On that basis EXCO would probably come to favour Option B. They would probably not be ready to focus on Option C until all other avenues had been exhausted.

22. There would be no advantage in seeking other tests of Hong Kong opinion at this stage. EXCO are the Governor's statutory advisers. HMG have quite clearly shown their confidence in them and any attempt at wider consultation would be seen as a prelude to a sell-out. Moreover, although EXCO as a body have been relatively cautious on the question of the future, there is no reason to suppose that a wider canvass of opinions would produce a different answer.

SUGGESTED STRATEGIC MOVES

23. Decisions are needed now in the light of:

- (a) The assessment that neither Option A nor B will be accepted by the Chinese and the Ambassador's view that the choice is therefore between Options A and C;
- (b) The need to retain the confidence of EXCO and to avoid prejudicing an ultimate settlement by giving away too much too soon;
- (c) The risk of confrontation with the Chinese if we hang on to A or B for too long.

Resumption of Talks in September

24. On 22 September our negotiating team should continue to insist on the requirement of British administration in order to see whether there has been any move on the Chinese side. This is most unlikely.

Choices of Options

25. Unless we are prepared to face the consequences for Hong Kong and for HMG of confrontation through sticking to Option A, we shall then have to shift. Given the assessment we need to plan now for a strategy which will enable us to achieve the best possible guarantees for Hong Kong's autonomy short of a continuing authoritative link with the UK. But given EXCO's views on what is needed to preserve confidence and the need to demonstrate that we are fighting hard at every stage, we should adopt Option B as a tactical move.

Timing of Further Shifts of Strategy

26. We must expect the Chinese to continue to reject any link with the UK through the Governor. The timing of a move from Option B to C need to be carefully considered, weighing the adverse effect of giving way too soon on confidence in Hong Kong and public opinion in the UK against the risks of confrontation.

Consultation with EXCO

27. No decisions should be taken by HMG without prior discussion with EXCO. HMG does not have to be bound by EXCO's advice but it

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would not meet HMG's declared policy or interests to appear to be imposing a solution on Hong Kong. Tactical handling is best left to the Governor. He will in any case be discussing the situation with EXCO when he returns to Hong Kong and before the resumption of talks on 22 September. He should then make clear the dangers in hanging on too long to our present position and warn EXCO that we may soon face the choice between confrontation (following a breakdown in the talks) or negotiations for a solution which excludes an authoritative political link with the UK. He should undertake to report their views to Ministers to enable HMG to react quickly to developments in the negotiations and in particular to the outcome of the 22 September session. There would be an opportunity for further discussion with EXCO when Mr Luce visits Hong Kong on 24 - 28 September.

TACTICAL FLEXIBILITY

28. EXCO's position is likely to make it necessary for us to move step by step, particularly as regards the position of the Governor. But we need also to preserve as much continuity in the negotiations as possible. It would be valuable to get detailed talks going on specific aspects such as law or the currency, perhaps by attempting to draw out the Chinese on their own plans. Initially we could aim to discuss changes which might take place under a system in which ultimate British control was maintained. Later we might use the same method to consider new safeguards which might offset the disadvantages of the severing of the British link.

CONTACTS WITH THE CHINESE

29. We may also need to consider possible channels and methods of approach to the Chinese. The Ambassadors contact with Assistant Foreign Minister Zhou Nan has proved effective so far and appears still to be open. If we wished to float new ideas (such as Option B) without finally committing HMG that would be the best channel. Other possibilities include:

- (a) a senior non-official intermediary who would carry weight with the Chinese and have the confidence of EXCO.
- (b) A meeting by the Governor of Hong Kong with a senior Chinese possibly passing through the territory.

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30. A stage beyond this would be to put new proposals to Peking with added weight. This could be done by:

- (i) another letter from the Prime Minister (But we do not want to devalue that currency and must choose the moment with care);
- (ii) a letter from the Secretary of State to the Chinese Minister of Foreign Affairs (But Wu Xueqian is not very influential on Hong Kong);
- (iii) a Ministerial visit (eg the Secretary of State to Peking). (An extreme situation such as a stalemate or a breakthrough might call for this).

31. Throughout the negotiations we should sustain efforts to educate the Chinese about the facts of Hong Kong life. This would most effectively be done through Hong Kong people themselves if they were prepared to do it. In default of that the negotiations are the best channel. Although this would not in itself fundamentally affect the Chinese position it might nevertheless help to produce a marginally better solution.

Hong Kong Department
24 August 1983

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FUTURE OF HONG KONG: CHANGES IN PRESENT ADMINISTRATIVE ARRANGEMENTS

1. The Chinese have already declared categorically that the exchange of titular sovereignty for continuing British administration is not acceptable to them. It is very unlikely that the Chinese can be brought to accept any continuing British administrative role in Hong Kong after 1997. However, if we were to try to negotiate on this basis we should have to be ready to discuss changes, both substantive and symbolic, which might make the arrangements more palatable to the Chinese. Their demand that their sovereignty must be "exercised" after 1997 has been a strong element in their position from the outset. In considering what changes might be possible the first British objective would have to be to preserve intact the link between the Governor and HMG which is the expression of British authority in Hong Kong. Changes in practical arrangements, or symbolic changes in the style and form of administration, would be tolerable unless cumulatively they had the effect of casting doubt on the effectiveness of the guarantee against Chinese interference implicit in the authority of the Governor.

2. The Appendices to the Note consider areas where, from statements made by the Chinese, they will press strongly for changes. These are grouped in broadly descending order of importance. A-D are central issues, E-J cover practical arrangements, and K is concerned with essentially symbolic changes.

3. There will of course also be changes which the Hong Kong Government and HMG will wish to introduce before 1997, both to meet the natural aspirations of the people of Hong Kong for greater participation in Government, and to keep the systems suited to the needs of the territory as it develops. It would be our objective to introduce such changes as we think necessary. We would seek to avoid consulting the Chinese, who are likely to be ambivalent towards such changes, at least until any agreement on the future is reached or in prospect.

APPOINTMENT AND ACCOUNTABILITY OF GOVERNOREssential requirements for HMG

Appointment by HMG, if necessary in consultation with PRC; final procedural accountability to HMG; no interference from Peking in Governor's decisions.

Nature of Possible Changes

Governor to be local person nominated by EXCO/LEGCO; appointed by and accountable to HMG; HMG's authority limited to right to require review/resignation if decisions were unacceptable to LEGCO.

Likely Chinese reaction

Probably will consider HMG's essential requirements to be unacceptable.

Likely Chinese proposals

A locally generated governor ultimately accountable to Peking.

Likely effect on confidence in Hong Kong

The appointment of a Governor from London is seen as the strongest expression of HMG's guarantee against Chinese interference. A local Governor, who continued to be accountable to HMG would probably be acceptable but would be one degree less reassuring than an expatriate Governor.

APPENDIX B

FLAGS

Essential requirements for HMG

Limits on official display of Chinese flag alone.

Nature of possible changes

1. Reduction of use of Union flag.
2. Redesign and wider use (including at Government House) of Hong Kong flag.
3. Appropriate use of Chinese flag.
4. Ban on KMT flag.

Likely Chinese reaction

Key point for Chinese. May insist on Chinese flag on public buildings.

Likely Chinese proposals

The PRC flag to fly on Government House.

Likely effect on confidence in Hong Kong

Adverse. Manageable if Hong Kong flag flying over Government House, but there would be serious problems if the Chinese flag were to fly there.

APPENDIX C

OFFICIAL CHINESE REPRESENTATIVE

Essential requirements for HMG

Chinese representative's role to be clearly defined to avoid undermining "Governor's authority" or movement to shared rule.

Nature of Possible Change

Senior Chinese representative (currently First Director, NCNA) to enjoy official status; to be known as eg "Commissioner of Chinese Central Government"; to be entitled to consultation within defined limits on matters affecting Chinese interests.

Likely Chinese reaction

Might accept but would work for greater power for Representative. Might press for him to be an ex-officio member of EXCO.

Likely Chinese proposals

Uncertain. They have not in fact raised the idea of a representative in recent years.

Likely effect on confidence in Hong Kong

Tolerable if limits of role were clear-cut.

Other Difficulties

Definition of limits on matters affecting Chinese interests.

BRITISH PARTICIPATION IN ADMINISTRATIONEssential requirements for HMG

A proportion of senior officials to be British. (Without the support of such British official it would be difficult if not impossible for the Governor to discharge his responsibilities vis a vis HMG).

Nature of Possible Change

1. Reduction in number of British officials in senior posts. (If possible, Chief Secretary and Attorney General and Financial Secretary, or two of these three, should still be British).
2. Termination of administrative powers of Secretary of State except those relating to Governor's appointment.

Likely Chinese reaction

Would welcome reduction but try to limit British participation to long-term expatriates. Have already indicated opposition to British Chief Secretary.

Likely Chinese proposals

Chief Secretary and a proportion of senior officials to be Hong Kong Chinese. Remaining British officers to be long-term expatriates on contract to the Hong Kong Government.

Likely effect on confidence in Hong Kong

The gradual increase in the number of senior Hong Kong Chinese would be welcomed, but confidence in the Civil Service and in the Police would be weakened unless there was an essential minimum of expatriates in senior positions.

Other Difficulties

Determination of administrative powers needed by HMG to discharge residual authority.

APPENDIX E

EXTERNAL RELATIONS AND TRADEEssential requirements for HMG

1. Hong Kong to continue to conduct its own bilateral trade and financial relations.
2. HKGOs to be separate from Chinese Embassies and to continue to be staffed by HKG, not PRC, personnel.
3. Retention of existing beneficial trade arrangements stemming from UK link (eg GATT, MFA).
4. No interference in Hong Kong's free trade system.
5. British consular protection for BDTCs.

Nature of possible changes

1. Hong Kong to sit separately (probably as an observer) rather than as part of UK delegation, in international organisations.
2. HKGOs, where they exist, to operate separately from British missions.
3. Removal of any remaining preferential trading arrangements eg Commonwealth Bus Agreement.
4. Divided responsibility for consular protection, according to citizenship (see Annex F)
5. Foreign consular representatives to be accredited to the Hong Kong Government.

Likely Chinese reaction

China may wish to oversee HKGOs and to assume sole responsibility for consular protection; and would oppose HMG's retention of any responsibility for external relations.

Likely Chinese proposals

Hong Kong to conduct its own commercial relations. China to conduct political relations and to represent Hong Kong in non-trade international fora.

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Likely effect on confidence in Hong Kong

Slight if acceptable to China.

Other difficulties

Difficulties of getting international acceptance for Hong Kong to operate independently in the international arena without statehood, both as regards political and commercial relations.

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NATIONALITY/CITIZENSHIP; MIGRATION/VISASEssential requirements for HMG

1. No restriction on Hong Kong residents' right to travel freely from and return to Hong Kong or to emigrate.
2. Hong Kong Government to retain control over immigration.
3. Preservation of BDTC status.

Nature of possible changes

1. Amendment of Chinese Nationality legislation to create a new form of Chinese citizenship eg Citizen of Hong Kong (China).
2. All persons born in Hong Kong after the date of the settlement would become such citizens. A distinctive form of PRC passports to be designed for such citizens - CPRC (HK)s.
3. Existing Hong Kong BDTCs to have position reserved. After the date of the settlement BDTC status to be acquired only by descent and only so long as UK retained responsibility for Hong Kong, (ie so long as Governor appointed by and accountable to HMG).

Likely Chinese reaction

1. May insist on more explicitly Chinese citizenship for non BDTCs and object to any future acquisition of BDTC status.

Likely Chinese proposals

Hong Kong residents to be PRC citizens.

Likely effect on confidence in Hong Kong

1. Possibly damaging at first, but containable if BDTC status can be preserved.

DEFENCE AND INTERNAL SECURITYEssential requirements for HMG

1. No stationing of Chinese military units or public security personnel in Hong Kong.
2. Internal security to be maintained by the local police, responsible to the Hong Kong Government.
3. Expanded police force, probably with substantial expatriate (particularly British) element.
4. Chinese authorities to exercise firm restraint on immigration from China.

Nature of possible changes

1. Removal of the British garrison from Hong Kong.
2. An increase in the size of the police force.

Likely Chinese reaction

Favourable, but may object to appointment of British Police Commissioner.

Likely Chinese proposals

Progressive localisation of police.

Likely effect on confidence in Hong Kong

Containable given reasonable continuity of personnel in the expanded police force and given visible sole control of the force by the Hong Kong Government.

Other difficulties

1. Arrangements for visits by representatives of the Chinese armed forces.
2. The probable Chinese wish for arrangements in special circumstances under which Chinese military forces could be deployed in Hong Kong eg for defence against an external threat.

LEGAL SYSTEM

Essential requirements for HMG

1. Existing Hong Kong legal system to remain in force.
2. Hong Kong Government to retain independent power of legislation.
3. Retention of independent judiciary.
4. No interference by PRC.

Nature of possible changes

1. Judicial appeals to be transferred from Privy Council to Supreme Court of Hong Kong.
2. UK laws only to be extended to Hong Kong through resolution of Legislative Council, rather than by UK Order in Council.
3. Appointments of judges to be made locally.
4. More use of Chinese language in courts.
5. Appointment of more local Chinese judges.

Likely Chinese reaction

Favourable.

Likely Chinese proposals

Termination of link with Privy Council.

Likely effect on confidence in Hong Kong

Some adverse arising from possible change 1, (and see Other difficulties 3 below), otherwise slight.

Other difficulties

1. Need to determine what legislative powers, if any, HMG would need to retain in order to discharge residual authority.
2. Difficulty of persuading local Chinese lawyers to join judiciary.
3. Possible strong wish in Hong Kong and among foreign investors for external Court of Appeal.

APPENDIX I

CURRENCY AND FINANCE

Essential requirements for HMG

1. Retention of independent convertible currency under control (through HKSB and Chartered Bank) of Hong Kong Government.
2. No Bank of China interference in financial and monetary system.
3. Exchange Fund to remain under direct control of Hong Kong Government.

Nature of possible changes

1. Change of emblems on banknotes and coins, which could be minted and issued in Hong Kong. (Similar change for stamps.)
2. Bank of China, as a continuing member of the committee of Hong Kong Association of Banks to share with HKS B and Chartered Bank note-issuing privileges and therefore become a member of the Exchange Fund Advisory Board.

Likely Chinese reaction

Favourable.

Likely Chinese proposals

Consultative role for Bank of China.

Likely effect on confidence in Hong Kong

Some, but probably tolerable.

Other difficulties

1. HMG's responsibility for Hong Kong's obligations to the Asian Development Bank (c. £110 million).

CIVIL AVIATION AND SHIPPINGEssential requirements for HMG

1. China not to assume civil aviation rights for Hong Kong under Chicago Convention.
2. Hong Kong Government to retain responsibility for operation of port and airport.

Nature of possible changes

1. HMG to relinquish civil aviation rights for Hong Kong, to be vested on Hong Kong Government.
2. CPA to become a joint venture with CAAC, or CAAC to take a substantial share-holding in CPA. CPA's rights to operate from Hong Kong as a regional and world-wide airline to be preserved.
3. Hong Kong to cease to be a UK port of registry.

Likely Chinese reaction

Favourable to changes, but may oppose arrangement to meet HMG's essential requirements 1 and 2.

Likely Chinese proposals

China to assume civil aviation rights for Hong Kong.

Likely effect on confidence in Hong Kong

Limited, provided CPA retained current traffic rights (CPA a important technical leader and employer in Hong Kong).

Other difficulties

(For Hong Kong) it might be difficult to gain international acceptance of right to negotiate own civil aviation rights; (for HMG) it would be difficult to secure permanently British airlines' present important route rights (see Essential requirement (2)) once we had relinquished civil aviation rights for the territory (change (1)); (for the Chinese) Essential requirements would mean that Hong Kong would need separate representation in certain international organisations such as IMO.

SECONDARY CONSTITUTIONAL MATTERSEssential requirements for HMG

1. Name: none, provided legally compatible with main agreement.
2. Title of Governor: none.
3. Royal prefix: none.
4. Royal visits: none.
5. Anthems: Chinese (and British) anthems to be used only on appropriate national occasions.
6. Language: official parity for English.

Nature of possible changes

1. Name: territory to be described formally as 'Hong Kong, China' or 'the Hong Kong Special Administrative Region of the People's Republic of China'. (Chinese might also seek some parallel use of the new Romanisation 'Xianggang'.)
2. Title of Governor: to be changed to eg 'Commissioner'; no further use of colonial uniform etc, and simplification of style on official documents.
3. Royal prefix: to be removed from official, and as far as possible, private institutions eg police, Jockey Club, Yacht Club.
4. Royal visits: to be subject to the agreement of the Peking Government.
5. Anthems: adoption of new Hong Kong anthem. No further use of British national anthem as the Hong Kong anthem.
6. Language: Mandarin as an official language on par with English and Cantonese.

Likely Chinese reaction

Changes 1-3 important. Others less so.

Likely Chinese proposals

Hong Kong to become an SAR with colonial titles etc removed.

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Likely effect on confidence in Hong Kong
SAR status could cause concern, otherwise slight.

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FUTURE OF HONG KONG: AIDS TO CONFIDENCE AFTER 1997

Aim

1. This paper examines ways in which reassurance might be provided against Chinese interference in Hong Kong after a change of status, probably in 1997. It assumes not only the transfer of sovereignty to China but also the ending of the existing administrative link with Britain. It is not envisaged that the Governor of Hong Kong, under whatever title, would be appointed by the British Government or could be answerable to London. It assumes that the new regime would include the main elements of the Chinese plan, so far as we know them. The degree of confidence which any other 'insulators' could instil in Hong Kong in such circumstances would be very uncertain. The most effective safeguards would be those which built on the existing economic incentives for China not to interfere.

Chinese Intentions

2. The most authoritative and up to date outline was given by Vice Foreign Minister Yao Guang in the talks with the Ambassador on 25 July. These are listed at Appendix 1. They include the following points:

- (a) Hong Kong would become a Special Administrative Region of China.
- (b) The Government would be drawn from the local people of Hong Kong.
- (c) The economy and way of life and basic freedom would be "protected" and the laws would be "basically unchanged". There would be an independent convertible currency and "existing external relations in the economic and cultural fields" would be maintained.

3. In addition we have the personal views of Assistant Foreign

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Minister Zhou Nan to the Ambassador on 11 July. These included Yao Guang's point, emphasised that "British administrative control" was not acceptable and gave the personal view that there could be no British Governor or Chief Secretary and no British troops after 1997, although British administrators could stay on in an advisory capacity. Full account would be taken of British interests. He said that a change of flag was important, but not enough.

Problem: To Bind China to Respect Autonomy

4. Taken at face value, the Chinese description of a future Hong Kong contains many elements of the present form of administration, although there would be important differences in the fields of political external relations, defence and probably nationality. Provided these terms were guaranteed they would probably be tolerable to the majority of Hong Kong people although some of those most necessary to Hong Kong's continuing prosperity would undoubtedly leave. Can guarantees be devised which would be regarded as sufficiently binding on China to limit the damage to Hong Kong which acceptance of the Chinese presence would inevitably cause?

Impracticable Solutions

5. These include:

- (a) Independence for Hong Kong. The Chinese have made clear that they would not accept this.
- (b) Trusteeship under the United Nations. This would not be acceptable to China which regards its sovereignty over Hong Kong as incontestable. Trusteeship arrangements have traditionally been used as a prelude to independence. The same objections would apply to trusteeship by other countries or regional groups.

Possible Arrangements

6. While the Chinese Government are very unlikely to agree to restrict their freedom of action with regard to Hong Kong, possible safeguards fall into the following categories:

- (i) Binding Undertakings by China to respect a 'Charter' for Hong Kong.
- (ii) Legislative/Constitutional arrangements
- (iii) British participation in administration, short of control.
- (iv) Changes in Hong Kong's administrative structure.
- (v) Involvement of other countries.

Undertakings By China

7. The Chinese will oppose inclusion of the administrative arrangements in Hong Kong (their "internal affairs") in any internationally binding framework. Nevertheless we should press for this. We do not believe that the Chinese will accept anything bearing the title "treaty" but some other form of international agreement may however be negotiable. Moreover although the present Chinese Government has repudiated all the basic treaties relating to Hong Kong, it would be unlikely to do so in respect of an international agreement which it had itself concluded. Indeed in general it has a good record of observance of its treaties.

8. A unilateral declaration by China that Hong Kong's autonomy would be respected after 1997 would not be legally binding, but it might be negotiable. The effect of such undertakings should not be underestimated. The technique of unilateral statements has become an accepted diplomatic device with Peking and is generally regarded by the Chinese Government as politically (if not legally) binding.

9. Any undertaking (whatever its form) could include a specific minimum time scale for the duration of the SAR. Recently reports have suggested Chinese readiness to leave Hong Kong untouched for fifty years. There would be obvious advantages in HMG tying down the present Chinese Government as specifically as possible and for as long as possible. Nevertheless many people in Hong Kong would still be very suspicious and would not consider the undertakings sufficient without more specific guarantees. They would see the danger of China either gradually interfering with specific areas of administration, for ideological or economic reasons; or of an internal upheaval leading to a more radical government which might feel impelled to take over the territory.

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Legislative/Constitutional Arrangements

10. Undertakings by China might be strengthened by the negotiation of an agreed constitution for Hong Kong. This could include a guaranteed minimum time scale for the arrangements, entrenched clauses covering essential freedoms (or a Bill of Rights see 12(d) below) and possibly a legislative structure, confirming the EXCO/LEGCO systems. These provisions might be incorporated in turn in Chinese legislation by the NPC under the provisions of the Chinese Constitution. This would be vulnerable to the argument that what the NPC could establish, it could overturn. But that applies to any undertaking by China (unless incorporated in an international agreement) and the enactment of Chinese legislation might marginally encourage Peking to respect the deal.

British Participation in Administration

11. The Chinese have expressed readiness to see that British trading interests are protected. We should try to build on this towards securing guarantees of Chinese non-interference. The possibilities are:

- (a) British participation in the appointment of Governor. There have been indications that the Chinese would favour a Hong Kong Chinese as Governor. There is also some evidence that they might acquiesce in the Governor's ultimate authority not being Peking and may show flexibility over arrangements for Gubernatorial appointments. In our view, the best insulator we are likely to achieve would be a Governor elected in some form by the Hong Kong people (see 9(a)) and accountable to them. Otherwise agreement that HMG and Hong Kong should be consulted might be negotiable though we might have to concede the power of veto to the Chinese.
- (b) Consultative position for "British Commissioner". It should be possible to get Chinese agreement to a local British representative being accorded a higher status than an ordinary Consul General. It would be worth negotiating for such a person to be consulted on major decisions or changes in Hong Kong. These could cover for instance economic relations and the

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currency. It would at the same time be important to avoid putting a representative into a position where he had constant arguments with the local government or with a Chinese representative and in effect became part of a condominium without power.

- (c) British Civil Servants in administration. The Chinese have specifically said that they would allow this. Assistant Foreign Minister Zhou Nan indicated that, besides the Governor, the Chief Secretary's position would be barred. It might however be possible to get agreement to British Civil Servants remaining in other key positions, such as the Financial Secretaryship or the Attorney General's office. This might provide some assurance to Hong Kong people and the retention of a substantial cadre of British Civil Servants could provide a degree of insulation. But prospects for the system's survival much beyond 1997 would be limited without agreement over continued mechanisms for recruitment. It would be difficult to get good people to take on jobs with little apparent security and the prospect of very serious disagreement over policy, though it could be possible to negotiate arrangements for seconding British Civil Servants to Hong Kong with the right of return (comparable to arrangements with the European Commission). However, such arrangements could in practice breed resentment among local people as blocking their own advancement and the effects of the system as an insulator would be limited.
- (d) British advisers on boards and commissions. There would be advantage in British expatriate experts participating in any form of advisory or regulatory boards which were set up to preserve basic systems and freedoms (see below).

Changes to Administrative Structure

12. In order to preserve confidence, there would be advantage in maintaining the basic administrative structure (Executive and Legislative Councils and departmentally organised Civil Service). This appears moreover to coincide with Chinese intentions. But, if no "insulator" can be provided by an external link, it might be possible to build certain internal checks and balances into the administrative structure. Possibilities are:

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(a) Elections

Direct elections to the Legislative Council (possibly with selection of the "Governor" and Executive Council from that body) should be considered. So far the Peking Government have made clear their opposition to elections in Hong Kong, fearing that it might lead to demands for independence. But there have been some reports of possible readiness in the future to have an elected Governor, although the extent to which this would be, in practice, an effective insulator is doubtful. However a good deal of comment from Hong Kong has suggested that internal democracy would strengthen public confidence in any form of post-1997 regime. Indirect elections, eg from the District Boards upwards, might be an alternative. In either case, members of EXCO could be given departmental responsibilities (Education etc) as local ministers.

(b) Independent Commissions

These would have the job of safeguarding current systems. The following are examples of areas which might be covered:

(i) Law and judicial system. The Chinese have said that they would maintain the current legal system. However, this would presumably mean the retention of the main body of law as it existed when a transfer of power took place, and the system for its administration (although with Hong Kong Chinese judges largely replacing British judges). It would be important to provide some guarantee that the law would not be eroded by an accretion of Chinese law and also that it would be allowed to develop, as under any other common law system, in order to meet future needs. Some kind of independent Legal Commission could be asked to watch over this and to vet recommendations for new legislation. Such a body would be particularly suitable for British participation. It could perhaps be chaired by a British judge or senior advocate. It might also lend itself to participation by legal experts from other countries.

(ii) Currency and finance. The Chinese have said that an

independent convertible currency would be maintained. There would still be suspicions that they would try to assert their influence in financial matters. This would destroy confidence in the currency. An independent Financial Commission could be set up to oversee the management of the currency. (Membership might include the leading banks - British, Hong Kong, Chinese and third country.)

(c) Central Commission

A variation or extension of the independent commission system would be to devise a supervisory body which would act as an overall watchdog for the autonomy and freedoms of the Special Administrative Region of Hong Kong. Such a body might be elected from the Executive Council and in effect put the powers of the Governor into commission, although it would probably need to be chaired by a Governor or "Administrator" enjoying Peking's approval. It might be possible for the British Commissioner and the Chinese representative from Peking to be members of this group. But there would be snags. The British representative could find himself in an impossible position if he disagreed with his Chinese or other colleagues and had no effective influence.

(d) Bill of Rights

This would be essentially a codification of the undertakings which we would expect the Chinese Government to make to respect local freedoms. It might be possible to get selected freedoms written into a new "constitution" for Hong Kong.

13. The degree of guarantee offered by Independent or Central Commissions if not appointed by a Governor answerable to London would clearly be limited. Joint choice or approval by London and Peking would give the latter an opportunity to interfere. The best arrangement would probably be some form of indirect election within Hong Kong, eg by an 'electoral college' formed of the elected members of the district boards, the Urban Council and other elected bodies. But once the UK link is broken no insulator can provide a complete guarantee. Such commissions would, however, offer a means of public opposition to attempts by Peking to meddle in Hong Kong affairs or pursue unwelcome policies towards the SAR. International

attention could be focussed on such activities and pressure thus increased on Peking to toe the line. Furthermore, the more the Chinese can be bound into a network of "internal" and quasi-external undertakings the more difficult it will be for the PRC to renege on such agreements and erode current systems. This should be reflected in confidence within Hong Kong.

Participation by Other Governments and Organisations

14. International control of Hong Kong would not be acceptable to Peking (see para 5) nor would any arrangement which fundamentally cut across its sovereignty. Moreover from the point of view of confidence in Hong Kong, there would be no point in new arrangements which in themselves appeared to dilute Hong Kong's autonomy. But, besides the introduction of foreign advisers for specific areas (see above) it might be possible to devise machinery to offer a degree of protection for Hong Kong's agreed future status and administrative arrangements:

- (a) there might be value in something on the lines of an "International Advisory Board for the Free Port of Hong Kong." This could include representatives of major banks and business houses, both local and foreign, and possibly also commercial or diplomatic representatives of governments.
- (b) HMG might seek Third countries' agreement that Hong Kong's position in international organisations (eg GATT) should continue after 1997 only for as long as HMG's bilateral "agreement" with the Chinese over Hong Kong's future or Hong Kong's "Charter" remained inviolate.
- (c) An alternative to (or extension of) (b) could be for Hong Kong to be empowered before and after 1997 to negotiate with its major trading partners access agreements for Hong Kong exports similar to those now in force but which would remain valid only as long as Peking honoured its commitment not to interfere with Hong Kong's full autonomy (Yao Guang has indicated that Hong Kong would be able to conclude its own external trade agreements).

Hong Kong Department

[Date]

APPENDIX 1

Special Policies which the PRC had decided to adopt towards Hong Kong (as elaborated by Yao Guang to HMA Peking in the talks on 25 July)

- (i) Hong Kong would become a Special Administrative Region;
- (ii) The Government would comprise the local people of Hong Kong;
- (iii) Socio-Economic systems and way of life would remain unchanged;
- (iv) Private ownership of property and foreign investments would be protected;
- (v) Freedoms of speech, press, assembly, travel, change of domicile, correspondence and religion would be protected;
- (vi) Hong Kong Special Administrative Region(SAR) would enjoy a high degree of autonomy including legislative power and independent judiciary, including the "power of final judgement";
- (vii) Laws would be basically unchanged;
- (viii) Hong Kong would continue as a free port and international financial centre: Foreign exchange, gold, securities and futures markets and the free flow of capital to continue;
- (ix) The Hong Kong dollar would continue to circulate freely and remain fully convertible;
- (x) Financial independence;
- (xi) Hong Kong would maintain its existing external relations in economic and cultural fields and could establish mutually beneficial economic relations with Britain.

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