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DESKBY 021200Z DEC

FM PEKING 020900Z DEC 83

TO IMMEDIATE FCO

TELEGRAM NUMBER 1287 OF 2ND DEC 83

INFO IMMEDIATE HONG KONG

FUTURE OF HONG KONG: DINNER WITH YAO GUANG

1. # HAD 4 AND A HALF HOURS WITH YAO GUANG OVER DINNER ON 1 DECEMBER. GALSWORD WAS ALSO PRESENT.

2. YAO STARTED WITH A RATHER FORMAL STATEMENT. HE SAID THAT HE HAD REPORTED THE STATEMENT WHICH # HAD MADE ON INSTRUCTIONS ON 28 NOVEMBER. THE CHINESE GOVERNMENT ATTACHED IMPORTANCE TO THIS CLARIFICATION AND WELCOMED IT. IT WOULD HELP OUR TALKS. OUR MUTUAL UNDERSTANDING HAD BEEN ENHANCED. HE HAD BEEN THINKING OVER WHAT # HAD SAID ON A PREVIOUS OCCASION ABOUT DIFFICULTIES OF COMMUNICATION. THE REASONS FOR THE MISTRUST AND DOUBT ON THE CHINESE SIDE SHOULD BE SOUGHT IN THE ACTIONS OF THE BRITISH SIDE. THE CHINESE POSITION WAS THAT AFTER SOVEREIGNTY INCLUDING ADMINISTRATION HAD BEEN SETTLED BRITAIN WOULD HAVE A PART TO PLAY IN HONG KONG AND THERE SHOULD BE COOPERATION BETWEEN BRITAIN AND CHINA TO MAINTAIN THE STABILITY AND PROSPERITY OF HONG KONG. BUT THE BRITISH ATTITUDE ON SOVEREIGNTY HAD NOT BEEN CLEAR, NOR HAD WE EXPLAINED CLEARLY WHAT WE MEANT BY BRITISH LINK AND ROLE. HOWEVER THE CHINESE SIDE CONSIDERED THE BRITISH STATEMENT OF 28 NOVEMBER AS A BIG EFFORT, AND IT EXPLAINED CLEARLY QUESTIONS OF SOVEREIGNTY AND ADMINISTRATION AND THE BRITISH LINK AND ROLE. IN THE CHINESE VIEW IT HAD CREATED CONDITIONS FOR FURTHER DISCUSSIONS GUIDING PRINCIPLES AND HAD ALSO CREATED A FAVOURABLE ATMOSPHERE FOR THE SMOOTH RUNNING OF THE TALKS. IN THE LIGHT OF THIS THE CHINESE SIDE WOULD BE ABLE TO MAKE MORE DETAILED COMMENTS ON OUR WORKING PAPERS, AND WOULD BE WILLING TO DISCUSS THE WAY IN WHICH FUTURE TALKS SHOULD PROCEED. AS FOR 'EXCESSIVE DETAIL', IT WAS NOT REALLY A QUESTION OF WHETHER THE CHINESE SIDE WERE WILLING OR NOT TO DISCUSS SUCH THINGS. SOME THINGS DID NOT NEED DISCUSSION AT THIS STAGE. OTHERS WOULD BE COVERED UNDER ITEM TWO OF THE AGENDA, AND SOME WOULD FALL UNDER THE RESPONSIBILITY OF THE FUTURE SAR GOVERNMENT IN THE LIGHT OF THE BASIC LAW WHICH WOULD BE ENACTED FOR THE SAR.

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3. YAO QUOTED AN EXAMPLE OF THE CHINESE SUSPICIONS ARISING FROM THE LEGAL PAPER. WE HAD NOT MENTIONED THE THREE LAWS, THE ROYAL INSTRUCTIONS, THE LETTERS PATENT AND THE COLONIAL INSTRUCTIONS, EVEN THOUGH THESE ARE THE LEGAL INSTRUMENTS FOR THE BRITISH RULE OF HONG KONG. CHINA HAD THOUGHT THAT OUR FAILURE TO MENTION THESE WAS INCONSISTENT WITH THE PROPOSITION THAT SOVEREIGNTY AND ADMINISTRATION SHOULD PASS TO CHINA. THAT WAS WHY IT HAD BEEN DIFFICULT TO GO ANY FURTHER IN DETAILED DISCUSSION OF THE LEGAL PAPER. BUT SAYING THAT CHINA THOUGHT THAT THESE LAWS SHOULD BE ABOLISHED DID NOT MEAN THAT CHINA THOUGHT ANY OTHER LAWS SHOULD NECESSARILY BE ABOLISHED. WITH THIS PROBLEM CLEARED UP WE COULD DEAL WITH OTHER SPECIFIC POINTS. HE WANTED NO MISUNDERSTANDING ON THIS POINT. CHINA WELCOMED OUR WORKING PAPERS, AND THE MEETING ON 28 NOVEMBER HAD CREATED BETTER CONDITIONS FOR DISCUSSING THEM.

4. IN REPLY HE SAID THAT HE WAS GLAD THAT THE MEETING HAD IMPROVED THE ATMOSPHERE, AND THAT THE CHINESE SIDE NOW RECOGNISED THE LENGTHS TO WHICH WE HAD GONE TO MEET THEM. HE HAD BEEN VERY WORRIED AFTER THE LAST ROUND OF TALKS BY THE CHINESE REFUSAL TO GO INTO DETAIL. IT WAS WHOLLY IMPRACTICAL TO SUPPOSE THAT WE COULD LEAVE A LARGE NUMBER OF THINGS TO BE DECIDED AFTER 1997. MANY QUESTIONS WERE QUESTIONS OF PRINCIPLE ABOUT WHAT SORT OF PLACE HONG KONG WOULD BE AFTER 1997. HE CITED THE SEPARATION OF THE JUDICIARY FROM THE EXECUTIVE. EVEN IN AREAS WHERE THE SAR GOVERNMENT WOULD HAVE POWERS TO MAKE CHANGES IN POLICY WE STILL NEEDED TO KNOW WHAT THE SITUATION WOULD BE IMMEDIATELY AFTER 1997. WE WERE NOT SAYING THAT THE SAR GOVERNMENT SHOULD BE DEPRIVED OF POWER TO CHANGE ANYTHING AFTER THAT. BUT IT WAS ESSENTIAL TO KNOW THE STARTING POINT.

5. ON THREE LAWS, HE SAID THAT WE HAD NEVER CONSIDERED THE LEGAL PAPER AS COVERING CENTRAL CONSTITUTIONAL MATTERS WHICH WOULD BE DEALT WITH IN A LATER PAPER. THIS WAS WHY THE THREE LAWS HAD NOT BEEN MENTIONED. IT WAS FAIRLY OBVIOUS THAT IF THERE WERE TO BE NO LINK OF AUTHORITY BETWEEN THE UK AND HONG KONG THERE COULD BE NO ROYAL INSTRUCTIONS. NEVERTHELESS IF THESE LAWS WERE ABOLISHED MUCH OF THE CONTENTS OF THEM WOULD HAVE TO BE REPLACED BY SOMETHING ELSE, SINCE OTHERWISE THERE WOULD BE NO FRAMEWORK FOR THE INSTITUTIONS IN HONG KONG TO WORK WITHIN. YAO SAID THAT HE WAS GLAD TO HEAR WE WOULD PRODUCE A PAPER ON THE CONSTITUTIONAL ARRANGEMENTS: HE HAD NOT REALISED THIS. (HE COMMENTED THAT A SIMPLE QUESTION FROM HIM AT AN EARLIER STAGE WOULD HAVE ELICITED THIS INFORMATION AND CLEARED UP THE MISUNDERSTANDING). HE SAID THAT THE MATTERS NOW DEALT WITH IN THE THREE LAWS WOULD BE COVERED IN THE BASIC LAW FOR HONG KONG UNDER ARTICLE 31 OF THE CHINESE CONSTITUTION. *1 SAID THAT WE WOULD NEED* TO HAVE DETAILS OF HOW THE CHINESE SIDE SAW THE INSTITUTIONS OF HONG KONG AS OPERATING AND INDEED WOULD NEED TO KNOW WHAT THE CONTENT OF THE BASIC LAW ENVISAGED BY THE CHINESE SIDE WOULD BE. YAO WAS SOMEWHAT EVASIVE ON THIS BUT DID SAY THAT CHINA REALISED THAT THEY COULD NOT LEAVE IT UNTIL 1997 TO DRAFT THE BASIC LAW. SECRET - 2 -

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6. ON WORKING PAPERS, YAO SAID THAT THE CHINESE FOUND IT DIFFICULT TO MAKE ANY KIND OF OVERALL ASSESSMENT OF THE POSITION WHILE WE PUT IN WORKING PAPERS ONE BY ONE, AND AT RATHER A SLOW PACE. HE ASKED WHETHER THE CHINESE COULD HAVE THE REST OF THE WORKING PAPERS FAIRLY QUICKLY, FOR INSTANCE BEFORE THE ARRIVAL OF THE NEW AMBASSADOR, SO THAT THEY COULD GET AN OVERALL PICTURE AND THE DISCUSSIONS COULD BE PLANNED MORE SENSIBLY. HE SAID THAT WE WERE WORKING AS FAST AS WE COULD, BUT THAT HE TOOK NOTE OF HIS REQUEST. HE SAID THAT THE CHINESE SIDE HAD BRIEFED US IN DETAIL AT THE 6TH ROUND ON THEIR 12 POINT PLAN. THEY RECOGNISED HOWEVER THAT WE MIGHT STILL HAVE SOME QUESTIONS. HE ASKED WHETHER IT WOULD BE POSSIBLE TO ARRANGE OUR WORKING PAPERS SO THAT THEY DOVETAILED WITH THE 12 POINT PLAN. THIS WOULD FACILITATE DISCUSSION. IT WOULD ALSO BE IN ACCORDANCE WITH THE PRIME MINISTER'S MESSAGE WHICH HAD REFERRED TO DISCUSSIONS BASED ON THE CHINESE PROPOSALS. HE TOOK NOTE AND POINTED OUT THAT WE HAD QUOTED IN EACH OF OUR PAPERS SO FAR THE RELEVANT EXTRACTS FROM THE CHINESE PROPOSALS AS WE KNEW THEM AT THE TIME. HE SAID THAT HE WAS NOT SURE WHETHER IT WOULD BE PRACTICAL TO DOVETAIL THE PAPERS COMPLETELY WITH THE PROPOSALS, BUT WE WOULD DO WHAT WE COULD. YAO ASKED HOW MANY PAPERS WE ENVISAGED: HE SAID PERHAPS ABOUT 15.

7. HE SAID THAT HE HOPED THAT WE WOULD GET BETTER DISCUSSION ON THE CONTENT OF THE WORKING PAPERS THAN WE HAD HAD AT THE 6TH ROUND. YAO REPLIED THAT AT THE 7TH ROUND HE WOULD MAKE FURTHER COMMENTS ON THE LEGAL, FINANCIAL AND EXTERNAL RELATIONS PAPERS. THE CHINESE SIDE WOULD SAY WHICH OF THE PROPOSALS WERE CONSISTENT WITH THEIR PLAN, WHICH WERE NOT, AND WHICH THEY THOUGHT WERE MATTERS WHICH SHOULD BE LEFT TO THE SAR GOVERNMENTS TO DECIDE. HE SAID THAT HE HOPED THE CHINESE WOULD NOT USE THE LATTER AS AN EXCUSE TO AVOID DISCUSSION. YAO'S REPLY WAS NONCOMMITTAL. AT ONE STAGE WHEN YAO LEFT THE ROOM BRIEFLY HIS INTERPRETER SUGGESTED TO ME THAT THERE MIGHT BE A LINGUISTIC DIFFICULTY: IF WE WERE TO REFER TO SOMETHING LIKE 'THE MAIN ELEMENTS' RATHER THAN DETAILS, WE MIGHT FIND THE DISCUSSION MORE PRODUCTIVE. HE PRESSED YAO AT LENGTH ABOUT THE IMPRACTICALITY OF LEAVING LARGE AREAS TO BE DECIDED BY THE SAR AT A LATER STAGE. THERE WERE TIMES WHEN HE SEEMED TO SEE FORCE IN OUR ARGUMENT, BUT IT IS HARD TO JUDGE ITS LASTING IMPACT. HE HAD HIS INSTRUCTIONS AND KEPT GOING BACK TO THEM. AT ONE STAGE HE SAID THAT MANY OF THE POINTS WE WERE ASKING ABOUT HAD ALREADY BEEN SOLVED. FOR INSTANCE IT HAD ALREADY BEEN SAID THAT THE NEW GOVERNMENT WOULD BE PRODUCED EITHER BY CONSULTATION OR ELECTIONS. HE SAID THAT THIS ILLUSTRATED WHAT WE HAD IN MIND: IT WOULD BE NECESSARY TO DECIDE WHICH. - 3 -

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8. YAO CRITICISED OUR USE OF THE WORDS 'CHINESE PROPOSALS' IN THE PRIME MINISTER'S MESSAGE. THE CHINESE PLAN SHOULD BE CONSIDERED AS POLICY AND PRINCIPLE RATHER THAN A SET OF PROPOSALS WHICH MIGHT BE ACCEPTED OR REJECTED. THESE MATTERS WERE CHINESE INTERNAL AFFAIRS AND THE USE OF THE WORD PROPOSALS WAS NOT APPROPRIATE. HOWEVER CHINA WAS WILLING TO DISCUSS THESE MATTERS TOGETHER WITH THE BRITISH SIDE OUT OF HER SINCERE DESIRE TO COOPERATE IN SOLVING THE HONG KONG QUESTION. THEY WISHED TO HEAR OUR VIEWS AND ESPECIALLY OUR VIEWS ON MATTERS IN WHICH WE HAD A DIRECT INTEREST. I TOOK NOTE.

9. WITHOUT ANY PROMPTING YAO RAISED THE QUESTION OF CIVIL SERVANTS. HE SAID AT FIRST THAT NO MATTER WHAT ORGANS THE SAR GOVERNMENT MIGHT HAVE, THOSE WHO NOW WORKED AS CIVIL SERVANTS IN HONG KONG COULD RETAIN THEIR POSTS. I PRESSED HIM ON WHETHER HE REALLY MEANT THIS. HE THEN SAID THAT ABOVE A CERTAIN LEVEL SUCH PEOPLE WOULD HAVE TO BECOME ADVISERS, AND SUGGESTED THAT THIS LEVEL SHOULD BE ABOUT DEPUTY CHIEF OF DIVISIONS. (THIS WOULD RATE ABOUT DEPUTY DIRECTOR GENERAL IN THE EUROPEAN SYSTEM). HE SAID SPECIFICALLY THAT MEMBER OF THE LEGISLATIVE AND EXECUTIVE COUNCILS, THE CHIEF SECRETARY AND THE HEAD AND DEPUTY HEAD OF THE POLICE WOULD HAVE TO BE HONG KONG PEOPLE. HE THOUGHT HOWEVER THAT THE TYPE OF PEOPLE THE GOVERNOR HAD MENTIONED DURING THE LAST ROUND IN THE TAX DEPARTMENT WHO WERE VERY EXPERT IN THEIR FIELDS COULD SIMPLY STAY AT THEIR POSTS. WE POINTED OUT THAT THERE WAS NO SUCH THING AS AN ADVISER IN THE PRESENT HONG KONG SYSTEM AND THAT THIS WOULD MEAN CREATING A NEW SYSTEM. WE ALSO ASKED WHAT WAS MEANT BY 'HONG KONG PEOPLE'. YAO SAID THAT THIS WAS SOMETHING WHICH WOULD HAVE TO BE DISCUSSED LATER UNDER THE HEADING OF NATIONALITY.

10. YAO CRITICISED THE PAPER ON EXTERNAL ECONOMIC COOPERATION, WHICH HE SAID MERELY RAISED QUESTIONS BUT DID NOT SUGGEST ANY ANSWERS. I SAID THAT WE HAD BEEN SEEKING TO IDENTIFY THE AREAS IN WHICH IT WOULD BE NECESSARY FOR THE TWO SIDES TO COOPERATE. WE RECOGNISED OF COURSE THAT THERE WOULD HAVE TO BE SUBSEQUENT DISCUSSION OF THESE AREAS BY EXPERTS. YAO APPEARED TO WELCOME THIS.

11. FINALLY YAO ASKED ME ABOUT A BILATERAL AGREEMENT. HE RECALLED THAT DENG HAD MENTIONED SUCH AN AGREEMENT IN HIS MEETING WITH MR HEATH IN SEPTEMBER 1983. I SAID THAT WE PRESUMED THAT DISCUSSION OF AN AGREEMENT WOULD COME AFTER DISCUSSION OF THE FIRST TWO ITEMS ON THE AGENDA. WE HAD AS YET NO FIXED IDEAS ABOUT WHAT SUCH AN AGREEMENT SHOULD CONTAIN, BUT WOULD BE GIVING THE MATTER THOUGHT. IT WOULD CERTAINLY NEED TO DEAL WITH THE QUESTION OF SOVEREIGNTY.

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12. THE ATMOSPHERE WAS WARM AND THE STATEMENT OF 28 NOVEMBER SEEMS TO HAVE MADE MORE OF AN IMPACT THAN WE AT FIRST THOUGHT. IN CONSEQUENCE WE CAN EXPECT A RATHER MORE DETAILED DISCUSSION ON 7 AND 8 DECEMBER THOUGH HOW MUCH MORE DETAILED REMAINS TO BE SEEN. IN THE SITUATION WE DECIDED IT WOULD NOT BE HELPFUL TO RAISE THE QUESTION OF WANG GUANGYING'S INDISCRETION (YOUR TELNO 830)

CRADOCK

FUTURE OF HONG KONG

LIMITED

HD/HKD

HD/FED

HD/PLANNING STAFF

HD/PUSD

D/ED/PUSD(MR FLOWER)

RESEARCH DEPT(MR WALKER)

LEGAL ADVISER(SIR IAN SINCLAIR)

PS

PS/LADY YOUNG

PS/MR LUCE

PS/PUS

SIR J BULLARD

MR GIFFARD

MR DONALD

MR WRIGHT

SIR C TICKELL

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PS/S OF S FOR DEFENCE

PS/ATTORNEY GENERAL

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