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PRIME MINISTER

Hong Kong

1. The seventh round of negotiations with the Chinese, on 7-8 December, was conducted in a significantly improved atmosphere. The explanation of our views on the relationship between Hong Kong and Britain after 1997, as discussed by OD(K) on 17 November and put forward by Sir P Cradock on 28 November, had apparently done much to dispel Chinese suspicions. There was no request from the Chinese side for explicit affirmation of the premise that sovereignty and the right of administration over Hong Kong would pass to China in 1997. For the first time the Chinese commented in some detail on the working papers which had been submitted by our negotiators. The Ambassador considers that while the Chinese have probably not dropped their distinction between matters which they regard as their internal affairs and those in which we have a direct interest, they appear to have relaxed it for the time being.

2. The Chinese comments revealed a certain measure of common ground between ^{the initial and} Chinese positions and the implications which, for the purpose of negotiation, we had sought to draw from them. In some areas the elaboration of Chinese positions appeared to have been positively influenced by elements from the British papers. On the legal system of a Hong Kong Special Administrative Region (SAR) the Chinese confirmed inter alia that the existing system of courts would in principle be retained, but with the power of final judgement exercised within Hong Kong; that precedents from other common law jurisdictions could be used and personnel from other such jurisdictions employed; and that the courts would be independent from the executive. They agreed that the Hong Kong SAR should make laws in the financial field; draw up its budget independently; and use its revenue exclusively for local purposes. In conducting its

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own external economic relations the SAR could conclude "appropriate agreements"; join international organisations not limited to states; establish its own trade missions; and seek to maintain its separate status under Gatt, the Multi-Fibre Arrangement and the various generalised schemes of preferences.

3. A number of the Chinese comments were less welcome. They proposed that senior judges in the SAR would be elected by the legislature and in general they showed a disposition to tinker with the legal system more than seems necessary. They suggested that both the Chief Executive of the SAR, chosen through local consultation or election, and senior government officials, nominated by the SAR Government would be formally appointed by the Central People's Government. They also stuck to their intention to publicise their proposals in September 1984 and introduced a new element, stating that the drafting of the basic law detailing arrangements for Hong Kong would not begin until the statement was issued. The Chinese envisage doing this themselves; there is clearly a risk of our being edged out of an important phase of the process. Most ominously, they appeared to imply that a People's Liberation Army garrison in Hong Kong would have responsibility for external defence.

4. It remains to be seen whether there is any disposition on the Chinese side to modify their plans in response to our comments. But we shall obviously need to hammer away at the key issues. An opportunity will occur when Sir P Cradock pays calls on a number of Chinese leaders before his departure. He has suggested a number of points which he could usefully make, including a firm description of the dangers to confidence of stationing Chinese troops in Hong Kong.

5. The Governor has sent an assessment of the state of confidence in Hong Kong which has already been circulated to members of OD(K). It points to a superficial improvement in morale but considerable underlying unease. This is partly because the views of people in Hong Kong on the likely outcome of the talks appear to reflect resignation to the fact that continuing British administration is not achievable. Not all EXCO members would accept this. Well before the most recent round the senior Unofficial member of the

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Hong Kong Executive Council, Sir S Y Chung, suggested to the Governor that Unofficial members of EXCO should visit London in January to review the position reached in the talks with HMG. In the Governor's view Unofficials are likely to press very strongly for this. A number of them, particularly Sir S Y Chung, are concerned at the way the talks have developed since their visit in October when it was agreed with you that we should see whether satisfactory arrangements could be built on the basis of the Chinese proposals. They are already unhappy at the idea that the earlier objective of continuing British administration may have been given up, even within the conditionality of your message to the Chinese. They believe that there is no sign that the current strategy will produce a satisfactory substitute for British administration and they may well argue that the time is coming to acknowledge this and if necessary break off the talks. They will demand from HMG a clear statement of our objectives.

6. The Governor advises that Ministers should agree to the Unofficials' proposal to come to London. He assesses that they are deeply concerned and will need a full discussion. I think that this is right. I am aware of the difficulty that too frequent visits by EXCO might give them the impression that they have control over our negotiating position. On the other hand it is important to keep them alongside us. It is moreover important that EXCO be given a realistic assessment. We should explain to them that the object of the strategy agreed in October was to discover whether a satisfactory solution could be built on the basis of the Chinese proposals. We have not yet had time to see whether that is the case but we are just beginning to get into detailed talks and should let the process continue. We should moreover tell EXCO that the arguments against confrontation with China remain in our view as strong as ever.

7. We shall also need to review the way ahead with EXCO. For this purpose I am having a paper prepared which, after discussion with the Governor and Sir Percy Cradock, will be ready early in the New Year. The prospect contains both pitfalls and opportunities. The essentials are:

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- (a) We should continue our current strategy of detailed discussion with the Chinese, aimed at substantially improving their proposals, pinning them down on points where we are agreed and firmly arguing those where their position remains unsatisfactory, eg on the question of a garrison.
- (b) We must therefore continue to put our working papers to the Chinese. On the whole these are beginning to yield helpful results. The Ambassador has argued that we should speed up their submission, as the Chinese have requested. He believes that this should include a paper on the central issues of administration, covering the position of Governor. He sees it as essential to inject into the Chinese thinking our ideas on these major issues at an early stage. I think that this is right but it will require very careful handling with EXCO.
- (c) We should watch the progress of the negotiations carefully in order to decide when we should tackle the question of a bilateral agreement. If we leave things too late there is a risk that the Chinese may simply produce an improved unilateral statement which will not be sufficiently binding on them to inspire confidence in Hong Kong. We do not want to leave a shift of gear of this sort too late.
- (d) We shall have to bear in mind the need to adjust our public line in Hong Kong as the likely outcome of the talks grows clearer.
- (e) We must not allow the Chinese to steal a march on us in appealing to the people of Hong Kong. Their propaganda has recently put new and marked emphasis on consultation with Hong Kong and interestingly on the development of democratic institutions there. The Governor is already giving careful thought to this question. It needs to be seen on the one hand in the context of gauging the acceptability of an agreement with China; on the other we need to do everything possible, as you have pointed out yourself, to developing a genuinely

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autonomous administration in Hong Kong which, well before 1997, will be strong enough to continue after a transfer of sovereignty.

8. I suggest that at the meeting of OD(K) we should agree on the following:

(i) Acceptance of a visit by EXCO, with a meeting provisionally fixed for 16 January.

(ii) The commissioning of a paper to be prepared by the FCO reviewing the current position and the way ahead in time for the EXCO visit.

9. I am copying this minute to other members of OD(K) and to Sir Robert Armstrong.

A handwritten signature in dark ink, appearing to be 'G. Howe'.

GEOFFREY HOWE

Foreign and Commonwealth Office

12 December 1983