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DD 010100Z HONG KONG
GRS 1433
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DESKBY 010100Z
FM FCO 291205Z FEB 84
TO IMMEDIATE HONG KONG
TELEGRAM NUMBER 373 OF 29 FEBRUARY
INFO IMMEDIATE PEKING
MIPT: FUTURE OF HONG KONG: STRATEGY AND TIMETABLE
PAPER FOR EXCO

A.S.C. 1/3
h.a.

1. MINISTERS HAVE CONCLUDED AFTER THE MOST CAREFUL CONSIDERATION THAT OUR OBJECTIVES IN NEGOTIATING WITH THE CHINESE ON THE FUTURE OF HONG KONG, AND ALSO THE INTERESTS OF THE HONG KONG PEOPLE, WOULD BEST BE SERVED BY AIMING FOR A BILATERAL AGREEMENT WITH THE CHINESE THIS YEAR. THIS PAPER EXPLAINS THE BASIS FOR THAT VIEW.
2. THE CRUCIAL FACTOR IS THE INTENTION OF THE CHINESE TO ISSUE A STATEMENT IN SEPTEMBER ON THE FUTURE OF HONG KONG, EITHER IN THE FORM OF AN AGREEMENT WITH US, OR IF NEED BE, UNILATERALLY. WE BELIEVE THAT THE CHINESE COMMITMENT TO THAT DEADLINE IS UNSHAKABLE. IT DERIVES FROM DENG XIAOPING'S TALKS WITH THE PRIME MINISTER IN SEPTEMBER 1982 AND HAS SINCE BEEN REASSERTED AT EVERY LEVEL. IT MUST BE OUR PRIMARY OBJECTIVE TO SEE THAT WHATEVER DOCUMENT ISSUES IN SEPTEMBER IS AS JOINT, PALATABLE AND BINDING AS POSSIBLE. IF WE CONTINUE TO WORK WITH THE CHINESE FOR AN AGREEMENT BY THE DATE ON WHICH THEY ARE FIXED, WE SHALL MAINTAIN A DEGREE OF LEVERAGE AND STAND THE BEST CHANCE OF INFLUENCING THE CONTENT OF AN AGREEMENT.
3. IF WE WERE TO TELL THE CHINESE THAT WE SHALL NOT EVEN TRY FOR AN AGREEMENT THIS YEAR, WE SHOULD GREATLY DAMAGE OUR OWN AND HONG KONG'S INTERESTS. THERE WOULD BE A STRONG ADVERSE CHINESE REACTION. EITHER WE SHOULD HAVE CONFRONTATION AND THE ISSUE OF A UNILATERAL STATEMENT IN SEPTEMBER BY THE CHINESE, WHICH WOULD BE DISASTROUS FOR CONFIDENCE, OR, AFTER AN UNPLEASANT ARGUMENT, WE SHOULD CLIMB DOWN. BUT IN THAT CASE THE ATMOSPHERE WOULD BE WORSENERED, VALUABLE TIME WOULD BE LOST AND OUR CHANCES WOULD BE REDUCED OF GETTING THE ASSURANCES WE NEED.

4. IT HAS BEEN ARGUED THAT THE ASSESSMENT OF THE CHINESE REACTION ABOVE IS AN ASSUMPTION THAT HAS NOT BEEN SUBJECTED TO EVERY POSSIBLE TEST. IT DOES, HOWEVER, REPRESENT A SERIOUS AND IN MINISTERS' VIEW, ACCURATE JUDGEMENT, BASED ON A WIDE RANGE OF EVIDENCE, INCLUDING CHINESE STATEMENTS AT THE HIGHEST LEVEL AND THE CHINESE PERFORMANCE TO DATE. IN NEGOTIATIONS SO FAR WE HAVE REGULARLY HAD TO FORM AND ACT ON SUCH JUDGEMENTS. IF WE WERE TO INSIST ON SUBJECTING THIS JUDGEMENT TO THE ONLY REMAINING TEST, IT WOULD MEAN TELLING THE CHINESE THAT WE WERE NOT PREPARED TO AIM FOR AN AGREEMENT THIS YEAR, AND PRESSING OVER A PERIOD THE IDEA OF AN INTERIM ANNOUNCEMENT. FOR THE REASONS GIVEN ABOVE, WE CONSIDER THAT THE COST OF SUCH A FINAL TEST WOULD BE EXCESSIVE SINCE IT WOULD INVOLVE UNACCEPTABLE DAMAGE TO HONG KONG'S INTERESTS.

5. WHAT HMG AND HONG KONG NEED FROM THE CHINESE IS AS DETAILED AND BINDING COMMITMENTS ON POST 1997 HONG KONG AS WE CAN EXTRACT. IN ORDER TO MAXIMISE THE CHINESE COMMITMENT, WE WANT THEM IN A FORMAL INTERNATIONAL AGREEMENT. WE ALSO NEED TO MAKE SURE THAT THE DETAILS WE HAVE NEGOTIATED WITH THE CHINESE AND WHICH WE WANT TO SEE IN THE BILATERAL AGREEMENT WILL ALSO BE IN THE BASIC LAW. THESE ARE GOING TO BE DIFFICULT THINGS TO ACHIEVE IN THE BEST OF CIRCUMSTANCES. THEY WILL BE MUCH HARDER TO OBTAIN IF WE ARE NOT CO-OPERATING WITH THE CHINESE ON TIMING: AND THEY WILL BE MUCH HARDER TO OBTAIN AND WILL BY DEFINITION BE MUCH LESS BINDING IN AN INTERIM ANNOUNCEMENT THAN IN A BILATERAL AGREEMENT.

6. IT MIGHT BE ARGUED THAT AN INTERIM ANNOUNCEMENT WOULD BE FOLLOWED BY FURTHER SUBSTANTIVE NEGOTIATIONS ON POST-1997 ARRANGEMENTS LEADING TO A MORE DETAILED AND BINDING AGREEMENT. THIS EXPECTATION IS PROBABLY FALSE. IT IS CONCEIVABLE THAT THE CHINESE MAY WISH TO GO ON TALKING AFTER SEPTEMBER ABOUT THE PERIOD UP TO 1997, THOUGH THIS IS BY NO MEANS CERTAIN: BUT THEY WILL HAVE SAID THEIR SAY IN SEPTEMBER ON POST-1997 HONG KONG: THEY WILL NOT BE BUDGED FROM THAT: AND WE SHALL PROBABLY FIND THAT THERE IS LITTLE OR NO SCOPE FOR FURTHER NEGOTIATIONS ON THAT ISSUE.

7. AT THE PRESENT PACE OF WORK WE SHOULD HAVE COMPLETED THE

BULK OF THE TASK BY THE SUMMER. IF, HOWEVER, WE ARE UNABLE TO MANAGE THIS, IT WOULD BE OPEN FOR US TO FALL BACK ON SOMETHING RATHER LESS FORMAL THAN A BILATERAL AGREEMENT, IE A HEADS OF AGREEMENT. WE SHOULD HAVE A BETTER CHANCE OF OBTAINING CHINESE CONCURRENCE IN THIS COURSE IF WE HAD BEEN CO-OPERATING WITH THEM ON THE GENERAL TIMETABLE RATHER THAN CHALLENGING THEM.

8. HAVING ACCEPTED THIS TIME FRAMEWORK, AS WE MUST, THE NEXT QUESTION IS HOW TO MEET HONG KONG'S LEGITIMATE CONCERN TO BE INFORMED AND CONSULTED. AS HAD BEEN MADE PLAIN THROUGHOUT THE NEGOTIATIONS, THERE COULD BE NO QUESTION OF RECOMMENDING AN AGREEMENT TO PARLIAMENT WITHOUT FIRST ESTABLISHING ITS ACCEPTABILITY IN HONG KONG. AFTER A DRAFT AGREEMENT WAS ATTAINED AND PUBLISHED, ADEQUATE TIME WOULD BE PROVIDED TO ASSESS ITS ACCEPTABILITY IN HONG KONG. WORKING ON THE BASIS OF THE CHINESE DEADLINE OF SEPTEMBER, THE AGREEMENT WOULD BE INITIALLED AND PUBLISHED BY THAT STAGE. THE PROCESS OF ESTABLISHING THAT THIS AGREEMENT WAS ACCEPTABLE TO THE PEOPLE OF HONG KONG WOULD TAKE PLACE THEREAFTER, AND THE DRAFT AGREEMENT WOULD THEN BE PUT TO PARLIAMENT FOR DEBATE BY THE END OF THE YEAR. IF THE DRAFT AGREEMENT PROVED ACCEPTABLE TO PARLIAMENT IT COULD BE SIGNED. IT WOULD STILL, HOWEVER, BE SUBJECT TO RATIFICATION. LEGISLATION ON THE PASSAGE OF SOVEREIGNTY AND RATIFICATION WOULD HAVE TO AWAIT PUBLICATION OF THE CHINESE BASIC LAW FOR HONG KONG. THIS WOULD HELP ENSURE THAT THE BASIC LAW WAS CONSISTENT WITH THE TERMS OF THE BILATERAL AGREEMENT.

9. BUT BEFORE THE PROCESS OF ESTABLISHING ACCEPTABILITY OF THE AGREEMENT IT WOULD BE DESIRABLE TO PROVIDE SOME INDICATIONS TO HONG KONG THE FUTURE COURSE AND LIKELY OUTCOME OF THE NEGOTIATIONS. IT IS RECOGNISED THAT AS A RESULT OF OUR SCRUPULOUS OBSERVANCE OF THE CONFIDENTIALITY RULE IN THESE NEGOTIATIONS, HONG KONG OPINION IS AS YET LARGELY IN THE DARK ABOUT HMG'S ASSESSMENT OF THEIR LIKELY OUTCOME. THIS NEED COULD BE MET BY THE ISSUING OF A MINISTERIAL STATEMENT IN LATE SPRING OR EARLY SUMMER. THIS WOULD GIVE SOME OF THE BACKGROUND TO THE ISSUE AND WOULD INDICATE THE SORT OF AGREEMENT THAT MIGHT BE REACHED IF THE NEGOTIATIONS CONTINUED ON THE PRESENT LINES. IT WOULD IN FACT BEGIN A PROCESS OF INFORMAL

CONSULTATION. THE STATEMENT WOULD NEED TO BE CAREFULLY WORDED TO AVOID ANY BREACH OF CONDITIONALITY BUT COULD BE QUITE INFORMATIVE, DESCRIBING WHAT MIGHT BE OBTAINED FROM THE CHINESE IN THE NEGOTIATIONS TO PRESERVE HONG KONG'S SYSTEMS AND FREEDOMES. SUCH A STATEMENT WOULD DO MUCH TO REDUCE CURRENT PRESSURE ON THE GOVERNOR AND EXCO AND TO PREPARE PUBLIC OPINION FOR THE SHAPE OF THE AGREEMENT ON WHICH VIEWS WOULD EVENTUALLY BE SOUGHT. THE WORDING OF SUCH A STATEMENT WOULD BE DISCUSSED IN ADVANCE WITH EXCO. TO ANTICIPATE ANY ADVERSE CHINESE REACTION IT WOULD ALSO BE NECESSARY TO INFORM THE CHINESE IN ADVANCE OF OUR INTENTION TO ISSUE A STATEMENT AND OUR REASONS FOR DOING SO: IF NEGOTIATIONS WERE PROCEEDING IN A GOOD ATMOSPHERE, WE JUDGE THIS COULD BE FEASIBLE.

10. ONE SUBSIDIARY PURPOSE SERVED BY SUCH A STATEMENT WOULD BE TO EXPLAIN TO HONG KONG PUBLIC OPINION THE DIFFERENT STAGES IN THE CONCLUSION OF AN AGREEMENT, EG INITIALLING, SIGNATURE AND RATIFICATION. THIS COULD HELP TO CLEAR AWAY SOME MISCONCEPTIONS, FOR EXAMPLE, INITIALLING WOULD IN OUR VIEW SERVE MERELY TO AUTHENTICATE THE TEXTS REACHED BY THE NEGOTIATORS.

11. THE STAGES IN CONSULTATION ENVISAGED IN THE ABOVE COURSE MIGHT THEREFORE BE FIRST, THE MINISTERIAL STATEMENT IN THE EARLY SPRING OR SUMMER, INDICATING THE COURSE OF NEGOTIATIONS AND THEIR POSSIBLE OUTCOME: INFORMAL CONSULTATION ON THAT BASIS AS NEGOTIATIONS CONTINUED THEREAFTER: NEGOTIATION LEADING TO AN AGREEMENT INITIALLED AND PUBLISHED BY THE END OF SEPTEMBER: THE FORMAL PROCESS OF ESTABLISHING ACCEPTABILITY IN HONG KONG IN OCTOBER AND NOVEMBER: DEBATE IN PARLIAMENT IN NOVEMBER/DECEMBER FOLLOWED BY SIGNATURE BY THE END OF THE YEAR IF THE NECESSARY PRE-CONDITIONS HAD BEEN MET: PASSAGE OF LEGISLATION ON SOVEREIGNTY AND RATIFICATION WHEN WE WERE CLEAR ON THE TEXT OF THE BASIC LAW. THE ABOVE COURSE IN MINISTERS' VIEW IS THE BEST CALCULATED TO MEET OUR TWIN OBJECTIVES OF NEGOTIATING THE BEST POSSIBLE AGREEMENT WITH THE CHINESE AND ENSURING THAT IT IS ACCEPTABLE TO THE PEOPLE OF HONG KONG.

12. IT WOULD BE MISLEADING TO ARGUE THAT FOR HONG KONG OPEN QUOTES NO AGREEMENT IS BETTER THAN A BAD AGREEMENT CLOSE QUOTES.

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NO AGREEMENT WOULD MEAN CONFRONTATION AND THE WORST POSSIBLE OUTCOME FOR HONG KONG. THE TASK OF THE NEGOTIATORS IS TO SEEK AN AGREEMENT WHICH, IF NOT IDEAL, IS NONETHELESS THE BEST POSSIBLE ONE FOR HONG KONG AND ACCEPTABLE IN ALL THE CIRCUMSTANCES TO THE HONG KONG PEOPLE. THE COURSE OUTLINED ABOVE IS IN MINISTERS' VIEW THE MOST LIKELY TO ACHIEVE THIS OBJECTIVE.

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