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PRIME MINISTER

c Sir Robert Armstrong

OD(K): Future of Hong Kong: Draft Agreement
with the Chinese

BACKGROUND

1. The Sub-Committee last met on 27 February, and endorsed the Foreign and Commonwealth Secretary's recommendation that the United Kingdom's primary objective in the next rounds of negotiation should be to ensure that the statement on Hong Kong's future which the Chinese had announced they would make in September 1984 should be accompanied by as full an agreement as possible between the two sides. The statement and agreement should, to the greatest extent achievable in negotiation, be binding on the Chinese.
2. Following the completion of the tenth round of talks, the Chinese have indicated their agreement to the proposal that the Foreign and Commonwealth Secretary should visit Peking in mid-April. It is therefore important to establish quickly the United Kingdom view of the form of the draft agreement and of the way in which it should be presented to the Chinese. Outstanding points on the timetable which need to be taken into account are the period of time required between signature and ratification of an Agreement and the timing of the "lifting of the veil" needed to inform the people of Hong Kong about the sort of agreement we are aiming for. On the first of these points the Chief Chinese negotiator has expressed the personal view that the Chinese side could accept ratification of an Agreement after, but not long after, signature by the end of September.

SECRET

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3. The Foreign and Commonwealth Secretary's minute to you of 21 March covers a draft Agreement with its supporting Annexes, and the draft of a statement to be made by the Chinese. These drafts have been framed with a view to making up a package which ties the Chinese down to guaranteeing the greatest degree of continuity of system for Hong Kong after 1997 in return for British acceptance that sovereignty and the right of administration will be vested in China after that date. The essence of the Agreement and its supporting Annexes (which are based upon the working papers agreed or still being negotiated with the Chinese) is to commit the Chinese to develop a basic law for the Hong Kong Special Administrative Region (SAR) which gives the SAR full autonomy in everything but external relations and defence. It is envisaged that the statement to be made by the Chinese would form part of the Agreement and that the Chinese would be bound by Article 2(2) to observe the statement's terms.

4. The Foreign and Commonwealth Secretary acknowledges that this package may be much fuller than anything the Chinese have in mind; there must therefore be a risk that they will reject it. On the other hand, there are signs that they might be prepared to accept an Agreement with supporting Annexes. The Foreign and Commonwealth Secretary's judgement is that an Agreement along the lines proposed stands a chance of being accepted by the Chinese as a basis for negotiation. At the same time, it is virtually certain that the Chinese will wish to cut the proposed draft radically, and the Foreign and Commonwealth Secretary therefore proposes that the meeting should consider the British fall-back position. He recommends that if the Chinese insist on the removal of some of the detail from the Agreement itself, the British side could agree to a


SECRET

new set of Annexes attached to the Chinese statement. If this approach does not work, and the Chinese insist on further cuts, it will be important to retain in the package as a whole Article 2(2) (stating that the Basic Law will be paramount and will be in accordance with the Chinese statement); the provisions of Article 2(4) which provide assurances against Chinese interference; and the main points of the Annexes relating to continuity of system. As a bottom line, the Foreign and Commonwealth Secretary recommends that the United Kingdom should not sign an Agreement which did not include the stipulation that these points would be included in the Basic Law.

5. EXCO have already had a first discussion of the text of the Agreement on the basis that Ministers are not committed to it. The next step is therefore to present the texts to them formally, and the Foreign and Commonwealth Secretary seeks the Sub-Committee's agreement to this.

6. HM Ambassador at Peking and the Governor's advice is that, after discussion in EXCO, the texts should be presented to the Chinese by 3 April in order that they should have time to digest them before the Foreign and Commonwealth Secretary's visit. Sir Geoffrey Howe favours this course. His minute concludes by mentioning some of the points which the British side might make when handing over the texts to the Chinese.

7. The Secretary of State for Defence, who is due to make a statement in the House of Commons on the Territorial Army at the time of the meeting, and the Minister of State, Foreign and Commonwealth Office, Mr Luce, who will be overseas, will be unable to be present. The Secretary of State for Defence will not be represented. Sir Antony Acland has been invited to attend.

SECRET

8. You should invite the Foreign and Commonwealth Secretary to introduce the discussion. The main points to establish are -

a. Does the Sub-Committee agree that it is right to attempt to negotiate as full an Agreement as possible?

b. If the Chinese will not accept a full Agreement as proposed, does the Sub-Committee agree that the right approach is to attempt to negotiate some of the detail of the draft Agreement into further Annexes which might be attached to the Chinese statement?

c. Does the Sub-Committee agree that the United Kingdom should refuse to sign an Agreement which did not contain the stipulation that the specific assurances against Chinese interference and the main points relating to continuity of systems would be included in the Basic Law?

d. Is the Sub-Committee content that the draft Agreement should be put formally to EXCO and, subject to their views, be handed to the Chinese by 3 April in preparation for the Foreign and Commonwealth Secretary's visit to Peking?

e. Are there any major points of difficulty in the draft Agreement, its Annexes, or the draft statement by the Chinese?

f. What should the Foreign and Commonwealth Secretary's objectives be during his mid-April visit in relation to the timetable of signature and ratification of an Agreement? What should be said to the Chinese in these discussions about the related issue of the timing and nature of the proposed "lifting of the veil"?



SECRET

CONCLUSION

9. Subject to what is said in discussion, you could guide the Sub-Committee to agree that the draft Agreement and Annexes and the draft Chinese statement, amended in the light of any points made, should be discussed formally with EXCO and then be handed to the Chinese by 3 April; and that the Foreign and Commonwealth Secretary should take account of the other points made in the discussion in preparing for his visit to Peking.

David Goodall

A D S Goodall

23 March 1984