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PRIME MINISTER

c Sir Robert Armstrong

OD(K): Strategy in Negotiations

BACKGROUND

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The Foreign and Commonwealth Secretary's minute to you of 1 May describes his talks in China and Hong Kong, and proposes a way forward in discussions with the Chinese over the future of the territory, and handling of opinion within Hong Kong itself. The Foreign and Commonwealth Secretary's minute also refers to the possibility of the United Kingdom presenting to the Chinese a revised draft agreement in order to keep up the momentum given to the talks by his visit to Peking and Mr Ricketts's letter of 1 May to Mr Coles attaches a revised draft agreement on the lines Sir Geoffrey Howe has in mind. Mr Ricketts's letter of 2 May to Mr Coles describes the outcome of the latest round of talks in Peking, held on 27-28 April, in which little progress was made.

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2. In his discussions in Peking, Sir Geoffrey Howe firmly pressed the British case on the timetable for an agreement (draft published in September, Parliamentary Debate in November, signature by the end of the year) and this was accepted by Chairman Deng on the last day. He also secured agreement that there should be further discussions of both the British and Chinese draft agreements, and that the final agreement and its annex or annexes should be binding. The Chinese were particularly tough on Agenda Item 2 (arrangements up to 1997), and continued to press their idea of a joint group to be established in Hong Kong, although in response to British counter-argument they appeared to be showing signs of shift. Chairman Deng suggested that the joint group might be peripatetic, meeting in Hong Kong,

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Peking and London. This will require further consideration. On some issues the Chinese showed little or no movement. They did not respond to the reiteration of the British position on nationality, and Deng stated that the Chinese would send a small military force to Hong Kong after 1997; the Foreign and Commonwealth Secretary made clear the damaging effect this would have on confidence.

3. As agreed by the Sub-Committee, Sir Geoffrey Howe made his "unveiling" statement in Hong Kong. This was generally welcomed as having dispelled some uncertainties. In his discussions with EXCO, the Foreign and Commonwealth Secretary made clear that the important thing in the future negotiations was to hold on to the essentials of a detailed and binding agreement while being ready to be flexible as to its shape. Tactical considerations meant that there might be occasions when our negotiators had to shift position without the detail being discussed with EXCO in advance. EXCO members did not dissent, but made clear that they reserved the right to reject an ultimate package if they disliked it and to make that rejection public. More generally, there is a prevalent view in Hong Kong that somehow "assurances" can be added to the agreement which might increase the chance of the Chinese adhering to it. The Foreign and Commonwealth Secretary has explained that this is illusory; but it will persist.

4. As to the way ahead, Sir Geoffrey Howe believes that the Chinese definitely want an agreement. There are gaps between the two positions but a prospect of achieving common ground. The key area is the agreement itself, where the Chinese will fight to exclude language which gives the impression that the arrangements for Hong Kong have been negotiated with Britain, as opposed to decided by China. The revised draft circulated with Mr Rickett's letter of 1 May has been designed to retain the essentials of the British negotiating position, with considerable detail


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included, and the important provision that the agreement as a whole and its annexes should be binding. In order to make the draft more acceptable to the Chinese, however, some of their language has been adopted, as has the technique of parallel declarations with a joint provision that the future of Hong Kong would be settled in accordance with the declaration and annexes. The Chinese "twelve point plan" is included, but this has been amended to remove reference to the "unequal treaties". A disclaimer would explicitly dissociate the British Government from the Chinese view of the status of Hong Kong.

5. Sir Geoffrey Howe believes that, in the light of our study of the full draft which the Chinese are expected to table in mid-May, a revised draft along the lines proposed might then be presented to them. The revised draft preserves negotiating flexibility, since there are elements of it (notably in paragraph 4, on the attributes of the Basic Law) which the Foreign and Commonwealth Secretary believes could be discarded at the right tactical moment in order to argue forcibly for the points of real concern. Again, depending upon study of the Chinese draft and tactical considerations as the negotiations progress, an alternative approach might be to feed in to the negotiations elements of the draft as a set of modules.

6. The arrangements for the transitional period in Hong Kong before 1997 will need to be handled with great care. As has been recognised, the Chinese idea of a joint group has obvious dangers, particularly if it is based in Hong Kong. But there could be some advantages in a joint group as a means of educating the Chinese about realities in Hong Kong and conditioning Chinese thinking on the Basic Law. Sir Geoffrey Howe believes that thought is required as to how the proposal for a peripatetic group could be developed to our advantage. Mr Ricketts's letter of 2 May indicates that the Chinese are now arguing that the group, while


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actually peripatetic, would be formally located in Hong Kong under the terms of the Agreement, so underlining the need for caution in examining this proposal.

7. As to Hong Kong itself, it will be necessary to consult the Governor on how EXCO should be kept informed of developments in the British negotiating position, particularly variations in the draft agreements. There is also the growing tendency for Hong Kong people to demand of the British Government undertaking on immigration and related matters as insurance against the failure of an agreement; separate recommendations will be made on this.

8. The Secretary of State for Trade and Industry cannot attend the meeting because of an industrial visit to the North East and will not be represented. Sir Antony Acland has been invited to attend.

HANDLING

9. You should invite the Foreign and Commonwealth Secretary to introduce the discussion. Points to be established in subsequent discussion are -

(a) Does the Sub-Committee endorse the Foreign and Commonwealth Secretary's general conclusion that the Chinese are indeed anxious to reach an agreement, and that it might prove possible to close the gap between the two sides, particularly on the form of an agreement?

(b) Are the Sub-Committee generally content with the provisions of the revised draft agreement?

(c) Do the Sub-Committee believe that it would be right for them to consider again the question of tabling the revised draft with the Chinese, in whole or in part, in the light of study of the promised Chinese draft?

(d) On Agenda Item 2, the Sub-Committee's view at its last Meeting (Limited Circulation Annex to OD(K)4th Meeting Minutes) was that there might be advantage in

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establishing a series of working groups. But the Sub-Committee considered that they should meet in Peking rather than Hong Kong, and include representatives from Hong Kong. In the light of the Chinese attitude, does the Sub-Committee agree that the "peripatetic" approach should be considered further? Can the distinction drawn by the Chinese in the 27-28 April round of discussions between a formal location for such a group in Hong Kong and an actual rotation of meetings between London, Peking and Hong Kong be entertained? What is the Chinese attitude towards representation of Hong Kong in a group of this sort?

CONCLUSION

10. The Sub-Committee might be guided -

(a) to endorse the revised draft agreement, amended in the light of points made in discussion;

(b) to agree that the question of tabling all or part of the agreement should be considered further in the light of study of the draft agreement which the Chinese are expected to present in mid-May;

(c) to invite the Foreign and Commonwealth Secretary to bring forward detailed proposals on the handling of Agenda Item 2 in the light of the Sub-Committee's discussion.

David Goodall

A D S Goodall

2 May 1984