



Foreign and Commonwealth Office

London SW1A 2AH

Prime Minister

For discussion in
OD(K) on 27 June. But
you will wish to see this
week-end.

21 June, 1984

Dear Charles,

C.D.P. 22/6

Future of Hong Kong: Arrangements for Testing the Acceptability
in Hong Kong of an Agreement ^{with} for the Chinese

At the meeting of OD(K) on 23 May, Ministers endorsed the general approach towards testing the acceptability of an agreement in Hong Kong outlined in a paper submitted by the Foreign Secretary. This envisaged that a period of public debate in representative and semi-representative bodies in Hong Kong, as well as at grass roots level, would be stimulated by an invitation to the public to express their views on a draft agreement, and that this would be combined with a more general, passive sounding of public opinion. Sir Geoffrey Howe was invited to put forward detailed proposals on these lines.

I now enclose a paper, which is based on a draft by the Governor of Hong Kong, for discussion at OD(K) on 27 June. I am copying this letter, and the enclosure, to the Private Secretaries of members of OD(K) and to Richard Hatfield (Cabinet Office).

Yours ever,

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H. K. future Pt 14



For London

For use
in Appendix

FUTURE OF HONG KONG : ARRANGEMENTS FOR TESTING THE ACCEPTABILITY IN
HONG KONG OF AN AGREEMENT WITH THE CHINESE

INTRODUCTION

1. At the meeting of OD(K) on 23 May, Ministers endorsed the general approach on testing the acceptability of an agreement in Hong Kong outlined in a paper submitted by the Foreign and Commonwealth Secretary. This envisaged that a period of public debate in representative and semi-representative bodies in Hong Kong, as well as at grassroots level, would be stimulated by an invitation to the public to express their views on a draft agreement, and that this would be combined with a more general, passive sounding of public opinion. The Foreign and Commonwealth Secretary was invited to put forward detailed proposals on these lines.
2. This paper is concerned with the mechanics of such arrangements. It does not seek to discuss the circumstances which would arise if there were a difference of view between HMG and the Executive Council in Hong Kong on whether a draft agreement should be commended to Hong Kong for acceptance. Once HMG had decided to go ahead with the test, the mechanics would remain substantially the same no matter what degree of support EXCO was prepared to give. It must however be recognised that if the EXCO Unofficials declined to endorse a draft agreement the chances of securing a generally favourable reception from the population as a whole would be much reduced. It will therefore be important to maintain close consultation with EXCO throughout the next few months and in particular to hold thorough discussion with them on the contents of the agreement before the text is initialled. As part of this process there might well need to be a further visit by the Unofficials to London for discussion with Ministers. The aim would be to obtain from them a clear indication of the attitude they would adopt after publication of the agreement, and if possible to persuade them to work actively for its acceptance.

PREPARATION OF PUBLIC OPINION IN HONG KONG

3. The test will have been preceded by preparation of public opinion in Hong Kong. This will take a number of different forms. The gradual revelation of the likely terms of the agreement will continue: this has already begun with the Foreign Secretary's statements in Hong Kong on 20 April and in Parliament on 16 May. Full use will be made of these statements in Hong Kong and in the UK, and the process will be taken further as more material becomes available. Another important element will be the announcement in a Green Paper of plans for the extension of representative government in Hong Kong over the next decade. In addition senior officers of the Hong Kong government will take appropriate opportunities to speak in public about the need for a constructive and realistic approach to the territory's prospects: to describe the proposals in the Green Paper as the opportunity for local people to play a more active role in fashioning their own future: and to emphasise the continuing commitment of HMG and the Hong Kong Government to effective and forward-looking administration. It may not be possible to identify with certainty who in Hong Kong (outside the Government) might be ready to speak positively about future arrangements until these can be more clearly described. But groups and individuals whose general attitude to Hong Kong's future is constructive and likely to be helpful to HMG's objectives will be encouraged to play a positive role. In the meantime Ministers will be taking decisions on what assurances can be extended to those who might be vulnerable on or after the transfer of sovereignty and how these assurances will be communicated to those involved.

OBJECTIVES

4. The objectives of the process of consultation will be:

- (a) To put a draft agreement to the Hong Kong people with a clear explanation of its implications and a clear commendation: and to seek confirmation that it is acceptable to them;
- (b) To provide Ministers and Parliament with an accurate analysis and assessment of opinion in Hong Kong on the agreement, and on the

arrangements for the future of Hong Kong which it will set out, before they decide whether to authorise the Foreign and Commonwealth Secretary to sign the draft agreement.

PROPOSED ARRANGEMENTS

5. It is proposed that the draft agreement should be published immediately after initialling as part of a White Paper in the UK which would be published simultaneously in Hong Kong. The body of the White Paper should include:

(a) An account of the background to the negotiations leading up to the draft agreement and of the constraints within which the negotiators had worked;

(b) A careful explanation of the provisions of the draft agreement and their implications;

(c) A commendation that the package on which people were being asked to pass judgment was the best that could be negotiated in the circumstances, and should be accepted as a workable basis on which the people of Hong Kong could plan their future;

(d) A clear statement of what the alternative to the package would be (i.e. reversion of Hong Kong to China with no international agreement on arrangements as to its future administration).

6. The ministerial statement formally introducing the White Paper (and a parallel and roughly simultaneous statement by the Governor in the Legislative Council) should include:

(a) A reiteration of the commendation contained in the White Paper;

(b) An unambiguous reminder of what the alternative would be on the lines of paragraph 5(d) above;

(c) Confirmation that HMG will remain constitutionally responsible for Hong Kong, and that the Hong Kong Government will continue to administer the territory effectively, up to 1997.

7. It is proposed that, in Hong Kong, the White Paper and the text of the Governor's statement to the Legislative Council should be handled as follows:

(a) They would be distributed by the Hong Kong Government to the Urban Council and all District Boards with an invitation to these bodies to make known their views. To accommodate Chinese sensitivities these bodies would not be explicitly invited to debate the issue formally, although in practice they would almost certainly do so;

(b) Copies would be sent to selected representative and semi-representative bodies (including trade and industrial associations, professional and academic bodies and other groups and organisations of standing in the community) with an invitation to comment. The selection should be sufficiently wide to ensure that all important sectors are covered and that this part of the consultation process will be seen as credible. It is envisaged that that number of bodies might range from 100 to 500 depending on the kinds of organisation chosen for active targeting rather than the passive approach under (d);

(c) The documents would be debated in the Legislative Council;

(d) The documents would be given wide publicity through the mass media and copies would be made available in all government offices for free distribution to the general public, who would be invited to comment;

(e) The Government machine as a whole would be mobilised to convey the necessary messages and explanations to the public at large, to support the commendation in the White Paper and to receive comments.

8. Representative bodies and the general public would be free to comment on any aspect of the draft agreement. The invitation to

comment contained in the documents distributed in Hong Kong could be framed in one of two ways:

(i) There could be an invitation to comment in general terms on the acceptability of the arrangements set out in the agreement; or

(ii) The invitation could be couched in the form of a specific question, such as:

(a) Do you agree that HMG should sign the draft agreement?

(b) Do you consider the draft agreement acceptable?

(c) Do you consider the arrangements negotiated between HMG and the Chinese Government for Hong Kong to be, as a whole, acceptable against the background described in the White Paper?

9. Whatever question was posed, the second approach would have severe disadvantages. Responses would lend themselves to statistical analysis with yes votes counted against no votes. The Chinese could choose to interpret this as a form of referendum, an approach to which they are explicitly opposed. An invitation to comment in general terms (Option (i)) might encourage unrealistic hopes that if part of the agreement was judged unsuitable it might be improved through resumed negotiations with the Chinese. It would need to be made absolutely clear that the agreement must be judged as a whole, and that a resumption of negotiations to improve any particular aspect was out of the question. Nevertheless, it is considered that this option would involve fewer risks and should therefore be adopted.

10. The views expressed in response to the invitation for comments would need to be carefully assessed and presented to Parliament. It is expected that, in most cases, respondents will find the draft agreement neither completely acceptable nor completely unacceptable. There will be qualifications and reservations on some or other of the many aspects of the arrangements. It will be important to ascertain what these qualifications and reservations are so as to be able to gauge how they affect the general verdict.

There will also be indirect expressions of opinion (e.g. editorials and letters to newspapers). These should continue to be monitored and, where appropriate, taken into account.

11. The nature of the assessment process will dictate that it should be undertaken by the Hong Kong Government. However, if the process is to command credibility in Hong Kong, with Parliament and elsewhere, it should be undertaken by machinery which will be seen as being distanced from the ordinary machinery of the Hong Kong Government. To this end, a special assessment office should be set up, under the charge of a senior government official (i.e. of Secretary or Head of Department rank) and reporting direct to the Governor, to undertake the task of collating, summarising, analysing and assessing expressions of view received either directly or through other parts of the government machinery, and of producing a final report (preceded by a number of interim reports if necessary).

12. The final report drawn up by the assessment office should include factual summaries, by broad sectoral groupings, of all the views expressed, and an overall assessment of the extent of acceptance of the draft agreement. The report would need to be published in Hong Kong so that the public could be made aware of what views have been expressed and could see for themselves that the assessment had been carried out impartially.

13. It is also proposed that either HMG or the Governor should appoint a small team of independent 'monitors' to oversee the work of the assessment office. The reason for this is to avoid the criticism that either HMG or the HKG had 'fixed' the assessment. Moreover it is quite possible that in the absence of official 'monitors', some unofficial group would set itself up in this role. This would be very divisive.

14. It is not envisaged that the 'monitors' should carry out a role similar to that of the Pearce Commission in Rhodesia, and it would therefore be important that the 'monitors' should be given very carefully drawn terms of reference. These would make it clear that their job was to ensure that the assessment was carried out fairly by the assessment office, and that the office had followed the

prescribed procedures faithfully in drawing up a report on the comments made. The monitors would not collect or assess opinion themselves. They would witness at least part of the exercise of consultation, have access to the material on which the assessment report was based and publish their findings at the same time as the assessment report. The assessment report and the views of the monitors would then be presented to Parliament in a Ministerial statement and placed in the libraries of both houses.

15. The members of the monitoring team would have to be very carefully chosen. They would need to work in Hong Kong with a small staff of their own. They should preferably include at least one person with a good knowledge of the territory. They would be the focus of considerable publicity and might receive a lot of correspondence sent directly to them. They would have to work quickly and efficiently to a very tight timetable.

16. The Governor's recommendation is that it might be appropriate to appoint a team of two judges. One might be from the UK (eg a judge with experience in a new Commonwealth country) and one (a Chinese) from Hong Kong. There is a risk however that two figures of such seniority might feel it right to exceed their largely mechanical functions and to make independent comments of their own on the substance of the assessment exercise. If this ran counter to the Hong Kong Government's conclusions, the effect could be very damaging. While recognising that the monitors would need to have sufficient standing to command credibility in Hong Kong, the Foreign Secretary's own view is that it would probably be safer to appoint two less prominent figures, more akin to the British Government observers at the recent El Salvador elections (Sir J Swaffield, a former Director-General of the GLC, and Dr David Browning, an Oxford University lecturer).

17. The Legislative Council may itself decide to hold a further debate after publication of the assessment report and probably before the draft agreement is debated in Parliament. This may upset the Chinese but LEGCO's right to do so cannot be denied. HMG would have to make clear that as far as they were concerned the formal consultation procedure had already come to an end: if necessary they

would add that the assessment itself rather than the views of legislative councillors on it should be taken as the authoritative expression of the views of the Hong Kong community.

TIMING

18. For the purpose of this paper it is assumed that the agreement will be initialled at the very end of September and that the White Paper will be published immediately thereafter. To meet the requirement of signature by the end of the year it would be desirable for the assessment of the agreement's acceptability to Hong Kong to be presented in Parliament in mid-November and for the agreement to be debated in both Houses before the end of the month. This is moreover the timetable for Parliamentary debate that we have discussed with the Chinese at a very high level, and confirmed in response to their repeated and suspicious questioning.

19. On the other hand it is the Governor's firm advice that a period of two months is the absolute minimum which should be allowed for consultation and assessment in Hong Kong after the publication of the agreement (six weeks for consultation and two weeks for assessment). He believes strongly that the need not to appear to rush the agreement through in Hong Kong, and the complexity of the exercise, including the sheer volume of the material with which the assessors will have to cope, makes any lesser period impracticable, and that to insist on a shorter period would seriously prejudice the credibility of the whole exercise.

20. If this advice were accepted the assessment report would not be presented to Parliament until the end of November (unless the agreement was initialled and published sometime during September rather than at the very end of the month). It would not be possible for Parliamentary consideration of the agreement to take place before early December. There would be a strongly adverse reaction from the Chinese. If problems then arose on the Parliamentary timetable or elsewhere which called into question our commitment to proceed to signature before the end of the year, this would greatly anger the Chinese and would conceivably jeopardise the entire negotiation. It is therefore recommended that the Governor

should be asked to accept the following, slightly curtailed timetable:

1 October (at the latest) : publication of White Paper.

19 November : latest date for presentation to Parliament of the assessment report.

Week beginning 26 November : debates in Parliament.

This would permit a minimum of 7 weeks for the consultation exercise and the preparation of the assessment report, rather than the two months which the Governor favours.

21. If the proposals put forward in this paper are agreed, the general approach to be adopted should be announced in Parliament and in Hong Kong at an early opportunity.

22. It is for consideration whether the Chinese government should be informed before an announcement is made. Their formal position is that only they can represent the views of the people of Hong Kong and that it is therefore unacceptable that the principle of Chinese resumption of the exercise of sovereignty and the right of administration should be subject to public consultation in Hong Kong. They will therefore watch any activities related to the conduct of a test of acceptability with care, and with suspicion. It could be argued that they should be left to follow developments on their own and to react to them in their own way. But there are arguments against our adopting this course. One is that the Chinese government would be likely to receive biased or distorted accounts of what was taking place from their own sources. Another is that they could accuse us of being less than honest with them if we were to volunteer nothing. Our conclusion, therefore, is that it would be wise to inform them. But it would be best not to do this until very shortly before an announcement was made. It would also be better not to do this during a round of the formal talks. This suggests a call by the Ambassador in Peking on Assistant Minister Zhou Nan to tell him about the impending announcement, emphasising that he was doing this simply as a matter of courtesy.

Hong Kong Department

20 June 1984