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B.06789

PRIME MINISTER

c Sir Robert Armstrong

OD(K): Hong Kong: Constitutional Development
before 1997

BACKGROUND

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The Foreign and Commonwealth Secretary's minute to you of 25 June reports the outcome of the Executive Council's consideration of the memorandum on constitutional development in the territory. Councillors were generally content with the proposals, but showed a cautious approach to the question. A draft Green Paper has been prepared in Hong Kong (text attached to the Foreign and Commonwealth Secretary's minute), and the Foreign and Commonwealth Secretary seeks the Sub-Committee's agreement to its publication, subject to a small amendment to paragraph 63 of the draft which deals with the question of the retention of the Governor.

2. The minute also covers a separate paper on the role and method of appointment of the Governor in the 1990s, on which the Foreign and Commonwealth Secretary seeks the Sub-Committee's preliminary views. Given the very short time allowed to Sub-Committee members to read these substantial documents, it is recommended that discussion should be concentrated on the main features of the Green Paper as outlined in the Foreign and Commonwealth Secretary's minute, leaving deeper consideration of the Governor's future role to the further meeting of OD(K) which it is hoped to arrange for the week beginning 9 July; the Foreign and Commonwealth Secretary will by then have considered this issue further with both the Governor and Her Majesty's Ambassador at Peking.

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3. The proposals in the draft Green Paper are very much along the lines of those approved by Ministers in March. These follow the gradualist course, previously agreed, which seeks both to have a sufficiently developed governmental system in place by 1997 to make it more difficult for the Chinese to set aside autonomous arrangements after that date; but also to avoid initiating too quickly a process of democratisation which Chinese opposition might frustrate. The Foreign and Commonwealth Secretary believes that in Hong Kong and the United Kingdom the main interest is likely to focus on the proposed arrangements for the indirect election of members of the Legislative Council and the arguments put forward for not introducing any element of direct elections at this level. Some can be expected to accept the argument (paragraphs 27 and 28 of the draft) that direct elections would be inappropriate at this stage given the level of political development in the territory; but others are likely to be hostile. The Governor has pointed out that it is important not to over-estimate the demand for direct elections; there is concern, both in the business community and at the grass roots level that the Hong Kong Government might move too far and too fast and introduce an element of instability at this sensitive time. The Green Paper stresses that the present system of government operates on the basis of consultation and consensus and that any developments should aim to maintain this approach. For this reason, the Governor does not favour a "Ministerial" system under which members of the Executive and Legislative Councils would be allocated specific portfolios.

4. The Foreign and Commonwealth Secretary believes that the Chinese should be informed of the Green Paper immediately before its publication, but not consulted as to its content. They have already been informed in general terms of the Government's intentions. He proposes publication on 18 July, with the Executive Council being told of Ministers' views at their meeting on 3 July.

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5. The Green Paper deliberately makes no firm proposals about possible changes to the role or method of appointment of the Governor (paragraphs 57-64) since Ministers have not yet reached a view on this point. The separate paper attached to the Foreign and Commonwealth Secretary's minute on this issue identifies four main alternative approaches:

(a) retention of a British Governor appointed from London up to 1997;

(b) a locally elected Governor taking over the full administrative powers of the present office;

(c) retention of a British Governor appointed from London but with an elected local Chief Minister;

(d) a locally elected Governor, but with powers reserved to HMG for foreign affairs and defence (this alternative is linked with the possible establishment of a joint Sino-British group in Hong Kong considered under item 3 of the meeting's agenda).

Each has its own advantages and disadvantages. Option (a) would retain the British Government's existing powers, but would not develop autonomous institutions in Hong Kong prior to 1997. There would therefore be a major break in continuity at that time. Option (b) would avoid this disadvantage but would make it difficult for the British Government to exercise its authority should the need arise since it would be awkward to direct the Governor from London to act against the wishes of the Executive and Legislative Council which had themselves elected him. Option (c) would retain British authority and provide for continuity (although this could not be guaranteed) after 1997, when the post of Governor could be allowed to wither away, but would provide the Chinese with a ready excuse to instal their own Governor in 1997. The Chinese might also



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believe Option (c) went too far in providing local people with choice; and this Option could give rise to disputes between the Governor and Chief Minister. It is envisaged that Option (d) would involve the establishment of a Sino-British group in Hong Kong, which is to be discussed as item 3 of the agenda. It would maintain Britain's powers as regards foreign affairs and defence, but provide for continuity as between an elected Governor and an elected Chief Executive. The Chinese might be prepared to accept this Option. At the same time, the existence of the joint group might encourage the Chinese to interfere in Hong Kong's internal affairs prior to 1997, and be damaging to confidence.

6. The paper argues (paragraphs 10 and 11) that the choice lies between Options (c) and (d). The Governor is against (c) because of the risk of the Chinese taking over the "governorship" after 1997. Since he opposes the establishment of a joint group, he also opposes Option (d).

7. The paper argues that it will be necessary to consult with the Chinese over the future of the Governor, since the Government's position would be untenable if it published proposals which the Chinese attacked in public. But the Governor disagrees, since he sees no prospect of securing Chinese agreement to the idea of an elected Governor, and believes that by approaching them we should be offering them a power of veto. He also believes that the Chinese might find it difficult to attack in public a scheme to introduce greater democracy into the territory, since to do so would undermine the credibility of their claim that they are prepared to let Hong Kong people run Hong Kong.

8. The Foreign and Commonwealth Secretary suggests that the Governor of Hong Kong and HM Ambassador at Peking be asked to return to London for consultations on this and other matters in the week beginning 2 July.



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9. All members of the Sub-Committee will be present at the meeting.

HANDLING

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

(a) Do the Sub-Committee continue to be content with the gradualist approach to constitutional development implicit in the terms of the draft Green Paper, amended as proposed? Do they consider that it should be published on 18 July?

(b) Given the reports that the Chinese may feel some disquiet about the prospects of elections in Hong Kong (paragraph 6 of the Foreign and Commonwealth Secretary's paper), do the Sub-Committee consider that the Chinese should be informed rather than consulted about the proposals in the draft Green Paper, immediately before its publication?

(c) What are the Sub-Committee's preliminary views on the constitutional development of the position of the Governor in the light of the Options rehearsed by the Foreign and Commonwealth Secretary and the views expressed by Sir Edward Youde?

(d) Do the Sub-Committee agree that the next step should be for the role of the Governor in the 1990s to be discussed with Sir Edward Youde and Sir Richard Evans as proposed by the Foreign and Commonwealth Secretary?

CONCLUSION

11. Subject to the points made in discussion, you could guide the Sub-Committee to -

(i) agree the terms of the draft Green Paper, amended as necessary in the light of the discussion, and invite



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the Foreign and Commonwealth Secretary to arrange for its publication on 18 July, having forewarned the Chinese as to what is proposed;

(ii) invite the Foreign and Commonwealth Secretary to arrange for the constitutional development of the position of Governor of Hong Kong in the 1990s to be discussed with Sir Edward Youde and Sir Richard Evans, and to report.

B G Cartledge

26 June 1984