



PM/84/121

PRIME MINISTER

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17 - 10 - PC
RTM
Prime Minister
For OD(K) on 17 July, but
you will wish to see
over the week-end. The
covering minute and the
summary are essential reading
the detailed paper less so.

CDP 13/7.

Undertakings by HMG to Hong Kong People

1. At the OD(K) meeting on 3 May, I was invited to prepare a paper on nationality and other related matters for the sub-committee.
2. As the process of 'unveiling' continues, people in Hong Kong are increasingly asking what special arrangements HMG will make to cater for those who either might be in danger in Hong Kong after 1997 or will not wish to remain there under Communist rule. Public servants in particular will want to know what their position will be in 1997 when our agreement with the Chinese is published in September. As you know, this point was specifically mentioned in the statement issued by Unofficial Members of the Executive and Legislative Councils before their visit to London in May. It was also raised by some of those who spoke in the Parliamentary debates on Hong Kong, particularly that in the House of Lords.
3. I attach a paper prepared in consultation with the Governor of Hong Kong. It proposes that we should give assurances to certain specified groups of public servants and Unofficials that applications by them for entry into the UK would be sympathetically considered, normally when they reach pensionable age, but earlier than that if they were for any reason considered to be particularly vulnerable,



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These assurances would need to be given not later than the time of the publication of an agreement with the Chinese. I should note that one category not included in the paper, but which may need to be considered in the same way, is the locally employed staff working in Hong Kong for HM Forces, in particular the members of the Hong Kong Military Service Corps. The Secretary of State for Defence will no doubt have views on how we should cater for these.

4. This is a most sensitive subject in domestic political terms, and I am aware of the considerable interest that there will be in any move of this kind. I am also conscious that in presenting proposals on this subject, I am encroaching into areas for which the Home Secretary has responsibility and I should make it clear that the proposals in the paper are mine alone. I am aware that the Home Secretary has considerable reservations about the need for and the effect of these proposals. But I believe that this issue is of fundamental importance in our consideration of the future of Hong Kong.

5. In my view the proposals in this paper represent the minimum that will be required to maintain morale in the senior ranks of the public service in Hong Kong and to persuade those who are essential to the continued operation of the government to remain in Hong Kong up to and after 1997. They are carefully devised to keep the numbers involved within reasonable bounds and in particular to ensure that people would come to the UK in groups phased over a period, not in one batch. Seen in that light the numbers do not look excessive when put against the average annual figures for settlement in the UK. Certainly there is the strongest possible case for HMG giving priority to these limited groups of Hong Kong people who have served us well at some risk to themselves. It is a matter of our moral obligation.

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6. I should also make clear that I see no inconsistency between our aim of reaching an agreement with the Chinese and the idea of limited assurances of this sort. They are in fact essential complements. It is entirely logical that, if we are to make an agreement stick, the people whom we ask to operate it should be given this kind of safety net. They can justly say that, while they too intend to make the future SAR a success, it is they, not we, who will be asked to back their confidence with their careers. Thus the giving of guarantees to a small number of people in sensitive positions will contribute to future stability and therefore reduce the risk of our having to accept large numbers of Hong Kong residents deserting the territory as a result of a breakdown of confidence.

7. This brings me to the question of publicity. Given Parliamentary interest, some general statement on the policy to be pursued will probably have to be made, but apart from this, public comments should be kept to a minimum. We would also need to tell the Chinese what we were doing, to avoid a situation whereby they might receive distorted accounts that we would find difficult to correct. Given a careful presentation that emphasised the way in which our proposed arrangements would help maintain continuity in the senior ranks of the Civil Service, we feel that the Chinese would not make too much of a fuss. They may indeed be expecting us to take action of this kind.

8. I have not been /the paper with the Home Secretary. able to discuss Ideally it would have been more convenient if the paper could have been cleared with him in advance. However, in view of the time pressure it seems best to circulate the paper as it stands on a second reading basis.

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9. I am copying this minute to Members of OD(K) and to Sir Robert Armstrong.

A handwritten signature in dark ink, appearing to be 'G. Howe', written in a cursive style.

(GEOFFREY HOWE)

Foreign and Commonwealth Office

13 July 1984

S E C R E T

UNDERTAKINGS BY HMG TO HONG KONG PEOPLE

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SUMMARY

1. We must consider carefully the case for providing assurances to the people of Hong Kong who may feel at risk in 1997 or wish to leave for other reasons.
2. Large scale immigration into the UK would be politically unpopular. There will also be difficulties in setting criteria for those at risk and a danger of any undertakings having divisive effect in the public service. They may be seen as undermining confidence in the agreement.
3. HMG has a moral obligation towards Crown Servants and Unofficials. Assurances will also be necessary to ensure stable administration up to 1997. Without them those we need to provide continuity will leave. People are more likely to stay if they know they can get out if necessary.
4. The Chinese will react strongly to any reassertion of HMG's moral responsibility to the people of Hong Kong and might see any general assurances as undermining the agreement. But they may not object to us offering citizenship under existing legislation for specific groups.
5. British citizenship or entry to the UK should be offered:-
 - (a)
 - (b) at normal retirement age to administrative officers, policemen of the rank of inspector or above, Unofficial members of EXCO and LEGCO and certain other individuals (estimated 13,500);
 - (c) as necessary for those others in the public service or the community who may become vulnerable (rough estimate 20,000).
6. These assurances should be made to categories (a) and (b) above in confidence not later than publication of the agreement and with minimum public comment.

FUTURE OF HONG KONG

UNDERTAKINGS BY HMG TO HONG KONG PEOPLE

1. There have been a number of suggestions that HMG has an obligation to provide some kind of assurance to, or to make contingency plans for people in Hong Kong who, in the light of prospects for the territory's future, might wish to leave. It has also been proposed that an international effort should be mounted to organise resettlement.
2. The issue is an important one in the context of the future governability of the territory. How difficult it will be to continue governing Hong Kong will depend on the reaction of the community to the terms of the agreement and on the subsequent behaviour of China. It will also depend on our being able to retain the loyalty of essential groups within the community generally and the civil service in particular - and those whose role is essentially political could find that their loyalty to the community places them in a difficult and exposed position when China resumes sovereignty. If we are to maintain the loyalty of these groups, who are either already vulnerable or may become so, they will need to be given assurances that they will be looked after.
3. EXCO Unofficials raised this question in general terms during their visits to London in January and April 1984. They suggested that at the very least HMG had an obligation to give BDTCS the right of abode in Britain. The statement issued on 9 May by Unofficial Members of the Executive and Legislative Councils asked whether the rights and status of BDTCS in Hong Kong would be preserved after 1997 and if they and other Hong Kong belongers who could not accept the idea of living under communist rule would have a right to settlement in the UK, or if HMG would negotiate settlement places elsewhere for them.
4. During the Commons debate on 16 May, there was widespread support for the Secretary of State's statement that HMG's prime objective was to provide a secure future for Hong Kong people in the territory rather than stimulating emigration from Hong Kong to the UK or elsewhere. Only Sir Ian Percival and Sir Philip Goodhart

proposed that the government should make arrangements for those who wanted to leave Hong Kong, although even they agreed that it would be raising expectations falsely to give the impression that the UK could take any large number of people from Hong Kong.

CATEGORIES AFFECTED

5. It is possible to distinguish three main groups towards which HMG could be said to have some kind of obligation. They are:

- (a) Those specially at risk from a Chinese resumption of sovereignty, and/or essential for continued effective Government up to 1997 and beyond;
- (b) Past and present members of the public service and members of public bodies appointed by or on behalf of the Crown;
- (c) British Dependent Territories citizens.

6. A. Those especially at risk from a Chinese resumption of sovereignty and/or essential for continued effective Government.

This group can be classified into three categories:-

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- (ii) Those already vulnerable as a consequence of their service to the British administration (eg UMEICO, police officers of the rank of inspector and above, administrative officers, certain staff in other Government Departments such as the Immigration and Labour Departments having direct dealings with the Chinese Communists). In terms of those currently serving, they number around 7,500 again including immediate families; this total might increase by 6,000 between now and 1997.

(iii) Past or present members of the public service, the judiciary, public bodies or the general public who may become vulnerable during the coming years because of their service to the Hong Kong Government and the community. Membership of this category will depend on the attitude of the Chinese Government to such people between now and 1997 and the circumstances at the time of transition and beyond. It will also be affected by the extent to which HMG has to take action unpopular with the communists. It could include members of certain public bodies, particularly those dealing with immigration, deportation, or labour matters; members of the public service, for example certain units of the police force who may have to take firm action in case of social disorder or action unpopular with communist sympathisers in order to maintain law and order; members of the public, for example journalists, those standing for election and other public figures who may be singled out as targets for resisting communist influence; and civil servants and members of the community who were actively engaged against the communists in 1967. Because membership will depend on future developments, it is impossible to define this category accurately in terms of numbers. At a guess it could be 20,000 including immediate families: less if the community is satisfied generally with the terms of the agreement and China behaves in a way that boosts confidence; more if events turn out badly.

7. B. Other past and present members of the public service and members of public bodies appointed by or on behalf of the Crown. This category includes people who are or have been Crown servants or have served the Crown in an unofficial capacity, and who may claim HMG has in consequence an obligation to them. There is provision under section 4(5) of the British Nationality Act 1981 for the Home Secretary to register such people as British citizens at his discretion if they are already some other form of British national. The vulnerable members of this category will already have been taken care of under (a). In numbers it could amount to around 800,000 including immediate families.

8. C. British Dependent Territories Citizens (BDTCs).

These are British nationals. For them HMG's obligation is of a different kind to those in groups (a) and (b). It is to protect their existing rights, which include right of abode in Hong Kong, eligibility to hold British passports and the right to British consular protection when travelling abroad. At present there are about 3 million BDTCs, likely to rise to at least 4 million by 1997. In addition, there are approximately 1.5 million other residents of Hong Kong who are eligible to apply for naturalisation as BDTCs by virtue of length of residence in the territory.

NATURE OF DEMANDS

9. Already various requests for undertakings have been made in respect of all these groups. Some of these requests relate to the period before 1997, others to an indefinite period after that date. In the first case the undertakings are sought in respect of those who may not wish to live in a Hong Kong under a Government subordinate to the Central People's government, or who would be in danger in such a situation. In the second case they are sought for groups who must continue to serve the community beyond 1997 but who may be vulnerable as a result of a change of sovereignty, and for individuals who may be willing to live under the successor regime but who fall foul of it.

10. It should be noted that not everyone covered by an undertaking from HMG would actually wish to settle in the UK, if given a choice in the matter. Hong Kong people contemplating emigration tend to look towards traditional migrant destinations (Canada, Australia and the US) rather than Britain. (This no doubt reflects the extreme difficulty of settling in Britain under existing immigration legislation, but also the perception that greater economic and personal opportunities exist in these other countries). Many people, particularly among the professional classes, have already made contingency plans that permit them legally to take up residence in one or other of those preferred destinations. By no means everyone, therefore, would make use of any undertakings that HMG may give. The symbolic nature of these undertakings will nevertheless

be of considerable significance.

ARGUMENTS AGAINST GIVING UNDERTAKINGS

11. The contrary arguments are both political and practical. Any large-scale immigration from Hong Kong would run counter to HMG's policies in this field, and would be politically unpopular. The precedents of the inflow of East African Asians, which prompted the Commonwealth Immigration Act (1968) and of the later exodus from Uganda in 1972, are not happy ones in domestic political terms. Even where relevant provision exists in legislation (in particular under section 4(5) of the British Nationality Act: see paragraph 7 above) the Home Secretary has taken the line that it should be applied sparingly. Moreover it would be difficult for HMG to act in anticipation of what might happen many years hence. These considerations suggest that the scope of any undertakings should be both limited and carefully defined.

12. The main practical difficulty, however, is precisely to devise a formula which would effectively limit the number of people who would be eligible for assistance. There will always be grey areas where the degree of risk depends on subjective judgement. It would be difficult to distinguish fairly between those who were genuinely at risk, those who more vaguely feared the prospect of "living under communism" and those who might make that prospect an excuse for assistance in leaving Hong Kong for other personal or economic reasons. It would also be necessary to set criteria for the dependants that may accompany those admitted under any category.

13. Moreover, any undertaking, particularly one that was tightly drawn, could have a divisive effect in Hong Kong which would damage rather than raise morale. Those who fell outside the category to which an undertaking applied might turn against their more fortunate colleagues or be encouraged to emigrate. It is also possible that the giving of assurances by HMG would itself be interpreted in Hong Kong as demonstrating a lack of confidence in the agreement concluded with the Chinese. Some may argue that a settlement which provides a secure future for people in Hong Kong ought to make the giving of guarantees unnecessary.

ARGUMENTS IN FAVOUR OF GIVING UNDERTAKINGS

14. Set against this, however, is the fact that HMG will remain responsible for Hong Kong until 1997. There will in any case be great difficulties in ensuring stable administration during the run up to that date. Continuity will depend on maintaining the loyalty of the public service, the police and members of the public willing to serve a "British" administration before 1997 and to take the risk of continuing in the service of the SAR thereafter. If they are not given assurances they will leave Hong Kong well before 1997. On the other hand, assurances that people with the most to fear from China's resumption of sovereignty would if necessary be looked after could remove an important cause of potential unrest, especially inside the public service. This would be particularly the case for those who are vulnerable as a result of their present anti-communist or political work or who are likely to find themselves vulnerable if they continue to speak up for the interests of the community once sovereignty changes hands. There is a genuine concern that China will be noting who is loyal to the Hong Kong Government and that such people will be vulnerable to pressure before 1997 and to retribution afterwards. People are more likely to stay in Hong Kong if they know that in the last resort they would be able to leave; conversely, the more they feel abandoned to their fate, the greater is the likelihood that they will leave if they can, and if not, criticise the agreement and claim that HMG has betrayed its obligations to them.

15. The Prime Minister alluded to Britain's "moral responsibility" when she visited Hong Kong in September 1982. This moral argument takes as its basis HMG's position as colonial power and as employer for the past 140 years: it is therefore held to be particularly relevant to Crown servants and Unofficial members of EXCO and LEGCO and to a lesser extent to BDTCs. Many people in Hong Kong, not only the Unofficial members of EXCO, believe strongly that HMG has an obligation in this area and see it as a yardstick by which to measure HMG's commitment to Hong Kong.

16. In both practical and political terms, we could not expect any other countries to give assistance to Hong Kong people unless we were prepared to give a clear lead. The international perception is that Hong Kong is primarily HMG's responsibility. It is unrealistic to expect that other governments would contemplate special arrangements for the resettlement of Hong Kong residents, unless HMG had first given a lead.

LIKELY CHINESE REACTION

17. The Chinese would doubtless react strongly to any renewed public expression of HMG's "moral responsibility" for the people of Hong Kong. If HMG made any general offer of assistance to people who wished to leave Hong Kong the Chinese would be likely to claim publicly that this amounted to sabotaging the arrangements agreed for the territory's future. They might also resent any offers of "protection" after 1997 to those whom they consider to be Chinese nationals. On the other hand, they might not object to HMG taking action under existing legislation to offer entry or citizenship to specific groups which had been particularly closely connected to the British administration, especially if this was done in such a way as to encourage continuity.

POSSIBLE COURSE OF ACTION

IMMIGRATION

18. If HMG is to meet its obligations to those at risk, and if effective Government is to be maintained in the interests of the Hong Kong community, then some assurances are essential. They need to be so framed as to provide for continuity beyond 1997. Possible action for each group, in descending order of magnitude, is considered in this context, under the alternative hypothesis of an agreement with China or no agreement.

ALL BDTCS

19. The size of the group would make any undertaking on immigration to the UK politically impossible. If an agreement with China had been reached, and if British nationality for BDTCS was to continue

in some form after 1997, the best line would be that the purpose of the arrangement was to ensure a permanent future for all Hong Kong people in Hong Kong and to guarantee the maintenance of their existing rights. If pressed on what action would be taken if the agreement proved ineffective or was violated by the Chinese (either before or after 1997) it would be necessary to decline to speculate on a hypothetical situation.

20. If no agreement with the Chinese had been reached it would still be politically impossible to give general undertakings to BDTCs. There would nevertheless be strong pressure for this. The most that HMG should say would be that:

- (a) It was still our intention to negotiate a settlement which would provide a future for all Hong Kong people in the territory;
- (b) There could be no question of granting right of abode in the UK to BDTCs as a group. The existing arrangements for entry and registration would be applied with careful consideration of individual circumstances. This would only commit HMG to administer with consideration the provisions of section 4.5 of the BNA (which only applies to some of this group) and of section 38 of the Immigration Rules 1983 (under which permanent entry to the UK may be granted to those with disposable assets of at least £150,000 or an income of at least £15,000 per annum).

ALL PUBLIC SERVANTS (PLUS PAST AND PRESENT MEMBERS OF STATUTORY BODIES).

21. There will be very strong pressure from civil servants for more specific undertakings whether or not agreement is reached with the Chinese, although it will be even more intensive if no agreement is reached or the agreement does not command widespread support in Hong Kong. We will have to take careful account of the need to maintain morale in the public service over the period up to 1997. This would rule out any explicit refusal to give undertakings. On the other hand, the numbers involved make any general undertakings politically

difficult. The best line, if it could be maintained, would be to try to limit assurances to certain groups within the public service and to concentrate on undertakings in respect of pensions, continuity of service and the assurance against political intervention against individuals which will be given by the establishment of an executive Public Service Commission.

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26. The second category consists of those who are vulnerable to retribution as a consequence of their service to the British administration in Hong Kong, but whose services it will be essential to retain both in the run up to 1997 and after the change to a SAR, if effective government, continuity and confidence are to be preserved. It includes 38 Unofficial members of the Executive and Legislative Councils, 214 administrative officers, some 1,450 police gazetted officers and inspectors and perhaps about 230 other individuals dealing with the communists. These groups are vulnerable because of the "political" nature of their work, which causes them to be the most visible representatives of the "British" administration. There is already evidence of the Chinese trying to cultivate them, creating precisely the sort of unease that these proposals are designed to help to alleviate.

27. Here the aim is to provide reassurance that such people will be looked after provided they serve their normal time until retirement, unless they become vulnerable before then, in which case provision would have to be made for them to be granted entry into the UK at an earlier date. It is proposed that civil servants in this group and their immediate families should be granted British citizenship when they reach normal pensionable age (at present 50 for police and 55 for administrative officers) unless their position becomes vulnerable before then. (Arrangements to cater for this eventuality are discussed below). This would mean that the numbers would be spread out over a period of years. Not all would wish to come to the UK, but even if all did the effect would be much less than that of a large scale influx. It could be set against the existing ceiling of annual admissions to the UK.

28. About 75 serving officers in these categories have already passed normal retirement age. Unless there are unfortunate developments, about 50 a year of the remainder still serving will reach retirement up to 1997, with a steady rise to around 150 in 2006 followed by a sharp decline to 2017. Recruitment between now

and 1997 would, for the most part have the effect of extending this period rather than adding to the numbers in earlier years. To these figures would have to be added families.

29. There are approximately 38 Unofficial members of the Executive and Legislative Councils who are probably not already British citizens. They and their successors would become eligible after they had left the Councils or when they became vulnerable.

30. The contrast in treatment between the "intelligence group" and the other vulnerable categories does, of course, carry the disadvantage that at least some persons in the latter position might argue that they were sufficiently at risk to justify special consideration in the shape of early entry to the UK. It would be important to identify those genuinely at extreme risk early on. But the distinction is a real one in another sense. It will almost certainly be politically and practically inappropriate to retain Hong Kong Chinese in Special Branch for intelligence operations against the communist Chinese up to 1997. They will need to retire before then. On the other hand it is essential to retain the services of administrators and ordinary police officers not merely up to but beyond 1997. We need a system which recognises the distinction and we must be prepared to defend it on humanitarian and practical grounds.

31. The third category consists of those who may become vulnerable whether in the public service or in the community generally because of their service to HKG and to the community. It might be necessary to indicate to such people, or at least to those who enquired, that if at any time they were judged to be at risk they would speedily be granted British citizenship. This would not however amount to providing unconditional assurances to individuals. Procedures already exist for giving advice to the Home Secretary on applications for British citizenship or entry into the UK. If it was considered helpful however, special machinery could be established to advise on people who might eventually fall into this group and on those in category 2 who might become vulnerable before pensionable age. One possibility would be to establish a small commission including representatives who have experience of

Hong Kong. The use of such an advisory body would be understood in Hong Kong and would go a long way to give the community generally, and particularly those who feel they deserve British citizenship immediately, confidence in the more general assurances.

32. For the arrangements proposed above to be effective, those in the first two categories should be informed of them not later than the time of publication of an agreement with China. It is proposed that they should then be told individually and in confidence that they would if they applied be granted at the appropriate time entry into the UK or British Citizenship as appropriate. Apart from this, official comments on the arrangements would be kept to a minimum. It would however be unrealistic to expect that this would not leak. There would inevitably be Parliamentary interest. Some general statement on the policy to be pursued should probably therefore be considered although this would have to be very carefully worded to avoid a strong Chinese reaction.

COMMENT

33. These proposals, if accepted, would go further than any assurances so far given to people in Hong Kong. Whether they would be sufficient to maintain confidence and to prevent an exodus is difficult to predict and will depend to a large extent on the acceptability of the agreement reached with the Chinese. But it is unlikely that a tighter line could be held for long in practice. Political pressure in the UK for more sympathetic discharge of our moral obligation and disaffection among the Hong Kong public service would be strong. It would be better to show some limited flexibility, still within the existing law, in order to stave off even wider demands.

34. If we were unable to reach agreement with the Chinese, or if the agreement did not hold up for any reason either before or after 1997, there would be a possibility of a Chinese take-over. In such circumstances, there would be an obligation on HMG to take at once all those to whom it had made a commitment. But the political pressures on HMG to help these people would in any case be intense.

Moreover, the assurances that are proposed above are designed to minimise the risk of a break down in Hong Kong, by helping to maintain confidence in the territory and thus making it more useful to China as an autonomous unit.

FINANCIAL ASSISTANCE

35. There would be no possibility of HMG giving a general undertaking to provide financial assistance towards resettlement. Such an undertaking could not be defined and would commit a future administration too far. In any case, the majority will be civil servants with their pensions and those from the private sector are also likely to be self-sufficient. For the few who are from the less well-off groups, the Hong Kong Government would probably be willing to assist.

REPRESENTATIONS TO OTHER GOVERNMENTS

36. There would be no case for asking other governments to make provision for Hong Kong people at this stage. Only if the situation appeared likely to lead to a major exodus should this be considered. Even then we should probably not make much headway unless we were ready to take at least a token number of Hong Kong people ourselves. Moreover, any such approaches would be taken, in Hong Kong and elsewhere, as a sign of lack of confidence in our agreement with the Chinese and would therefore undermine any prospects of maintaining confidence in Hong Kong.

SUMMARY

37. The proposals outlined in paragraphs 22-32 above would mean that some 40,000 people from Hong Kong might be offered entry to the UK over a period from now until well into the next century. Given the difficulty of estimating the size of the third category discussed in paragraphs 6 (iii) and 31 above, it is not possible to give a precise breakdown of when this immigration commitment might fall. Between 7,500 and 30,000 might require entry before 1997, but even these could be spread over a period of years. If the figure was 30,000, this would represent under 3,000 a year on average in

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this period. This does not seem unreasonable when compared to the 53,460 immigrants accepted for settlement in 1983.

38. If Ministers agree with the general approach outlined above, more detailed proposals will be prepared for consideration.

Hong Kong Department
July 1984

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