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B.06818

PRIME MINISTER

c Sir Robert Armstrong

OD(K): Hong Kong: State of Negotiations and
Question of Legislation

BACKGROUND

FLAG A
On 2 August, the Foreign and Commonwealth Secretary reported to Cabinet in full on the outcome of his successful negotiations in Peking on the future of Hong Kong (CC(84) 29th Conclusions, Minute 1).

2. During August, negotiations with the Chinese continued. The 21st Round of talks on 22/23 August discussed land, nationality and the organisation of the remaining work. The Working Group discussed the legal system, individual rights, the public service and constitutional arrangements. Informal discussions on civil aviation have also been held. The 22nd Round is due to take place on 5/6 September. One or more Rounds may be necessary thereafter; and, although it has not yet been agreed with the Chinese, the final Round and initialling of the draft agreement (to be called a Joint Declaration) is likely to take place on 24/25 September, assuming that the remaining negotiations go smoothly. That would be followed by a period of assessment of the acceptability of the agreement to the people of Hong Kong and a debate in the House of Commons, probably early in December 1984. We have undertaken to sign the Joint Declaration before the end of the year.

3. At this meeting of OD(K), the Foreign and Commonwealth Secretary will wish to report briefly on developments during August which have maintained slow, at times even sticky, but

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nevertheless perceptible progress. He is also likely to draw attention to the question of legislation, which needs to be settled urgently.

4. The need for legislation on Hong Kong in the legislative programme for 1984-85 has arisen because of the importance which the Chinese attach to early ratification of the Joint Declaration. Their present position is that the Joint Declaration itself should stipulate that the exchanges of instruments of ratification should take place within 30 days of signature. Early ratification is in fact also important from our own point of view to put an end to uncertainty in Hong Kong. However, as has been explained to the Chinese, ratification can only follow legislation in the British Parliament to allow the United Kingdom to divest itself of sovereignty. A view is therefore urgently needed on the timetable for completing the passage of the Hong Kong Bill. The considered view of the Foreign and Commonwealth Secretary is that July 1985 (i.e. six months after signature) is the latest date for ratification which could reasonably be put to the Chinese and that anything later could put conclusion of the agreement at risk. He therefore needs authority to insert this date into the draft Joint Declaration. On 28 August he put this suggestion to the Lord President of the Council, Lord Privy Seal and Attorney General. Sir Michael Havers replied on 30 August, agreeing that to proceed by way of a short Bill, to be put through all its stages by the end of June 1985, was technically feasible and might be the only way of meeting the timetable without a major disruption of the legislative programme. Lord Whitelaw and Mr Biffen are still considering the matter. However, the indications are that they too accept this timetable provided it is clear that the proposed Hong Kong Bill deals with the termination of British sovereignty over Hong Kong and note with other matters, such as nationality, which would be left for later legislation.

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5. The Chancellor of the Exchequer is unable to attend the meeting and will not be represented. The Lord Privy Seal and the Minister of State, Foreign and Commonwealth Office, (Mr Luce), are also unable to attend.

HANDLING

6. You should invite the Foreign and Commonwealth Secretary to report. The three points to establish in subsequent discussion are -

(a) Are we still on target for concluding and initialling an agreement with China by the end of September? Will the Foreign and Commonwealth Secretary need to pay a further visit to Peking?

(b) Are colleagues content that ratification should take place by July 1985 and that this date should be proposed to the Chinese for inclusion in the draft Joint Declaration?

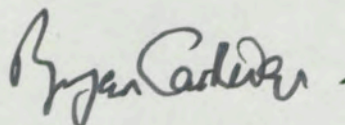
(c) If so, is there any objection to proceeding by way of a short Bill, to be put through all its stages by July 1985, confined to the relinquishment of British sovereignty over Hong Kong as from 1 July 1997, with other matters left to later legislation?

CONCLUSION

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

(i) endorse the Foreign and Commonwealth Secretary's approach to the remaining stages of the negotiations with China;

(ii) agree that the Foreign and Commonwealth Secretary should propose July 1985 to the Chinese for inclusion in the Joint Declaration as the date for ratification.



3 September 1984

B G Cartledge

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