

SECRET

DESKBY 061200Z FCO

FROM PEKING 061039Z SEP 84

TO IMMEDIATE FCO

TELEGRAM NUMBER 2133 OF 6 SEP

INFO IMMEDIATE HONG KONG

26

FUTURE OF HONG KONG: ROUND 22: SECOND DAY: RATIFICATION

1. ZHOU NAN OPENED THE SESSION BY SAYING THAT HE HAD PROPOSED YESTERDAY THAT WE SHOULD NOT EXCHANGE FORMAL STATEMENTS. BUT, IN VIEW OF WHAT I HAD SAID ON RATIFICATION, THE CHINESE SIDE DEEMED IT NECESSARY TO STATE FORMALLY THEIR POSITION ON THE TIME LIMIT FOR THE EXCHANGE OF INSTRUMENTS OF RATIFICATION. HE WISHED TO MAKE THE FOLLOWING POINTS:
2. FIRSTLY, THE CHINESE SIDE HAD ORIGINALLY PROPOSED THAT THE AGREEMENT SHOULD BE SIGNED IN SEPTEMBER AND ENTER INTO EFFECT IMMEDIATELY. THE BRITISH SIDE HAD INDICATED THAT THE PARLIAMENT WOULD NOT AUTHORISE SIGNATURE BEFORE THEY HAD HAD AN OPPORTUNITY TO CONSIDER THE AGREEMENT, AND TO DEBATE IT. IN ORDER TO ACCOMMODATE BRITISH DIFFICULTIES, AND OUT OF RESPECT FOR BRITISH LEGISLATIVE PROCEDURE, THE CHINESE HAD AGREED THAT THE AGREEMENT SHOULD BE INITIALLED IN SEPTEMBER, SIGNED BY THE END OF THE YEAR, AND PUT INTO EFFECT ON EXCHANGE OF INSTRUMENTS OF RATIFICATION 30 DAYS AFTER SIGNATURE. THIS HAD BEEN A SUBSTANTIAL CONCESSION BY THE CHINESE SIDE. THE BRITISH SIDE HAD THEN SAID THAT 30 DAYS WAS NOT ENOUGH TIME IN WHICH TO COMPLETE RATIFICATION, AND HAD PROPOSED INSTEAD 'A MATTER OF MONTHS'. THE CHINESE SIDE, IN A FURTHER CONCESSION, HAD PROPOSED AN EXTENSION TO 3 MONTHS. THEY BELIEVED THAT 3 MONTHS WAS ENOUGH. THEY COULD NOT AGREE TO THE 6 MONTH PERIOD WE HAD PROPOSED YESTERDAY.
3. SECONDLY, THE BRITISH SIDE HAD NOW PROPOSED THAT THE INTERVAL BEFORE ENTRY INTO FORCE SHOULD BE A MATTER SUBJECT TO COMPLETION OF PROCEDURES IN NATIONAL LEGISLATURES. NEITHER THE SECRETARY OF STATE NOR I HAD RAISED THIS BEFORE. THE CHINESE SIDE WERE ASTONISHED BY THIS SUDDEN, NEW, AND UNREASONABLE DEMAND PUT FORWARD IN THE FINAL STAGE OF OUR NEGOTIATIONS. OUR NEW PROPOSED CONDITION AMOUNTED TO ASKING THE CHINESE TO ACCEPT UNCERTAINTY ABOUT THE TIME AT WHICH THE AGREEMENT WOULD COME INTO EFFECT. WHAT THEN WAS THE POINT OF SIGNING THE AGREEMENT?
4. THIRDLY, MY ARGUMENTS IN SUPPORT OF THIS UNREASONABLE DEMAND WERE UNTENABLE. I HAD SAID THAT, AFTER SIGNATURE OF THE AGREEMENT, PARLIAMENT MUST PASS LEGISLATION BEFORE INSTRUMENTS OF RATIFICATION COULD BE EXCHANGED. BECAUSE IT WAS POSSIBLE THAT PARLIAMENT MIGHT NOT PASS THIS LEGISLATION, IT WAS NECESSARY TO MAKE OUR UNDERTAKING ON RATIFICATION CONDITIONAL. THE LOGIC OF THIS WAS NOT JUSTIFIABLE, AS I HAD SAID EARLIER THAT PARLIAMENT WOULD DEBATE THE TEXT OF THE AGREEMENT THIS AUTUMN BEFORE SIGNATURE.

THE KEY ELEMENT IN THE AGREEMENT WAS THE TRANSFER OF SOVEREIGNTY. WHEN PARLIAMENT GAVE THE GOVERNMENT A MANDATE BEFORE THE END OF THE YEAR TO SIGN THE AGREEMENT, THEY WOULD SIGNAL THEIR AGREEMENT TO THE MANNER IN WHICH THE GOVERNMENT WAS ABOUT TO HANDLE THE QUESTION OF SOVEREIGNTY. HOW WAS IT CONCEIVABLE THAT PARLIAMENT SHOULD AFFIRM OUR PROPOSED SESSION OF SOVEREIGNTY BEFORE THE END OF THE YEAR AND THEN VETO THE NECESSARY LEGISLATION TWO OR THREE MONTHS LATER?

5. FOURTHLY, IT SEEMED THAT WE WERE ATTEMPTING TO MAKE THE TIME OF WHICH THE AGREEMENT CAME INTO AFFECT UNCERTAIN. THIS WOULD HAVE THE FOLLOWING CONSEQUENCES:

(A) IT WOULD MAKE UNCERTAIN THE IMPLEMENTATION OF CERTAIN PROVISIONS IN THE AGREEMENT WHICH IT WAS NECESSARY TO PUT INTO EARLY EFFECT,

(B) IT WOULD CREATE A CLIMATE OF UNCERTAINTY IN HONG KONG, WHICH WOULD AFFECT THE TERRITORY'S STABILITY AND PROSPERITY,

(C) IT WOULD AFFECT THE COMMON INTERESTS OF CHINA AND BRITAIN.

6. FIFTHLY, IN THE CHINESE VIEW, BY PUTTING FORWARD SUCH AN UNREASONABLE DEMAND, WE WERE CREATING A SIDE ISSUE WHICH WOULD COMPLICATE THE TALKS AND PUT A NEW OBSTACLE IN THE WAY OF SUCCESSFUL CONCLUSION.

7. ZHOU SAID THAT FOR ALL THESE REASONS THE CHINESE COULD NOT ACCEPT OUR PROPOSALS THE CHINESE SIDE'S POSITION WAS FIRM. HE HOPED THAT WE WOULD CONSIDER IT CAREFULLY, AND ABANDON OUR PROPOSALS IN ORDER TO FACILITATE A SATISFACTORY CONCLUSION OF OUR NEGOTIATIONS ON TIME. HE WISHED TO EMPHASISE THAT HE HAD MADE THESE REMARKS AFTER CONSULTATION WITH HIS LEADERS.

8. I SAID THAT YESTERDAY I HAD BEEN INSTRUCTED TO MAKE TWO PROPOSAL BEARING ON RATIFICATION:

(A) 30 JUNE 1985 AS THE DATE BY WHICH WE COULD AGREE TO THE EXCHANGE OF INSTRUMENTS OF RATIFICATION,

(B) THE ADDITION OF THE WORDS 'SUBJECT TO THE COMPLETION OF THE NECESSARY PROCEDURES IN NATIONAL LEGISLATURES' IN THE RELEVANT PARAGRAPH IN THE JOINT DECLARATION. I THEN SPOKE ACCORDING TO PARAGRAPHS 2 TO 4 OF YOUR TELNO 1099, ADDING THAT I NOTED THAT A LARGE NUMBER OF AGREEMENTS CONCLUDED BY THE PRC STIPULATED THAT RATIFICATION SHOULD TAKE PLACE AS SOON AS POSSIBLE.

9. ZHOU NAN REPLIED THAT MY EXPLANATION WOULD NOT CONVINCING THE CHINESE SIDE. THE KEY ISSUE WAS THAT OUR CONDITION WAS A NEW DEMAND WHICH ATTEMPTED TO MAKE THE ENTRY INTO FORCE OF THE AGREEMENT UNCERTAIN. THE CHINESE COULD NOT AGREE TO THIS, ESPECIALLY

IN THE CASE OF SUCH AN IMPORTANT AGREEMENT. OUR FORMULATION WAS OPEN TO WIDE INTERPRETATION. IT REMINDED HIM OF OUR EARLIER SUGGESTION THAT DATE OF ENTRY INTO FORCE SHOULD BE LINKED TO PUBLICATION OF THE BASIC LAW, A PROPOSITION THE CHINESE SIDE HAD ALREADY CRITICISED AND REJECTED. HE SAID THAT SOME CHINESE AGREEMENTS STIPULATED ENTRY INTO FORCE AS SOON AS POSSIBLE. BUT OTHERS STIPULATED ENTRY INTO FORCE IMMEDIATELY UPON SIGNATURE. IF WE COULD ACCEPT THAT, THE CHINESE SIDE WOULD BE VERY PLEASED. THERE WAS NO PRECEDENT IN ANY CHINESE AGREEMENT FOR SUCH A LONG INTERVAL BETWEEN SIGNATURE AND ENTRY INTO FORCE.

10. ZHOU REPEATED THAT OUR PROPOSED CONDITION HAD NEVER BEEN RAISED FORMALLY OR INFORMALLY UNTIL YESTERDAY. WE HAD ONLY SAID THAT RATIFICATION WOULD TAKE MONTHS NOT DAYS. HE ALSO REPEATED THAT HIS REMARKS WERE MADE ON BEHALF OF THE CHINESE GOVERNMENT, AND THAT THE CHINESE POSITION WAS FIRM. OUR PROPOSAL WOULD PUT THE TALKS AT RISK, IN WHICH CASE WE MUST TAKE RESPONSIBILITY.

11. ZHOU ADDED THAT ACCORDING TO THE CHINESE UNDERSTANDING AN INTERNATIONAL AGREEMENT INITIALED BY HMG WOULD ENTER INTO EFFECT 21 DAYS AFTER BEING LAID BEFORE PARLIAMENT IF PARLIAMENT RAISED NO OBJECTION. HE WOULD NOT PURSUE THIS POINT BECAUSE THIS WAS A BRITISH DOMESTIC CONCERN. THE KEY POINT WAS THAT THE AGREEMENT WOULD BE BETWEEN TWO SOVERIGN GOVERNMENTS. THE CHINESE WOULD NOT AGREE TO SIGN IT IF THE DATE OF ENTRY INTO EFFECT WAS UNCERTAIN. HE HOPED WE WOULD CONSIDER THIS POINT OF VIEW. OTHERWISE IT WOULD BE DIFFICULT TO CONTINUE OUR TALKS.

12. I UNDERTOOK TO REPORT WHAT ZHOU HAD SAID. I SAID THAT I TOO HAD SPOKEN ON BEHALF OF MY GOVERNMENT. THE CHINESE WERE MISINFORMED ABOUT OUR PRACTICE ON INTERNATIONAL AGREEMENTS. 21 DAYS BETWEEN SIGNATURE AND ENTRY INTO FORCE WAS NOT NORMAL FOR AGREEMENTS WHICH ENTAILED LEGISLATION. OUR PROPOSAL HAD NOTHING TO DO WITH THE BASIC LAW: THEY RELATED ONLY TO BRITISH CONSTITUTIONAL

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/PRACTICE

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PRACTICE AND BRITISH CONSTITUTIONAL RELATIONSHIPS. THEY WAS DESIGNED TO MAKE IT MORE, NOT LESS, LIKELY THAT THE BRITISH GOVERNMENT COULD RATIFY BY 30 JUNE. ZHOU SAID HE FOUND THIS LAST POINT UNCONVINCING. IN ANY CASE HE COULD NOT ACCEPT OUR POSITION. WE MUST FIND A WAY ROUND OUR DIFFICULTIES.

13. SEE MIFT.

CCN: PARA 4 LINE 9 TO READ...

THE KEY ELEMENT IN THE AGREEMENT.....ETC..

EVANS

[REPEATED AS REQUESTED]

FUTURE OF HONG KONG
LIMITED

HD/HKD
HD/FED
HD/PLANNING STAFF
HD/PUSD
DEP HD/PUSD
RESEARCH D (MR WALKER)
LEGAL ADVISERS(SIR J FREELAND)
PS
PS/LADY YOUNG
PS/MR LUCE
PS/PUS
SIR W HARDING
SIR C TICKELL
MR GOODALL
MR DEREK THOMAS
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SECRET
 DESKBY 061130Z
 FROM PEKING 061045Z SEPT 84
 TO IMMEDIATE FCO
 TELNO 2134 OF 6/9/84
 INFO IMMEDIATE HONGKONG

MIPT: FUTURE OF HONG KONG: RATIFICATION

1. I HAD EXPECTED ZHOU NAN TO MAKE A FORMAL STATEMENT TODAY. BECAUSE HE SPOKE AFTER CONSULTATION WITH HIS LEADERS, AND IN VERY STRONG TERMS, I HAVE REPORTED HIS STATEMENT FULLY IN MIPT.

2. I SHALL NO DOUBT HEAR MORE FROM ZHOU DURING THIS EVENING'S CHINESE DINNER PARTY FOR THE DELEGATIONS. MEANWHILE, I HAVE ONLY THREE COMMENTS:

(A) I GOT THE IMPRESSION (WHICH I THINK WAS SHARED BY THE GOVERNOR) THAT THE CHINESE OBJECT CONSIDERABLY MORE TO OUR CONDITIONAL LANGUAGE THAN TO THE DATE OF 30 JUNE 1985 (THOUGH THEY DISLIKE THIS TOO).

(B) THE CHINESE ARE UPSET AS MUCH AS ANYTHING BY THE FACT THAT WE GAVE THEM NO WARNING ABOUT THE CONDITIONAL LANGUAGE.

(C) THE CHINESE SUSPECT THAT WE ARE SEEKING TO RE-ESTABLISH THE LINK WHICH WE MADE IN THE SPRING BETWEEN ENTRY INTO FORCE AND THE PUBLICATION OF THE BASIC LAW. THE REFERENCE TO "NATIONAL LEGISLATURES" (IN THE PLURAL) IN OUR CONDITIONAL LANGUAGE MAY HAVE PROMPTED THIS SUSPICION. IT WILL IN ANY CASE MAKE THE SUSPICION HARDER TO DISPEL.

3. SEE MIFT

(REPEATED AS REQUESTED)

EVANS

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IMMEDIATE

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PS/MR LUCE
~~MR BOYD~~ BOYD
3
1
PS LADY YOUNG
~~SIR WILKINS~~
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SECRET

DESKBY ~~061030Z FCO~~
DESKBY 070020Z HK
FROM PEKING 061440Z SEPT 84
TO IMMEDIATE FCO
TELNO 2143 OF 6/2/84
INFO IMMEDIATE HONG KONG.



FUTURE OF HONG KONG: RATIFICATION.

1. AT THIS EVENING'S DINNER FOR THE DELEGATIONS, ZHOU NAN AND I REPEATED TO ONE ANOTHER WHAT WE HAD SAID AT THE TABLE THIS MORNING. BUT HE ALSO SAID THAT CHINA WOULD NOT REPEAT NOT BE ABLE TO INITIAL AN AGREEMENT WHICH LEFT OPEN THE DATE OF ITS COMING INTO FORCE. HE SAID HE DID NOT QUESTION OUR MOTIVES IN PROPOSING CONDITIONAL LANGUAGE, BUT HAD INEVITABLY BEEN REMINDED OF THE LINK WE HAD MADE EARLIER BETWEEN RATIFICATION AND THE PROMULGATION OF THE BASIC LAW.

2. OTHER CHINESE AT THE DINNER SAID THAT CHINA WOULD NOT SIGN AN AGREEMENT WHICH WAS OPEN-ENDED ABOUT THE DATE OF COMING INTO FORCE AND ALSO EXPRESSED STRONG SUSPICION ABOUT A LINK BETWEEN OUR NEW CONDITIONAL LANGUAGE AND A DESIRE TO WAIT FOR PROMULGATION OF THE BASIC LAW.

EVANS

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