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B.06827

PRIME MINISTER

c Sir Robert Armstrong

OD(K): Hong Kong: State of Negotiations

BACKGROUND

Following discussion at the last meeting of OD(K) on 4 September, the Foreign and Commonwealth Secretary sent a message to his Chinese opposite number, Mr Wu Xueqian, on 8 September about resolving the remaining difficulties arising in the negotiations. A copy of the message is attached. Mr Wu's reply is expected this evening.

FlagA

2. There are four unresolved difficulties:

- (a) nationality
- (b) consitutional arrangements
- (c) civil aviation
- (d) ratification.

Until Mr Wu's reply has been received and analysed, it is impossible to forecast which of these problems will need to be discussed by the Sub-Committee. It is, however, probable that the meeting will be confronted by some difficult decisions. If time permits, a supplementary brief will be submitted in the course of tomorrow morning.

3. The Chancellor of the Exchequer will be represented by the Economic Secretary and the Secretary of State for Trade and Industry by the Minister for Trade (Mr Channon). The Lord President of the Council, the Attorney General and the Minister of State, Foreign and Commonwealth Office (Mr Luce) are unable to attend. The Solicitor General is available to deputise for Sir Michael Havers but in view of the subject

This is ³⁷ rather overtaken by the fact that we to now have Wu's reply (in telegram folder) and its quite helpful. CDP.



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matter of the meeting and the fact that Sir Patrick Mayhew is entirely unbriefed on this subject, the view has been taken that his presence is not essential.

HANDLING

4. You should invite the Foreign and Commonwealth Secretary to report on the position reached in the negotiations; to identify the problems outstanding; to describe his proposals for resolving them; and to give his forecast of the timetable of events prior to signature of the agreement.

CONCLUSION

5. In the light of the discussion, you will wish to guide the Sub-Committee to authorise the Foreign and Commonwealth Secretary to pursue the course of action best calculated to bring the negotiations to a satisfactory conclusion.

Bryan Cartledge

B G Cartledge

11 September 1984

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Cabinet Office

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TO IMMEDIATE PEKING

TELEGRAM NUMBER 1131 OF 8 SEPTEMBER

INFO IMMEDIATE HONG KONG

MIPT : FUTURE OF HONG KONG : MESSAGE FROM SECRETARY OF STATE :
FOLLOWING IS TEXT :

1. I HAVE BEEN FOLLOWING VERY CLOSELY THE PROGRESS OF THE NEGOTIATIONS ON THE FUTURE OF HONG KONG SINCE MY VISIT TO PEKING IN JULY. MUCH WAS ACHIEVED DURING THAT VISIT AND I WAS GRATIFIED AND ENCOURAGED BY THE SPIRIT OF GIVE AND TAKE WHICH CHARACTERISED OUR DISCUSSIONS. THE SAME SPIRIT HAS ENABLED FURTHER PROGRESS TO BE MADE ON A NUMBER OF ISSUES, FOR EXAMPLE ON LEGAL MATTERS WHERE WE APPRECIATE THE EFFORT MADE BY THE CHINESE DELEGATION TO MEET OUR CONCERNS AND ON LAND WHERE BOTH SIDES HAVE DONE THEIR BEST TO MEET EACH OTHERS' CONCERNS. THIS IS A TRIBUTE TO THE ABILITY AND DEDICATION OF THE NEGOTIATORS ON BOTH SIDES.
2. I HAVE TRIED TO LOOK AT THE DRAFT AGREEMENT AS IT IS EMERGING AS A WHOLE AND TO JUDGE HOW IT WILL BE RECEIVED IN HONG KONG AND ALSO BY PARLIAMENT HERE. I AM CONCERNED, AS I KNOW YOU ARE, THAT IT SHOULD BE SEEN AS A FARSIGHTED AND SUFFICIENT SOLUTION TO A PROBLEM WHICH WE HAVE BOTH INHERITED FROM HISTORY. IT IS ESSENTIAL THAT THIS SOLUTION SHALL COMMAND LASTING CONFIDENCE.
3. FOR THIS REASON I AM VERY ANXIOUS THAT THE AGREEMENT SHOULD NOT ATTRACT CRITICISM OF A KIND WHICH YOU AND I, WHO ARE SO CLOSE TO THE ISSUES, COULD FORESEE AND WITH A FURTHER JOINT EFFORT AVOID.
4. ON THIS BASIS, I SHOULD LIKE TO TELL YOU FRANKLY THAT I HAVE BECOME INCREASINGLY CONCERNED ABOUT DIFFICULTIES WHICH HAVE ARISEN ON THREE OF THE SUBJECTS LEFT OUTSTANDING AFTER MY VISIT, NAMELY NATIONALITY, CONSTITUTIONAL ARRANGEMENTS AND RATIFICATION. I AM ALSO APPREHENSIVE ABOUT A FURTHER ISSUE ON WHICH OUR PEOPLE HAVE RECENTLY BEGUN TO WORK, NAMELY CIVIL

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AVIATION. I AM QUITE CERTAIN IT IS ONLY BY REACHING CONVINCING SOLUTIONS ON ALL THESE POINTS THAT WE SHALL BE ABLE TO CONCLUDE AN AGREEMENT WHICH I CAN HONOURABLY COMMEND TO PARLIAMENT AND WHICH WILL, AS WE BOTH WISH, MAINTAIN CONFIDENCE IN HONG KONG IN THE MONTHS AND YEARS AHEAD.

5. THE FIRST OF THE THREE AREAS I HAVE IDENTIFIED IS NATIONALITY. I RECOGNISE THE EFFORTS WHICH THE CHINESE SIDE HAVE MADE TO FIND A PRACTICAL SOLUTION, AND WE HAVE SOUGHT TO MATCH THESE ON OUR SIDE. BUT WE HAVE NOT BEEN ABLE TO REACH AGREEMENT ON THE QUESTION OF TRANSMISSIBILITY OF NATIONALITY AND ON TWO FUNDAMENTAL QUESTIONS OF PRINCIPLE RELATING TO PASSPORTS.

6. ON THE QUESTION OF TRANSMISSIBILITY, I EXPLAINED TO YOU DURING MY VISIT THE ENORMOUS POLITICAL DIFFICULTIES WHICH WOULD FACE HMG IF THEY WERE ASKED TO DIVEST A LARGE NUMBER OF PEOPLE IN HONG KONG OF RIGHTS THEY ENJOY UNDER BRITISH LAW. WE HAVE ALREADY ACCEPTED THAT NO ONE WILL ACQUIRE ANY FORM OF BRITISH NATIONALITY AFTER 1 JULY 1997 SIMPLY BY VIRTUE OF A CONNECTION WITH HONG KONG. WHAT WE ARE ASKING IS THAT THOSE WHO HAVE THAT NATIONALITY BEFORE 1997 SHOULD RETAIN THE RIGHT THEY NOW HAVE TO TRANSMIT THEIR STATUS TO THEIR CHILDREN FOR ONE GENERATION ONLY. THIS RIGHT IS, FOR HISTORICAL REASONS, MUCH VALUED BY A SECTION OF THE COMMUNITY WHO ARE IMPORTANT TO THE FUTURE PROSPERITY OF HONG KONG. IT IS OUR STRONG WISH, AND I BELIEVE YOURS, TO ENCOURAGE THOSE PEOPLE TO STAY IN HONG KONG. BUT IF THIS RIGHT IS REMOVED FROM THEM IT IS OUR JUDGEMENT THAT A LARGE NUMBER OF THEM WILL SEEK TO LEAVE. IT IS FOR THESE REASONS THAT I HOPE YOU WILL LOOK AGAIN AT WHAT WE HAVE PROPOSED ON THIS QUESTION.

7. AS I SAID ABOVE, THERE ARE TWO FUNDAMENTAL QUESTIONS OF PRINCIPLE FOR US ON PASSPORTS. THESE ARE AS FOLLOWS:

I) THE FIRST ARISES FROM YOUR PROPOSAL THAT ALL NEW PASSPORTS SHOULD BE ISSUED BEFORE 1997. THE IMPOSITION OF SUCH A DEADLINE WOULD ALMOST CERTAINLY STIMULATE A VERY LARGE NUMBER OF APPLICATIONS FROM PEOPLE WHO MIGHT OTHERWISE NEVER APPLY AT ALL, AND THE SCALE OF THE APPLICATIONS WOULD BE SUCH THAT, EVEN IF SPECIAL MACHINERY WERE TO BE SET UP, IT WOULD IMPOSE AN INTOLERABLE BUREAUCRATIC BURDEN. I AM SURE YOU WOULD AGREE THAT

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IT WOULD BE BETTER TO AVOID A PROCEDURE WHICH WOULD BE SO SERIOUSLY UNSETTLING IN HONG KONG.

II) THE SECOND RELATES TO THE BRITISH TRAVEL DOCUMENTS WHICH FORMER BDTCS WILL HAVE AFTER 1997. I THINK WE ARE AGREED THAT THESE WILL IN FACT BE PASSPORTS. BUT THIS WILL NOT BE CLEAR TO THE PEOPLE MOST AFFECTED AND IT IS A POINT WHICH THEY ATTACH GREAT IMPORTANCE, AND WHICH I ALSO BELIEVE WILL HAVE GREAT VALUE IN HELPING TO SECURE ACCEPTANCE OF OUR WHOLE WORK. WHAT WE ARE PROPOSING THEREFORE IS THAT THERE SHOULD BE A REFERENCE IN THE UNITED KINGDOM MEMORANDUM THAT THOSE CONCERNED SHOULD HAVE THE RIGHT TO TRAVEL ON BRITISH PASSPORTS. WE UNDERSTAND WHY YOU CANNOT REFER TO PASSPORTS IN YOUR MEMORANDUM. BUT I HOPE THAT YOU WILL ACCEPT THAT WE SHOULD DO SO IN OURS. THERE COULD BE NO POSSIBLE IMPLICATION THAT THE CHINESE SIDE WAS THEREBY RECOGNISING DUAL NATIONALITY.

8. THESE THREE POINTS ON THE SUBJECT OF NATIONALITY ARE ALL OF GREAT IMPORTANCE. WE NEED TO FIND A WAY OF RESOLVING THEM. I HAVE SAID THAT THE TWO QUESTIONS RELATING TO PASSPORTS ARE OF FUNDAMENTAL IMPORTANCE TO US. TRANSMISSIBILITY IS ALSO VERY IMPORTANT. HOWEVER, IF WE WERE ABLE TO REACH AGREEMENT ON THE TWO PASSPORT QUESTIONS, AND PROVIDED THAT THE OTHER ISSUES RAISED IN THIS LETTER COULD ALSO BE RESOLVED SATISFACTORILY, I SHOULD BE PREPARED TO RECOMMEND TO MY COLLEAGUES THAT THEY SHOULD LOOK AT THE QUESTION OF TRANSMISSIBILITY AGAIN.

9. THE SECOND AREA OF DIFFICULTY IS CONSTITUTIONAL ARRANGEMENTS. WE ARE AGREED THAT WE CANNOT EXPECT TO SPECIFY 13 YEARS IN ADVANCE EVERY DETAIL OF THE FUTURE STRUCTURE OF GOVERNMENT IN HONG KONG. WE ALSO KNOW OF YOUR INTENTION TO SET OUT THESE MATTERS IN MORE DETAIL IN THE BASIC LAW. BUT IT WILL STILL BE SOME YEARS BEFORE THAT LAW APPEARS AND IN THE MEANTIME IT IS VERY IMPORTANT TO ASSURE PEOPLE IN HONG KONG ABOUT CERTAIN ESSENTIAL PRINCIPLES OF FUTURE GOVERNMENT STRUCTURE. OUR POSITION HAS BEEN THAT THE AGREEMENT SHOULD SPECIFY THAT THE FUTURE CHIEF EXECUTIVE SHOULD BE ELECTED. THE CHINESE SIDE WISH TO STATE THAT HE WILL BE ELECTED OR SELECTED BY CONSULTATION. I AM WILLING TO ACCEPT YOUR POSITION ON THIS POINT, PROVIDED THAT

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THE TEXT ALSO STATES THAT THE FUTURE LEGISLATURE WILL BE SELECTED BY AN ELECTIVE PROCESS, AND THAT THE FUTURE HONG KONG EXECUTIVE SHOULD BE ACCOUNTABLE TO THE LEGISLATURE. THIS IS A POINT OF FUNDAMENTAL IMPORTANCE TO US. ELECTED LEGISLATURES TO WHICH THE EXECUTIVE IS ACCOUNTABLE EXIST IN BOTH CHINA AND BRITAIN BOTH AT CENTRAL AND LOCAL LEVELS. IT IS SOMETHING WHICH OUR TWO COUNTRIES HAVE IN COMMON WITH VERY MANY OTHER COUNTRIES. WE ARE NOT ASKING THAT THE AGREEMENT SHOULD SPECIFY THAT THE LEGISLATURE SHOULD BE IN ANY PARTICULAR FORM, OR THAT ELECTIONS TO IT SHOULD BE IN ANY PARTICULAR FORM, JUST THAT IT SHOULD BE AN ELECTED BODY. BUT I REGARD IT AS ESSENTIAL THAT THE MINIMUM REQUIREMENT I HAVE INDICATED ABOVE SHOULD BE SPECIFIED IN THE AGREEMENT. THERE WILL OTHERWISE BE VERY WIDESPREAD CRITICISM OF THE AGREEMENT, AND EVEN SUGGESTIONS THAT THE CHINESE AND BRITISH GOVERNMENTS ARE NOT WILLING TO TRUST THE PEOPLE OF HONG KONG WITH ELECTING THEIR OWN FUTURE LEADERS. I SHOULD FIND THAT POINT VERY DIFFICULT TO REBUT IN PARLIAMENT.

10. AS I SAID ABOVE, I AM APPREHENSIVE THAT DIFFICULTIES MAY ARISE ON CIVIL AVIATION. AS I EXPLAINED DURING MY LAST VISIT TO PEKING, I BELIEVE IT IS VITAL TO PRESERVE CONDITIONS WHICH ENABLE HONG KONG TO CONTINUE TO HAVE ITS OWN AIRLINE. CATHAY PACIFIC HAS A KEY ROLE TO PLAY IN THE FUTURE PROSPERITY OF HONG KONG. IF THEY ARE TO CONTINUE THE ENORMOUS LONG-TERM INVESTMENT WHICH IS NECESSARY TO MAINTAIN THEM AS A MODERN COMPETITIVE AIRLINE THEY MUST HAVE THE ASSURANCE THAT THE SAR WILL CONTINUE TO HAVE ADEQUATE CONTROL OF THE AIR SERVICES NETWORK ON WHICH CATHAY DEPEND. THIS IS WHAT WE ARE SEEKING IN THE PROPOSALS WE HAVE PUT FORWARD. IF CATHAY PACIFIC ARE NOT SATISFIED THAT THEIR FUTURE PROSPERITY IS ASSURED, THEY WOULD HAVE TO BEGIN SOON MAKING PLANS TO MOVE ELSEWHERE. THAT WOULD HAVE A VERY SERIOUS EFFECT ON MORALE IN HONG KONG, AS WELL AS A DIRECT EFFECT ON HONG KONG'S PROSPERITY. IT IS IN THE INTERESTS OF BOTH OUR COUNTRIES TO ENSURE THAT THIS DOES NOT HAPPEN. WE MUST THEREFORE JOINTLY WORK TO ACHIEVE A SATISFACTORY ANNEX ON THIS SUBJECT. HOW THE CIVIL AVIATION QUESTION IS DEALT WITH WILL ALSO BE TAKEN AS A SYMBOL OF THE TREATMENT WHICH WILL BE GIVEN TO FOREIGN INVESTORS, WHOM I

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KNOW THE CHINESE SIDE WISH TO ENCOURAGE.

11 . THE LAST OF THE MAJOR SUBJECTS WHICH I MENTIONED AT THE BEGINNING IS RATIFICATION. I FULLY UNDERSTAND THAT THIS IS A SUBJECT OF FUNDAMENTAL IMPORTANCE TO THE CHINESE SIDE. I HAVE DISCUSSED AGAIN WITH THE PRIME MINISTER VERY RECENTLY WHAT WE COULD DO TO MEET YOUR ESSENTIAL REQUIREMENTS. THE QUESTION OF THE DATE POSES A REAL, PRACTICAL DIFFICULTY FOR US. WE DO NOT WANT TO PROMISE SOMETHING IN THE AGREEMENT THAT WE CANNOT BE SURE OF ACHIEVING. IN REACHING A JUDGEMENT ON THE QUESTION OF THE DATE, WE HAVE TO BEAR IN MIND THAT ALTHOUGH WE CAN LEAD PARLIAMENT, WE CANNOT COMMAND IT.

12. ON THAT BASIS, THE PRIME MINISTER AND I HAVE CONCLUDED THAT WE MUST STICK TO OUR PROPOSAL THAT THE DATE SHOULD BE 30 JUNE 1985. THAT IN OUR CONSIDERED JUDGEMENT IS THE EARLIEST POSSIBLE DATE BY WHICH WE COULD HOPE TO GET THIS LEGISLATION THROUGH. BUT BECAUSE OF THE GREAT IMPORTANCE YOU ATTACH TO THIS QUESTION, WE ARE PREPARED TO INCLUDE THAT DATE WITHOUT QUALIFICATION AND THEREFORE TO DROP THE ADDITIONAL WORDS WHICH WE HAD PROPOSED, AND TO GIVE YOU AN ASSURANCE THAT WE WILL DO ALL IN OUR POWER TO ENSURE THAT THE NECESSARY LEGISLATIVE STEPS ARE COMPLETED BY THAT DATE.

13. I AM SENDING YOU THIS MESSAGE BECAUSE TIME IS GETTING SHORT AND IT IS MY BELIEF THAT IF WE COULD AGREE ON THESE QUESTIONS DISCUSSION BETWEEN OUR DELEGATIONS COULD QUICKLY RESOLVE THE REST.

14. WE HAVE COME A LONG WAY TOGETHER AND ARE VERY CLOSE NOW TO AN AGREEMENT WHICH I BELIEVE WILL BE SEEN IN THE WORLD AS HISTORIC. ONE MORE JOINT EFFORT IS NEEDED. AS I SAID IN HONG KONG THE CONCEPT OF 'ONE COUNTRY TWO SYSTEMS' IS A FAR-SIGHTED ONE. I AM VERY CONCERNED THAT WE SHOULD NOT IMPERIL THE AGREEMENT OR SPOIL ITS RECEPTION IN THE WORLD BY FAILING TO MAKE ADEQUATE PROVISIONS IN THE IMPORTANT AREAS I HAVE INDICATED.

15. MY COLLEAGUES AND I ATTACH GREAT IMPORTANCE TO THE SUCCESS OF THIS ENTERPRISE. IF IT WOULD HELP I AM WILLING TO COME TO PEKING AGAIN AS SOON AS ARRANGEMENTS CAN BE MADE IN ORDER TO RESOLVE THE OUTSTANDING PROBLEMS BETWEEN US. PERHAPS YOU COULD

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LET ME KNOW IF YOU THINK THAT THIS WOULD BE USEFUL.
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