

SECRET

DESKBY 151100Z

FM HONG KONG 150930Z SEP 84

TO IMMEDIATE FCO

TELEGRAM NUMBER 2848 OF 15 SEPTEMBER

INFO PRIORITY PEKING

AM

MY TELNO 2839: EXCO UNOFFICIALS VISIT.

1. ONE OF THE MOST IMPORTANT QUESTIONS WHICH THE UNOFFICIAL MEMBERS WILL WISH TO RAISE WITH MINISTERS IS THE EXTENT TO WHICH THEY CAN REVEAL THE ADVICE WHICH THEY GAVE DURING THE COURSE OF THE NEGOTIATIONS: THE EXTENT TO WHICH THEY CAN DRAW UPON THEIR KNOWLEDGE OF THE NEGOTIATIONS IN SPEAKING OF THE AGREEMENT: AND THE EXTENT OF THEIR FREEDOM TO COMMENT ON ITS CONTENTS AFTER IT HAS BEEN PUBLISHED.

2. UNOFFICIALS MAY WELL BE CRITICISED BY THOSE WHO FIND THE AGREEMENT UNSATISFACTORY IN WHOLE OR IN PART, FOR NOT STANDING OUT SUFFICIENTLY STRONGLY IN THE ADVICE THEY GAVE IN THE COUNCIL FOR THE INTEREST OF HONG KONG. THEY WILL BE JUSTIFIABLY CONCERNED, GIVEN THEIR OWN STANDING IN THE COMMUNITY AND THE JUDGEMENT OF HISTORY, NOT TO ALLOW SUCH ACCUSATIONS TO STAND. IN ADDITION, THEY WILL BE QUESTIONED CLOSELY ABOUT WHAT ADVICE THEY GAVE TO MINISTERS AND THE PRIME MINISTER DURING THEIR VISITS TO LONDON. I CAN FORESEE SEARCHING QUESTIONS FROM THE PRESS ABOUT THEIR ATTITUDE TO THE RELINQUISHMENT OF THE ATTEMPT TO RETAIN BRITISH ADMINISTRATION AFTER 1997: AND ALSO ON ISSUES OF NATIONALITY, ETC. THEY MAY BE ASKED WHETHER THEIR ADVICE ON NEGOTIATING TACTICS WAS ADOPTED BY HMG OR WHETHER THEY BELIEVE DIFFERENT TACTICS COULD HAVE ACHIEVED BETTER RESULTS ON DIFFICULT ISSUES.

3. IT WOULD BE TEMPTING TO ALLOW THEM TO SPEAK WITH DUE CAUTION ON SUCH ISSUES BUT IN MY VIEW IT WOULD BE DANGEROUS TO WAIVE THE ABSOLUTE LEGAL REQUIREMENT THAT THE ADVICE THEY HAVE OFFERED THE GOVERNOR AND WHICH THE GOVERNOR HAS OFFERED TO MINISTERS, TOGETHER WITH KNOWLEDGE ACQUIRED IN THE EXECUTIVE COUNCIL CHAMBER REMAINS CONFIDENTIAL AND SHOULD NOT BE DIVULGED. THIS IS WELL COVERED BY THE OATH OF FIDELITY WHICH EACH HAD TAKEN (SEE CAP 11, SECOND SCHEDULE, PART III). TO RELAX THIS RULE COULD PROVIDE OPPORTUNITIES FOR THE PRESS TO EXPLOIT ANY DIFFERENCES WHICH MIGHT BE PERCEIVED AND MAKE OTHER MEMBERS VULNERABLE TO ATTACK IF THEY FAILED TO SPEAK WITH THE SAME VOICE. AS A DEFENCE FOR NOT REVEALING WHAT THEY SAID MEMBERS COULD POINT TO THEIR OATH OF FIDELITY. I THINK IT WOULD ALSO BE WISE TO TAKE THE SAME VIEW AS FAR AS GIVING ADVICE TO MINISTERS IN LONDON WAS CONCERNED. THEY COULD SAY THAT SINCE THE ADVICE WAS GIVEN IN THEIR CAPACITY AS EXECUTIVE COUNCILLORS IT MUST REMAIN CONFIDENTIAL.

/4.

4. THE QUESTION OF THEIR COMMENTING ON THE AGREEMENT AFTER IT IS INITIALLED RAISES SOMEWHAT DIFFERENT ISSUES WHICH ARE POLITICAL NOT LEGAL. FOR EXAMPLE, SOME OF THEM MAY WELL FEEL THAT THEY SHOULD EXPRESS DISAPPOINTMENT THAT THE AGREEMENT DOES NOT PROVIDE FOR TRANSMISSIBILITY AND THUS THE BDTC'S WILL LOSE SOME RIGHTS THEY NOW HAVE. IF THEY WERE TO DO SO, HOWEVER, THEY COULD WELL BE ASKED WHETHER THEY ADVISED AGAINST CONCEDING IT: OR WHETHER THEY ARE SATISFIED WITH THE DEGREE OF EFFORT HMG MADE TO MAINTAIN IT. THERE MAY BE OTHER ISSUES IN THE AGREEMENT WHERE SIMILAR QUESTIONS MAY ARISE.

5. IT WOULD BE UNREALISTIC AND NOT CREDIBLE TO MAINTAIN THAT THERE WERE NO DIFFERENCES OF VIEW WITHIN EXCO AND BETWEEN EXCO AND LONDON AT VARIOUS TIMES. AS YOU RECOGNISE IT WOULD BE EQUALLY UNREALISTIC TO TRY TO MAINTAIN THAT THE AGREEMENT IS AN IDEAL ONE. NEVERTHELESS, MY OWN VIEW IS THAT IF INDIVIDUAL MEMBERS WERE TO BE DRAWN INTO COMMENTING CRITICALLY ON THE PARTICULAR PROVISIONS OF INTEREST TO THEM, THE PRESS COULD SWIFTLY AND EFFECTIVELY EXPLOIT ANY DIFFERENCES WHICH WERE ALLOWED TO APPEAR AND PUT OTHER MEMBERS IN A POSITION WHERE THEY HAD TO MAKE A CHOICE OF BREAKING CONFIDENTIALITY TO DEFEND THEIR POSITIONS OR THEMSELVES APPEAR TO HAVE FAILED TO PRESS STRONGLY FOR HONG KONG'S INTERESTS.

6. TO AVOID THIS THERE WILL NEED TO BE A CAREFULLY CONCERTED LINE WHICH CAN BE TAKEN ON THE AGREEMENT GENERALLY WHICH WOULD TAKE ACCOUNT OF THE NEED TO ALLOW UNOFFICIAL MEMBERS OF EXCO TO DEMONSTRATE TO THE COMMUNITY THAT THEY STOOD UP FOR HONG KONG'S INTERESTS, WHILE AT THE SAME TIME AVOIDING GIVING THE PRESS ANY OPPORTUNITY TO EXPLOIT DIVISIONS.

7. THERE IS NO EASY ANSWER ON THESE LATTER POINTS BUT I CONSIDER THAT THEY WOULD BEST BE MET BY THE FOLLOWING LINES OF COMMENT:

(A) THE FIRST IS TO SAY THAT UNOFFICIALS REFLECTED FAITHFULLY TO HMG AT ALL STAGES OF THE NEGOTIATIONS THE VIEWS OF PEOPLE IN HONG KONG AS THEY WERE EXPRESSED IN THE MEDIA, AND THROUGH REPRESENTATIONS MADE DIRECTLY OR INDIRECTLY TO THEM, ADDING THAT THEY ARGUED STRONGLY FOR THE HONG KONG VIEW ON ALL MAJOR POINTS. I WOULD SPEAK STRONGLY IN THE DEFENCE OF THE UNOFFICIALS IF ANY CRITICISM WAS MADE OF THEM ON THIS SCORE.

(B) THE SECOND IS TO SAY THAT NO-ONE WILL CLAIM THAT ALL MEMBERS EXCO OR EXCO AND HMG HELD IDENTICAL VIEWS ON ALL ISSUES AT ALL TIMES BUT ALL WOULD AGREE THAT THE OVER-RIDING AIM THROUGHOUT OF ALL MEMBERS OF EXCO, OF MINISTERS AND OF THE NEGOTIATORS, WAS TO ACHIEVE AN AGREEMENT WHICH WOULD SATISFY THE REQUIREMENTS OF THE PEOPLE OF HONG KONG AS FAR AS POSSIBLE.

-2-  
SECRET

(c)

# SECRET

(C) ON THE AGREEMENT, WE COULD NOT CLAIM THAT IT WAS IDEAL ON ALL POINTS AND WOULD ADMIT IN GENERAL TERMS THAT PARTICULAR PROVISIONS MIGHT BE FOUND TO BE DISAPPOINTING. BUT HAVING AGREED TO IT BEING INITIALLED ALL MEMBERS SHOULD ADOPT THE LINE THAT TAKEN AS A WHOLE THE AGREEMENT WAS NOT ONLY THE BEST WE COULD OBTAIN BUT IT ALSO CONTAINS THE BEST POSSIBLE GUARANTEES THAT THE SYSTEMS TO WHICH THE PEOPLE OF HONG KONG ATTACH IMPORTANCE WILL BE PRESERVED.

B. I THINK IT POSSIBLE (THOUGH NOT CERTAIN) THAT THE UNOFFICIALS CAN BE PERSUADED TO ACCEPT THE ABOVE. THERE MAY BE ONE OR TWO MEMBERS WHO WILL CLAIM THAT, ALTHOUGH THEY WILL ADVISE MINISTERS TO INITIAL AND COMMEND THE AGREEMENT AS A WHOLE, THEY MUST BE FREE TO EXPRESS THEIR HONEST OPINIONS, EVEN IF THIS INVOLVES CRITICISM OF CERTAIN OF ITS PROVISIONS OR THE CONDUCT OF NEGOTIATIONS. I SHALL KNOW MORE OF THEIR THINKING ON THESE POINTS BY THE TIME THEY ARRIVE IN LONDON: THEY ARE LIKELY TO BE DISCUSSING THEM AMONG THEMSELVES OVER THE WEEKEND.

YOUDE

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  
MR. Boyd

COPIES TO:-  
BUCKINGHAM PALACE  
PS/LORD PRESIDENT OF THE COUNCIL  
PS/HOME SECRETARY  
PS/CHANCELLOR OF THE EXCHEQUER  
PS/LORD PRIVY SEAL  
PS/SECRETARY FOR TRADE & INDUSTRY

COPIES TO:- (VIA ADR)  
MR ROBERTS NEWS DEPT  
MR BICKFORD LEGAL ADVISERS (K.197)  
MR FIFOOT LEGAL ADVISERS  
MR POWELL NO 10 DOWNING ST.  
MR INGHAM NO 10 DOWNING ST.  
MR MARTIN ASSESSMENTS STAFF CABINET OFFICE  
MR CARTLEDGE CABINET OFFICE  
MR COLVIN CABINET OFFICE  
PS/S OF S FOR DEFENCE  
PS/ATTORNEY GENERAL  
SIR P CRADOCK ROOM K195  
SIR P CRADOCK NO 10 DOWNING ST.  
SIR E YOUDE (ROOM K195A)

-3-  
SECRET