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Foreign and Commonwealth Office

Prime Minister

London SW1A 2AH

*As you know, the Home Secretary disagrees. Would you like to discuss with Mr. Whitelaw and Mr. Pym. Your decision on the issue will have an important effect on opinion in Hong Kong.*

11 October 1982

*New York,*

*A.J.C. 12/10*

*Yes please*

*ms*

Nomenclature in Passports

Colin Walters' letter to you of 5 October records the Home Secretary's views on Hong Kong's proposal that 'British national' be included in their passports.

Paragraphs 3 to 6 beneath spell out the case for acceding to the Hong Kong request. Mr Pym did not have time to consider this very sensitive subject properly before his departure for the Middle East. He has nevertheless asked that this case should be put to the Prime Minister, and would like to discuss the issue with her on his return.

Hong Kong belongers would benefit minimally in practical terms were their passports to bear the additional description 'British national'. They insist that they accept, for example, that it would not confer any right of abode in the UK or any status in terms of our immigration law different from that which they have at present. The nationality description is seen by them rather as a symbol of Britain's continuing role in and in relation to the Territory and as a reassurance that they would continue to enjoy full protection and consular assistance by us when travelling abroad.

The issue is politically and psychologically very important in terms of UK/Hong Kong relations and of our responsibility for the welfare and protection of the interests of the Hong Kong people. It has become caught up with the whole question of Hong Kong's future and has a continuing influence on confidence in the Territory. As we move into negotiations with the Chinese, following the Prime Minister's visit, uncertainty is bound to increase, leading to demands for reassurance about the genuineness of our commitment to Hong Kong and the interests of her people. There is no doubt that a gesture such as describing them in their passports as 'British nationals' would help to allay anxieties and boost confidence. On the other hand, to reject their request would cause grave disappointment to them, indeed more so now that their hopes have been raised somewhat by the Prime Minister's

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remark in Hong Kong that she would take up the point on her return and hoped that we would be able to have 'some encouraging news' for them. This disappointment would also certainly be aggravated if it became known that HMG did not intend to oppose Lord Bruce of Dongington's bill for British citizenship for those Falkland Islanders who do not at present qualify for it. The Governor of Hong Kong has recently reported that if the request is refused it might well be difficult to get through the necessary amendments to Hong Kong legislation consequential on the British Nationality Act. This illustrates the strength of feeling in Hong Kong.

There does not appear to be any dispute that the holders of all three new citizenships created by the BNA 1981 are British nationals in the sense that the UK Government are entitled to accord them consular protection when they travel abroad on passports issued to them. There can therefore be no legal objection to the inclusion in Hong Kong passports of the additional description 'British national'. This view is, I believe, shared by the Home Office and FCO Legal Advisers and also by the Attorney-General of Hong Kong, and the Hong Kong authorities are fully aware of it. To the extent that an argument could be advanced that, aside from specific treaty commitments, a State must in the last resort permit entry of its 'nationals' into its territory, that argument would not, in the view of FCO Legal Advisers, be strengthened by the inclusion in Hong Kong passports of the additional description 'British national', the more particularly as it is intended that those Hong Kong passport-holders who do not have the right of abode in the UK would still have their passports endorsed on page 5: 'The holder is subject to control under the Immigration Act 1971'.

In all the circumstances, the right course might be to accede to the Hong Kong request. The gesture would be seen as a natural consequence of the Prime Minister's visit. It would be very difficult not to extend this change to British Dependent Territories citizens in other Dependencies and there might also be demands for 'British national' to be similarly included in the passports of British Overseas Citizens, British Protected Persons and other residuals. However, there is no current pressure for this and it is possible that any such pressure could be resisted, on the grounds that the circumstances in Hong Kong were clearly special.

/I am



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I am copying this to Colin Walters (Home Office).

*Yours ever,*

*R B Bone*

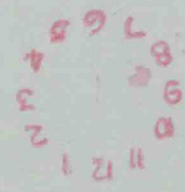
(R B Bone)  
Private Secretary

A J Coles Esq  
10 Downing Street

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*Faint handwritten text, possibly a name or address.*



11 OCT 1982

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B



c Caroline

10 DOWNING STREET

From the Private Secretary

12 October 1982

B/P

Dear Roger,

Hong Kong: Nomenclature in Passports

The Prime Minister has noted the contents of your letter of 11 October and had previously seen Colin Walters' letter of 5 October. Mrs. Thatcher would like to discuss this question further with the Foreign and Commonwealth Secretary and the Home Secretary. We will be in touch to arrange a suitable time for a meeting.

I am copying this to Colin Walters (Home Office).

Yours ever  
John Major

Roger Bone Esq  
Foreign and Commonwealth Office.

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B

From THE PRIVATE SECRETARY  
**SECRET**



HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

Prime Minister

The Foreign Secretary may  
well wish to put forward  
counter-argument.

5 October 1982

A.J.C. 6/10

HONG KONG PASSPORTS

The Prime Minister is to discuss with the Home Secretary and the Foreign and Commonwealth Secretary the proposal that the term 'British National' should be entered in British passports issued by the Governor of Hong Kong. The Home Secretary thought it might be helpful if I were to let you have in advance of the discussion a brief indication of the objections he sees to the proposal, and why he recommends that it be rejected.

Our present citizenship is citizenship of the United Kingdom and Colonies. From 1 January 1983, when, as you know, the provisions of the British Nationality Act 1981 come into force, that omnibus citizenship will cease to exist and citizens of the United Kingdom and Colonies will become either

- a) British citizens (if their links are with this country); or
- b) British Dependent Territories citizens (if connected with one of our remaining dependent territories); or
- c) British Overseas citizens.

The 1981 Act does not define the term 'British national', but it is accepted that the holders of all three new citizenships are, and will remain, British nationals.

If the current request from Hong Kong were granted, the Home Secretary sees no basis on which other similar requests could be refused. We should have to agree to enter the term British National in the passports issued to other British Dependent Territories citizens (eg. those in Bermuda) and in passports issued to British Overseas citizens. This last category includes very large numbers of people in Malaysia, and, of more immediate significance, the East African Asians, many of whom are now in India and whom we are being pressed to admit more quickly to this country.

A passport is something that people use in order to travel, and the Home Secretary believes that to enter 'British National' in the passports of those who are subject to our immigration control would have two highly undesirable consequences. First,

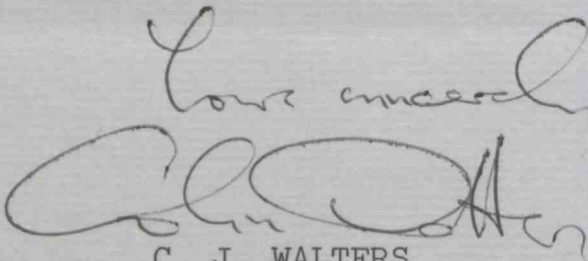


it would arouse expectations in the minds of those obtaining the passports that they would be able to come to this country if they wished to do so, and second, it would make it more difficult to continue to defend the basis of the present immigration law. On the first point, the Home Secretary does not think it necessary to spell out the political and practical objections to arousing expectations of a possible influx of British Overseas citizens from India, or, if things went wrong, of a proportion of the 2½ million people in Hong Kong who will be entitled to passports as British Dependent Territory citizens.

On the second point, the position at international law is not entirely clear, but there are not lacking experts who argue that in the last resort a State must permit entry to its nationals into its own territory. Our present immigration laws, which have been challenged as contrary to the European Convention on Human Rights, restrict the entry of our citizens if their connections are solely with a colony or former colony, and after 1 January will grant entry as of right only to British citizens. We do not want to do anything to imply that either British Dependent Territories citizens or British Overseas citizens are 'British Nationals' beyond the restricted sense that they enjoy passport and consular facilities when travelling overseas.

The Home Secretary recognises that the Hong Kong Government, and some of their supporters in this country, have never liked the new Nationality Act. But it seems to him essential to get away from the sort of terminology which implies that large numbers of people without connections with this country have the right of entry here. To add the words 'British National' to passports just at the time when the term 'Citizenship of the United Kingdom and Colonies' has been abandoned seems to him to negate that purpose, as well as having the dangerous consequences summarised above.

I am copying this letter to John Holmes (FCO).

Yours sincerely  
  
 C. J. WALTERS