

ELZAYT
CCPC



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10 DOWNING STREET

From the Private Secretary

18 March 1986

Thank you for your letter of 13 March about the scope for wealthy Hong Kong Chinese prepared to invest in this country to obtain British Citizen passports.

The Prime Minister finds the Home Secretary's response unimaginative. The Government is devoting a very considerable effort to persuading wealthy Hong Kong Chinese to demonstrate their confidence in the Hong Kong Agreement by staying on in the colony and maintaining their business and investments there, when their natural instincts may well be to move out and transfer their funds elsewhere. The Home Secretary's approach runs directly counter to this because it says in effect that we would be prepared to help these people only if they move out of Hong Kong and come to live here. We would thus be:

- (a) undermining confidence in the future of Hong Kong and
- (b) passing up the opportunity of substantial investment in this country.

The Prime Minister cannot believe that this is a sensible policy. She would be grateful if the Home Secretary would examine the matter again, with the Foreign Secretary, and then discuss it with her. In the meantime it would be better not to reply to Mr. Sandberg.

I am copying this letter to Len Appleyard (Foreign and Commonwealth Office).

CHARLES POWELL

W.R. Fittall, Esq.,
Home Office,

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May we discuss this

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Prime Minister
Agree that the Home Secretary should write to

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

13 March 1986

Dear Charles

Mr Sandberg as proposed?
HONG KONG: Sandberg Aug 1985
CDP 13/8

You sent us a copy of your letter of 21 January to Len Appleyard following a meeting between the Prime Minister and Mr Sandberg, the Chairman of the Hong Kong and Shanghai Bank. This followed Mr Sandberg's meeting with the Home Secretary the previous day, when, as he told the Prime Minister, he had asked whether a few very wealthy Hong Kong Chinese could obtain British citizen passports. They wished to continue to live in Hong Kong and manage their investments there, but were prepared to invest very substantial sums (£15 million has been mentioned) in this country.

I am sorry not to have responded before this, but the Home Secretary, recognising the value of investments from Hong Kong,, wanted to examine the position carefully to see whether he could agree to Mr Sandberg's proposal. He has had to conclude that it would not be right to do so. Mr Sandberg's proposal does not involve, as he implied to the Prime Minister, merely overcoming some technicalities; the Home Secretary has to use the powers given him by statute in a consistent and defensible way.

We cannot, of course, issue a British citizen passport to someone who is not a British citizen and, as the Prime Minister will recall from earlier correspondence about Sir Yehudi Menuhin, there is no provision for conferring British citizenship as a gift or an honour. All applications for citizenship must be considered under the provisions of the British Nationality Act 1981.

It seems likely that the people to whom Mr Sandberg referred are at present British Dependent Territories citizens. If so, under the 1981 Act they have an entitlement to register as British citizens if they have lived in this country for five years and if they are not subject to any restrictions on their stay, which means in effect that they are settled here under the Immigration Rules. (Settlement is usually granted to businessmen after four years in this country, and may be granted even though they have spent only part of each year in the United Kingdom with the rest on business abroad).

Provided someone was in this country on the date five years before the date of his application for British citizenship, and on the same date was free of immigration restrictions, the Home Secretary has discretion to make exceptions to the requirement in the 1981 Act that the person should have been free of immigration restrictions for twelve months before the date of application and that he should not have been absent from the country for more than 450 days in the five years before that date. But Ministers made clear when explaining this provision to Parliament in 1981 that they would expect people acquiring British citizenship in this way to have the genuine and strong links with this country which were shown by the five years residence requirement and that they had made their home in the United Kingdom.

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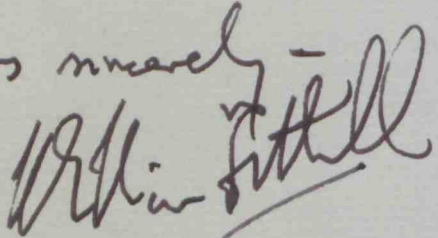
The situation of the people Mr Sandberg has in mind seems to be considerably outside these expectations. They could be granted British citizenship now only if the Home Secretary was prepared to offer immediate settlement in this country without the four year qualifying period, and he was prepared to accept that the people need have spent no appreciable time here in the last five years. In short, he would need to use his powers in a way directly contrary to the manner Ministers had in 1981 announced that they intended to use them. The Home Secretary does not consider it would be right to act in this way. In view of the statements made in Parliament in 1981 he would need to explain publicly why he was taking action contrary to the policy then expressed and it would be very difficult to justify. It could also cause considerable controversy in the context of the Hong Kong Nationality Order (which, subject to OD(K)'s agreement we expect to lay before the House shortly), particularly as the Home Secretary considers it right to continue to resist the strongly pressed claims of some 11,000 British Dependent Territories citizens who are not ethnically Chinese who want to become British citizens. It might in practice also be very difficult to distinguish clearly, in terms relevant to the nationality provisions, between these large groups and the people Mr Sandberg has in mind. We could be accused of giving a privilege to rich men who do not want to throw in their lot with Britain by living here, and denying it to poor men who do.

[A very weak argument]

The Home Secretary would obviously like to be as helpful as these policy and legal considerations allow. He proposes, therefore, to write to Mr Sandberg and explain what action people would need to take in order to become eligible for British citizenship. He would make clear that businessmen from Hong Kong will continue to be welcome here and that there is provision in our immigration arrangements under which they can qualify for settlement. He would also make clear that while he can give no blanket undertakings to groups of people, he would be ready to consider as sympathetically as possible the use of his discretionary powers if any individual among Mr Sandberg's contacts who had formed strong links with this country through establishing themselves here were then to make an application for British citizenship.

The Home Secretary recognises that this does not go as far as Mr Sandberg wanted, but he hopes it will be possible to persuade him that it would not really be practicable or any Home Secretary to give an undertaking to use his powers in the blanket way Mr Sandberg has suggested, and that he is willing to be sympathetic to individuals who have established themselves here and who may be able to make out a particularly sound case.

I am copying this letter to Len Appleyard (FCO).

Yours sincerely -

 W R FITTALL

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