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PREM 19/1798

CONFIDENTIAL Filing

NOMENCLATURE IN HONG KONG

HONG KONG

PASSPORTS.

19/1798

Requests for British Citizenship.

OCTOBER 1982

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
14.10.82		8.5.86					
21.10.82		30.6.86					
18.11.82							
22.11.82							
15.7.83							
29.7.83							
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31.12.84							
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17.12.85							
7.3.86							
17.3.86							
20.3.86							

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10 DOWNING STREET

From the Principal Private Secretary

30 June 1986

IMMIGRATION OF HONG KONG BUSINESSMEN

The Prime Minister has now seen your letter of 27 June to Charles Powell which gives further advice on Sir Michael Sandberg's suggestion that British citizenship should be granted to certain wealthy businessmen in Hong Kong in return for investment here.

The Prime Minister is now persuaded, in the light of this further advice, that we should not try to offer British citizenship (outside the provision of the 1981 Act) as an encouragement for Hong Kong businessmen to settle here. She agrees too that the Home Secretary should explain the position to Sir Michael in the way that he suggests in the penultimate paragraph of your letter.

I am sending a copy of this letter to Tony Galsworthy (Foreign and Commonwealth Office).

N L WICKS

William Fittall, Esq.,
Home Office

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JA

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Prime Minister

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

27 June 1986

Do you agree the
Home Secretary's decision as at (X)
and the way he proposes to present it
Dear Charles to Sandberg as at (Y)?
N.L.W. 27.6

Yes not

The Home Secretary and the Foreign Secretary have been considering again the suggestion from Sir Michael Sandberg that British citizenship should be granted to certain wealthy businessmen in Hong Kong in return for investment here. Your letter of 18 March reported the Prime Minister's views; and Colin Budd's letter of 1 April recorded that the Foreign Secretary had suggested a decision should be left over until after the Governor had assessed reaction in Hong Kong to the Nationality Order. The Governor has now reported.

The Home Secretary recognises the strength of the points which the Prime Minister has made. He would be reluctant to pass up the opportunity of encouraging investment in this country. But at the same time he would not wish to undermine the Government's nationality policy, which is based on British citizenship reflecting a person's personal links with this country. Nor, as the Prime Minister has said, would we wish to undermine confidence in the future of Hong Kong. This could well be the effect if we were seen to be offering a refuge from future uncertainties to a few particularly wealthy individuals.

The reaction in Hong Kong is, of course, crucial. The assessment of the Governor of Hong Kong is categorical. He has concluded, especially in the light of the Government's decision not to grant British citizenship to the ethnic minorities, that to grant British citizenship to wealthy businessmen would cause an outcry in Hong Kong and be politically unacceptable there. (It would in practice be impossible to keep such a decision confidential). In the Governor's view, following the Government's decision on the ethnic minorities, Hong Kong opinion would conclude that an individual's wealth was of more importance than his personal qualities or than any moral obligation to the ethnic minorities. No mitigating factors relating to investment in the United Kingdom or Hong Kong would carry any weight against these objections. As the Governor has pointed out, we could not easily confine the offer to Chinese businessmen only - there are also Indian businessmen who might be equally willing to invest here in return for British citizenship and to grant them British citizenship would only stir up further the controversy about the treatment of other members of the ethnic minorities.

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(X) Having discussed this with the Foreign Secretary and having taken into account the Governor's assessment of reaction in Hong Kong, the Home Secretary is convinced that we should not try to offer British citizenship (outside the normal provisions of the 1981 Act) as an encouragement to Hong Kong businessmen to invest here. However such an offer was presented it would be widely interpreted in Hong Kong and elsewhere as an arrangement to sell British citizenship to people who had no personal links with this country.

(Y) The Home Secretary recognises, however, the strength of the Prime Minister's point that while we want to encourage investment in this country, we ought not to appear to be encouraging people to leave Hong Kong. The Home Secretary believes this is best handled in the way he presents the Government's response to Sir Michael Sandberg. He will be seeing Sir Michael on 2 July when he will be able to discuss this with him. He proposes to explain that our legislation is framed on the basis that British citizenship is not granted to people who are not settled and living here. While he would be careful not to appear to encourage businessmen to leave Hong Kong or withdraw their investments there, he would make clear that there are recognised arrangements permitting the entry and eventual settlement of businessmen who decided they wanted both to invest in and live here. Such steps could lead in due course to British citizenship under the terms of the 1981 Act, which provides the Home Secretary with some flexibility. Not to make these points would, in the Home Secretary's view, make his response less helpful than it need be.

The Home Secretary has agreed this approach with the Foreign Secretary and would be grateful to know if, in the light of the further information in this letter, the Prime Minister agrees it should be handled in this way.

Yours sincerely
W R Fittall

W R FITTALL

C D Powell, Esq.

HONG KONG
PASSPORTS



10/12

MEMBERS OF LEGISLATIVE COUNCIL

立法局議員

Prime Minister

28th April, 1986

Rt. Hon. Mrs. Margaret Thatcher, MP,
No. 10 Downing Street,
London SW1,
England.

R215

pps

N/T GR

CF?

mt

Hong Kong?

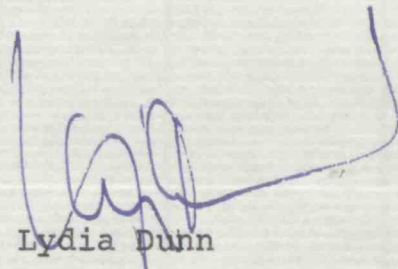
Dear Prime Minister,

It was thoughtful ^{attached} of you to write to me about the British Government's response to the Legislative Council's proposals on nationality. We welcome the decisions on the passport endorsement and the settlement of ex-servicemen. But you will not be surprised by our disappointment at the failure to offer more immediate assurance to the non-ethnic Chinese minorities.

I appreciate your generous tribute to the contributions of the Legislative Council which I have passed on to my colleagues.

With my best regards,

Yours sincerely,



Lydia Dunn

LD:al



10 DOWNING STREET

THE PRIME MINISTER

23 April 1986

SL3AQQ

cc FCO

HQ

PC

My dear Miss Junn,

I wanted to write to you personally about the response we are giving to the requests put forward by the Legislative Council on the Nationality Order.

We have considered very carefully all the points which have been made and in particular those made in your letters to me earlier this year. We have recognised the strength of feeling in Hong Kong and we have been anxious to take it fully into account.

We are today announcing our response to the Legislative Council's requests. As you will see, we have met in full the Council's request for a passport endorsement about visits to the United Kingdom. We received many reports from the Governor on feeling in Hong Kong about the issue and were aware of the widespread concern. We have done our best to meet that concern and to provide the necessary reassurance which people in Hong Kong were looking for. We welcome visitors from Hong Kong and the close contacts between Britain and Hong Kong which their visits help to maintain.

We hope we have also been able to meet the views of many in Hong Kong who thought that we should give special recognition to former servicemen in Hong Kong who fought in

JA

Hong Kong's defence in the Second World War. We hope the arrangements we have made will be seen as both fitting and imaginative.

We have not however been able to meet the request on behalf of those British Dependent Territories citizens in Hong Kong who are not ethnically Chinese. I know this will be unwelcome news. But we have considered this very carefully indeed and we hope that on reflection people in Hong Kong will recognise the reasons which led us to our decision and will come to see the value of the arrangements we have already made to provide these communities with an assured citizenship status as well as a continued home in Hong Kong.

I should like to record my thanks to the Legislative Council for the full and constructive contributions they have made to improving the nationality arrangements we are making for people in Hong Kong. I believe the Government have recognised this in our response to your requests. We are, as you know, now laying the Nationality Order before Parliament. We look forward to receiving the Council's continued assistance and advice.

With best wishes,

Yours sincerely

Lydia Dunn

The Hon. Lydia Dunn, C.B.E., J.P.

PARLIAMENTARY QUESTION FOR ANSWER ON 23 APRIL 1986

To ask the Secretary of State for the Home Department whether he is yet in a position to respond to the requests made by the Legislative Council of Hong Kong concerning the draft Hong Kong (British Nationality) Order in Council.

MR DOUGLAS HURD

The Government have carefully considered the requests made by the Legislative Council and have held detailed discussions with the Hong Kong government. We have also taken fully into account the views expressed in the debates in Parliament in January and in the Legislative Council, as well as representations put to us by organizations and individuals in Hong Kong.

The Council's first request was that we should provide an endorsement in the British National (Overseas) passport making it clear that the holder did not require a visa or entry certificate to visit the United Kingdom. The Government will meet this request. As we have made clear on many occasions, visitors from Hong Kong are welcome to come to the United Kingdom. British Dependent Territories

/citizens

citizens do not have to obtain a visa in advance to visit the United Kingdom. This is the position under the current immigration rules and this Government has no intention of introducing any visa requirement for such visitors. This is understandably a matter of great importance to people in Hong Kong. In response to their wishes, therefore, the Government have agreed that an endorsement reflecting this position should be placed in the new British National (Overseas) passports. The endorsement will read:

"In accordance with the United Kingdom Immigration Rules, the holder of this passport does not require an entry certificate or visa to visit the United Kingdom."

A leaflet will be issued with each passport explaining the endorsement and the position under the immigration rules.

The Council's second request was that former servicemen in Hong Kong who served in the defence of Hong Kong in the Second World War should be granted British citizenship. The number involved is about 270. In view of their particular service the Government will meet the spirit of this request. It is not possible under the British Nationality Act 1981 to confer British citizenship on them all regardless of the nature of their service or their present citizenship. But I will consider sympathetically applications for registration as British citizens under section 4(5) of the British Nationality Act 1981 from any who are eligible under this provision because they are British Dependent Territories citizens or other British nationals and because they served under the

/Government

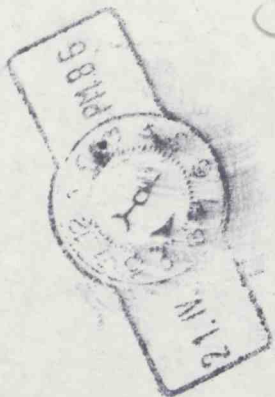
Government of Hong Kong, for example in the Hong Kong Volunteers. The number who might be eligible is likely to be about 60. I am also ready from today to accept and grant applications from any of the 270 or so former servicemen in Hong Kong together with their dependants who wish to come to the United Kingdom for settlement.

The Council's third request was that those British Dependent Territories citizens who were not ethnically Chinese should be granted British citizenship rather than British Overseas citizenship if after 1 July 1997 they would otherwise be stateless. There are at present about 11,500 British Dependent Territories citizens who might be affected by this provision. The Government has carefully considered all the arguments put forward in support of this request, but we have concluded that the granting of British citizenship is not justified in the present circumstances. We are satisfied that we shall be able properly to meet the needs of these citizens, their children and their grandchildren for an accepted citizenship status and for a place to call their home. This will be ensured through the guarantees of right of abode in Hong Kong after 1997 provided in the Agreement with the People's Republic of China, and through the provisions of British Overseas citizenship status for any who would otherwise be stateless, down to the second generation born after 1997. British citizenship would not strengthen the position of these communities in Hong Kong. If however any British national were in the future to come under pressure to leave Hong Kong, we would expect the Government of the day to consider sympathetically the case for admission to the United Kingdom.

E.R.

We believe our response to the Legislative Council has shown that we pay close attention to the views expressed by the Council and the people of Hong Kong and that, as a result, the nationality provisions for Hong Kong have been clarified and improved. We believe it would be right now to put in place the nationality provisions which have been extensively discussed in Parliament and in Hong Kong so that detailed planning work can continue without delay. I intend therefore to lay the draft Order in Council before the House in the next few days.

Passports: Hong Kong Oct 82.



SECRET

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SECURITY
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PRIME MINISTER

MEETING WITH THE FOREIGN SECRETARY AND HOME SECRETARY,
22 APRIL

There are two subjects for discussion:

1. Sikh Extremist Activity

THIS IS A COPY. THE ORIGINAL IS
RETAINED UNDER SECTION 3 (4)
OF THE PUBLIC RECORDS ACT

There is also the wider question of how to deal with the Sikh problem in our relations with the Indians. The Foreign Secretary had a difficult passage on this subject during his recent visit to India but agreed a procedural device for further discussions (in the person of Mr. Renton). Expulsion of Libyans will encourage the Indians to renew pressure on us to expel Sikhs even though the two cases are very different (the Sikhs in question are either British or have a right to residence). The Home Secretary has in hand a review of the way in which existing deportation powers are exercised. He wants to await the outcome of this before considering the introduction of new legislation.

2. British Citizenship for Hong Kong Businessmen

The Home Secretary is reluctant to take any special steps to allow wealthy Hong Kong businessmen ready to invest in the United Kingdom to acquire citizenship here. The Foreign Secretary supports him. You pointed out the illogicality of the Home Secretary's approach. The Government are trying to persuade wealthy Hong Kong Chinese to demonstrate their confidence in the future by staying on in the colony and maintaining their business and investments there, when their

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- 2 -

natural instincts may well be to move and transfer their funds elsewhere. The Home Secretary's approach runs 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 undermining confidence in the future of Hong Kong and passing up the opportunity of substantial investment in this country.

C.D.P.

(C. D. POWELL)

21 April 1986

SRWACG

SECRET



CONFIDENTIAL

PM/86/016

PRIME MINISTER

Hong Kong: Nationality Order in Council

1. I have seen Douglas Hurd's minute to you of 16 April on this subject, and Charles Powell's letter of 17 April recording that you are content with what we propose. I have a number of comments on the presentation of the Government's decisions.

2. The Home Secretary makes it clear, correctly I believe, that we can expect continued strong pressure from the ethnic minorities in Hong Kong over their request for British citizenship. Our decision to reject that request will need the most careful presentation if we are to minimise the resentment that will inevitably be felt in Hong Kong. I believe we should emphasise that granting British citizenship would not in any way help these people to do what they wish to do, which is to continue living and working in Hong Kong. The Joint Declaration already ensures that right by guaranteeing their right of abode after 1997. Our most tenable argument, in terms of presentation in Hong Kong, is that to grant British citizenship to the ethnic minorities would be contrary to the principle underlying the 1981 British Nationality Act that British citizenship should reflect a close personal connection with the United Kingdom. It would be very damaging if we allowed it to appear that our principal concern was to keep the non-Chinese Hong Kong people from coming to Britain - though we could say that granting them British citizenship would have awkward implications for our wider policy on nationality, for example by devaluing British Overseas Citizenship in the eyes of its holders in many countries.

3.

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CCPC
②

Prime Minister
You will want to
with this. It may
soon come up in
Questions.

M

COP. 2/14.
FILE IN B/C



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3. The assurance we propose to offer (set out in the last sentence of Annex C to Douglas Hurd's minute), namely that any British nationals who came under pressure to leave Hong Kong could expect the government of the day to give their case for admission to the United Kingdom sympathetic consideration, will also be crucial presentationally. That assurance must be made clear right from the outset, including in our initial Parliamentary announcement. We clearly cannot go further than is proposed in seeking to bind future governments, but exactly what we say on this point, in particular when we come to the Parliamentary debates on the Order, must sound as forthcoming as possible. Such words of comfort as we can offer may help in reducing the level of disappointment felt in Hong Kong among the ethnic minorities. My officials are in touch with Home Office officials about a suitable form of words for use in Parliament.

4. Tim Renton, as a member of OD(K) in his own right, has seen this correspondence and concurs.

5. I am copying this minute to members of OD(K), to the Chief Whips in both Houses, and to Sir Robert Armstrong.

Foreign & Commonwealth Office
21 April 1986

GEOFFREY HOWE

CONFIDENTIAL

HONG KONG
PASSPORTS
10/42



*With the Compliments of the
Assistant Legal Secretary*

MISS J L WHELDON

*Attorney General's Chambers,
Law Officers' Department,
Royal Courts of Justice,
Strand. W.C.2A 2LL*

01 405 7641 Extn. 3229

014028641000 936:6229

Communications on this subject should
be addressed to

THE LEGAL SECRETARY
ATTORNEY GENERAL'S CHAMBERS

✓ PC

ATTORNEY GENERAL'S CHAMBERS,
LAW OFFICERS' DEPARTMENT,
ROYAL COURTS OF JUSTICE,
LONDON, W.C.2.

Our Ref: 400/84/9

S Boys Smith Esq
Home Office
50 Queen Anne's Gate
London SW1H 9AT

21 April, 1986

Gen Stephen,

CD
22/4

HONG KONG: NATIONALITY ORDER IN COUNCIL

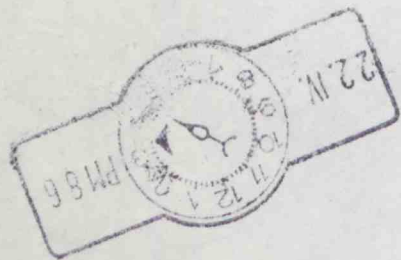
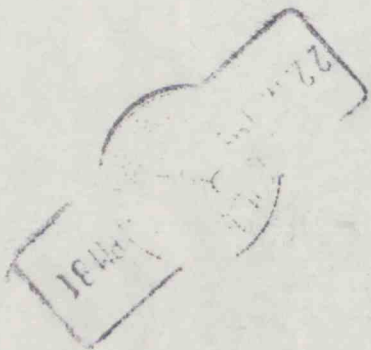
The Attorney General has seen the Home Secretary's minute to the Prime Minister of 16 April and the Prime Minister's response in Charles Powell's letter of 17 April. He appreciates that it is for colleagues to decide, as a matter of policy, whether to run the legal risks which he has identified.

I am copying this letter to Charles Powell, the Private Secretaries to members of OD(K), to William Austen (Government Whips, Commons), Rhodri Walters (Government Whips, Lords) and to Michael Stark (Cabinet Office).

Yours sincerely,
Miss J L Wheldon

MISS J L WHELDON

HONG KONG : nomenclature in HK Passports : Oct 82





SECRET

Foreign and Commonwealth Office

London SW1A 2AH

21 April 1986

Dear Charles

CDP
21/4.

Li Kashing

Thank you for your letter of 13 April.

I hope you will understand if I give no more than a provisional reply to your hypothetical question. Our advice as to whether the Prime Minister should, if asked, agree to receive Li Kashing would depend very much on developments following the publication of the report of the insider dealing tribunal in Hong Kong. So far as we are aware there is no prospect of such a meeting before publication.

Our inclination would be to recommend that the Prime Minister should agree to receive Li Kashing. He will remain an influential figure in Hong Kong. But if, in the expected furore after publication of the report, Hong Kong opinion concluded that his behaviour had been particularly discreditable - and even more if, by his own behaviour or statements in the course of that furore, he drew further controversy upon himself - it might be more prudent to recommend against a meeting with the Prime Minister, at least until the fuss had died down.

I apologise if this advice is a bit "wait and see". But that is the nature of these things. I imagine that, as on the last occasion, there will be time for consideration of these issues before a decision has to be taken and communicated to Y K Pao.

[Handwritten signature]

[Handwritten signature]

(R N Culshaw)
Private Secretary

C D Powell Esq
PS/10 Downing Street

SECRET

KONS KONS - Passports - 10/82





HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

21 April 1986

Dear Charles

HONG KONG: LETTER TO MISS LYDIA DUNN

Your letters of 6 January and 7 March to Robert Culshaw asked for draft replies to letters of 3 January and 28 February to the Prime Minister from Miss Lydia Dunn, Senior Unofficial Member of the Executive and Legislative Councils of Hong Kong (UMELCO). The letters concerned the three requests made by UMELCO in connection with the Hong Kong Nationality Order in Council.

The Prime Minister wrote to Miss Dunn on 20 March undertaking to write to her again once decisions on UMELCO's three requests had been made.

The response to the Legislative Council's proposals has been agreed by OD(K) and will be made by way of an arranged Parliamentary Question on 23 April. It would be helpful if Miss Dunn could receive the Prime Minister's letter just in advance of our announcement. The text of the letter would need to be sent by telegram to the Governor of Hong Kong on 22 April so that he could pass it to Miss Dunn.

I attach a draft of a letter to Miss Dunn which has been agreed by the Home Secretary and the Foreign Secretary, together with a copy of the Parliamentary Answer which will be given on 23 April. As you will see, we think that a short and relatively personal letter is likely to be the most effective way of helping the reception of our announcement. We cannot, of course, expect that Miss Dunn will stop pressing publicly for British citizenship to be granted to the ethnic minorities in Hong Kong, but we hope the Prime Minister's letter will help at least temper the immediate response.

It would be very helpful, therefore, to know as soon as possible whether the Prime Minister is content with the draft so that the FCO can inform the Governor.

I am copying this letter to Robert Culshaw (FCO).

*Yours sincerely
W R Fittall*

W R FITTALL

Charles Powell, Esq

Draft letter for signature by the PRIME MINISTER to:

The Hon Lydia Dunn, CBE, JP
Senior Unofficial Member
Legislative Council
HONG KONG

5/30/99

DRAFT HONG KONG (BRITISH NATIONALITY) ORDER 1986

I wanted to write to you personally about the response we are giving to the requests put forward by the Legislative Council on the Nationality Order.

We have considered very carefully all the points which have been made and in particular those made in your letters to me earlier this year. We have recognised the strength of feeling in Hong Kong and we have been anxious to take it fully into account.

We are today announcing our response to the Legislative Council's requests. As you will see, we have met in full the Council's request for a passport endorsement about visits to the United Kingdom. We received many reports from the Governor on feeling in Hong Kong about the issue and were aware of the widespread concern. We have done our best to meet that concern and to provide the necessary reassurance which people in Hong Kong were looking for. We welcome visitors from Hong Kong and the close contacts between Britain and Hong Kong which their visits help to maintain.

/We hope we have

We hope we have also been able to meet the views of many in Hong Kong who thought that we should give special recognition to former servicemen in Hong Kong who fought in Hong Kong's defence in the Second World War. We hope the arrangements we have made will be seen as both fitting and imaginative.

We have not however been able to meet the request on behalf of those British Dependent Territories citizens in Hong Kong who are not ethnically Chinese. I know this will be unwelcome news. But we have considered this very carefully indeed and we hope that on reflection people in Hong Kong will recognise the reasons which led us to our decision and will come to see the value of the arrangements we have already made to provide these communities with an assured citizenship status as well as a continued home in Hong Kong.

I should like to record my thanks to the Legislative Council for the full and constructive contributions they have made to improving the nationality arrangements we are making for people in Hong Kong. I believe the Government have recognised this in our response to your requests. We are, as you know, now laying the Nationality Order before Parliament. We look forward to receiving the Council's continued assistance and advice.

with barr with

*EM
2/4.*



*From the Government Chief Whip
House of Lords*

18 April 1986

Dear Douglas,

HONG KONG: NATIONALITY ORDER IN COUNCIL

I have seen the copy of your memo to the Prime Minister on the Hong Kong Order. I have taken particular note of the considerations concerning the timetable for laying and debating the Order and agree with what you propose.

It would be a great help to us in the Lords if the Order could be taken in the Commons early in the week commencing 12 May. This would leave us the option of taking the Order through the Lords on Friday 16 May.

I am copying this letter to the members of OD(K), the Chief Whip, House of Commons, and to Sir Robert Armstrong.

*Yours as
Batie.*

DENHAM

The Rt Hon Douglas Hurd MP
Secretary of State for the Home Department

HONG KONG

Passports

10/82





ce PC

JA

10 DOWNING STREET

From the Private Secretary

17 April 1986

Dear Stephen,

HONG KONG: NATIONALITY ORDER IN COUNCIL

The Prime Minister has considered the Home Secretary's minute of 16 April dealing with the Government's proposed response to the three requests from Hong Kong in connection with the Nationality Order in Council which has to be made under the Hong Kong Act 1985.

The Prime Minister is content that the response should be on the lines proposed by the Home Secretary and agreed by the Foreign Secretary.

The Prime Minister further agrees that this should be announced by way of a Parliamentary Answer by 23 April and that the order should be laid at the end of the month.

I am copying this letter to the Private Secretaries to members of OD(K), to William Austen (Government Whips, Commons), Rhodri Walters (Government Whips, Lords) and to Michael Stark (Cabinet Office).

Yours sincerely,

(C.D. Powell)

Stephen Boys Smith, Esq.,
Home Office.

SPW

What happens to those who would become stateless? We can't just leave the matter undecided.

Prime Minister



Prime Minister
The Home Secretary & the Foreign Secretary agree to meet two of the Hong Kong requests but not the third.
There is some wish that the Lords will try to embarrass the

HONG KONG: NATIONALITY ORDER IN COUNCIL

Consent on the third report (British citizenship for non-ethnic Chinese after 1997).

Geoffrey Howe's minute of 22 January set out three requests from Hong Kong in connection with the Order in Council which we have to make under the Hong Kong Act 1985. I am writing now to seek your agreement and that of OD(K) colleagues to the way I propose we should respond to the three issues, and to seek agreement that the Nationality Order should be laid before the end of the month and debated in the Commons and subsequently in the Lords in May. I have discussed and agreed the proposals with Geoffrey Howe.

Agree to recommendation? CDR 16/4

A draft Nationality Order was annexed to the White Paper we published last October and which was itself debated in both Houses. For the most part the terms of the Order itself seem to have been accepted without criticism. The arguments now focus on the three points raised in Hong Kong which have the unanimous support of the Unofficial Members of the Executive and Legislative Councils and of the Hong Kong Government, as well as that of virtually every speaker in both Houses during the Parliamentary debates in January, including speakers on our side.

The requests, which have now hardened into something like demands, are that we should:

- (a) provide an endorsement in BN(O) passports indicating that the holder does not require an entry certificate or visa to visit the United Kingdom;
- (b) grant British citizenship to the former servicemen who fought in Hong Kong's interest during the Second World War; and

[Home Sec. & For. Sec. proposed to agree to (a) & (b), but not (c).]

- (c) permit British Dependent Territories citizens who are not ethnically Chinese and who could risk statelessness after 1997 to become British citizens rather than British Overseas citizens.

Hong Kong attaches the greatest importance to the passport endorsement and I have considered very carefully with the Foreign and Commonwealth Secretary and the Attorney General the political and legal consequences of doing what Hong Kong have asked. The issues are set out in detail in Annex A to this letter. The conclusion which the Foreign Secretary and I have reached, is that, despite the risks which the Attorney General has identified, we should provide an endorsement in the BN(O) passport on the lines requested by Hong Kong. The endorsement should not say in terms that it relates to the current Immigration Rules, but a leaflet should be produced and issued with each passport recording a statement which I would make in announcing the decision on the lines of paragraph 8 of Annex A, with the amendment suggested by Hong Kong in paragraph 9 of the Annex (but omitting the word "whatsoever"). The leaflet describing the statement and the endorsement in the terms I now propose are at Annex B.

The other two requests are dealt with in Annex C. As you will see from that annex I believe we can provide sufficient help to the ex-servicemen (of whom there are only about 270) to satisfy opinion in Hong Kong. But I am convinced that we cannot grant British citizenship with the right of abode here to the much larger number of British Dependent Territories citizens from the ethnic minorities in Hong Kong on whose behalf the third request is made (some 11,500 now but potentially many more before 1997). The Foreign and Commonwealth Secretary has accepted that we cannot meet this third request, though we both recognise it has a good deal of support particularly in the House of Lords.

This will all need very careful presentation. But while Hong Kong can be expected to welcome our proposals for the ex-servicemen and will, I hope, now accept that we have met their wishes on the endorsement, they will no doubt feel bound to continue to press the ethnic minority case, and we can expect

strong pressure to give way on this. We shall need to resist this pressure, and to persuade our supporters that Hong Kong has had a fair deal.

Hong Kong are becoming concerned about the time we have taken to reach our conclusion on the Order, and there would be advantage now in pressing ahead quite quickly. I understand it would be helpful to the Foreign Secretary if we could announce our response to Hong Kong's requests by way of an Answer to an arranged Parliamentary Question by 23 April in time for the Foreign Affairs debate. We shall then be able to deal with any immediate follow-up in Oral Questions on 24 April when Jack Ashley has a Question tabled. I understand it would greatly help presentation in Hong Kong if the Governor could inform the Executive Council in strictest confidence of the impending announcement on the afternoon of 22 April, and I think that would be wise.

We ought not to allow too long a period between announcing our decisions and laying the Order, and we must resist any pressure to defer laying while the issues are again discussed here and in Hong Kong. I would hope therefore that we might be able to lay the Order as early as possible in the week of 28 April. We should then allow a week or two for our response to be digested, before moving to debate the Order, perhaps in the weeks of 12 and 19 May. Any longer than this will only allow pressure to build up in Hong Kong and increase the handling difficulty in Parliament.

It is essential for the Order to be debated first in the Commons. Providing we can secure it there, I doubt if the Lords will seek to defeat it, but we might have to face a non-wrecking amendment for example regretting the Government's failure to act on all of Hong Kong's requests. Such an amendment if passed would be very embarrassing. I am sure we shall face strong criticism in the Lords in support of the ethnic minorities, and I know that their supporters in Hong Kong are placing great faith in persuading the Lords to vote against the Order. It will be important, therefore, to do all we can to muster enough support on our benches in both Houses.

In order to fit into this timetable, it will be very helpful to have the Committee's agreement to the proposals I have made by lunchtime on 21 April. We should then be able to make the announcement next week and to lay the Order - which will be the same as the text published with our White Paper last October - before the end of April.

I am copying this minute to the members of OD(K), to the Chief Whips in both Houses and to Sir Robert Armstrong.

Doyle-Hughes

16 April 1986

PASSPORT ENDORSEMENT

1. Hong Kong argue that a statement in the new BN(O) passport confirming that the holder does not require an entry certificate or visa to visit the United Kingdom is of the greatest importance for confidence in Government's intentions. In practical terms it is likely, they argue, to make the passport more acceptable to other countries. Satisfaction on this issue seems to have become a symbol of the Government's willingness to take account of Hong Kong views.

2. The wording of a possible endorsement has been discussed at great length between Home Office and FCO officials and representatives of Hong Kong. The form of endorsement which, as a result of these discussions, would meet Hong Kong wishes would read as follows:

In accordance with the United Kingdom Immigration Rules the holder of this passport does not require an entry certificate or visa to visit the United Kingdom.

This endorsement would be placed in each BN(O) passport issued and would be accompanied by an explanatory leaflet.

3. An endorsement with this wording raises a problem concerning imposition in the future of a visa requirement by means of an amendment to the Immigration Rules. No such changes are planned, nor are they imminent. But the result of a general change in our immigration procedures, for example stemming from European Community developments, might require a future Government to impose a more general visa requirement on intending visitors. While there would be arguments, relating to considerations of confidence in Hong Kong and the Government's commitment to Hong Kong people, for an exemption for BDTCS and BN(O)s from Hong Kong from a general visa requirement, a specific crisis could occur in Hong Kong which necessitated the imposition of visas as the only way of seeking to stem an inflow of people from the territory to this country. A visa requirement might thus have to be imposed very quickly. The new passports will first be issued in 1987, and will be valid for 10

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years. Thus they will before long have a validity that extends to the end of the century and beyond. An endorsement which put a future Government in a position in which it would have to introduce primary legislation before the holders of these passports (but of no other passports) could be made subject to a visa requirement could therefore create a real problem for the future.

4. The advice of the Attorney General has been sought on the proposed endorsement. His view is that if a future Government were to introduce visas by an amendment to the Rules and if that amendment were challenged by the holder of a passport containing the endorsement with the wording set out in paragraph 2 above the risk that a court would hold on proceedings for judicial review that the rules amendment would amount to an abuse of power is not negligible.

5. The Attorney General considers that this danger could be reduced if the endorsement read:

In accordance with the current United Kingdom Immigration Rules ...

The Governor has consulted the Executive Council in confidence on this wording. Their reaction was hostile. They believe that an endorsement referring to "current" Immigration Rules would arouse suspicion of the intentions of a future Government. Some members went so far as to suggest that it would be worse than no endorsement at all.

6. The Governor has therefore asked Ministers to consider whether legal caution is worth the political price of failing to reach agreement on an issue on which expectations have been raised and which has become crucial to confidence. In the Governor's view unless conclusions are reached soon the affair will leave "a deep sense of depression and abandonment". To produce an endorsement with a preamble including "current" would cause widespread suspicion that the Government later intended to change the Immigration Rules to Hong Kong's disadvantage.

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7. In the view of the Foreign and Commonwealth Office this assessment must be a matter for considerable concern. Whether or not this is entirely rational, the question of the endorsement has become a crucial matter of confidence in Hong Kong. Retention of confidence is essential if Hong Kong is to be administered affectively until sovereignty is restored to China in 1997. Failure to meet Hong Kong's preference over the wording of the endorsement, in particular if this was coupled with a decision against the granting of British citizenship to ethnic minorities, would significantly increase the prospect of disaffection and instability.

8. The Government's decision on the endorsement must be announced before the Nationality Order is laid. If the Government accepts the form of endorsement which meets Hong Kong's wishes, despite the political difficulties this could cause in the event that it proved necessary to impose visas and despite the particular risks the Attorney General has identified, the terms of the announcement in Parliament could be designed to lessen the risks. The announcement might be on the following lines:

As we have made clear on many occasions visitors from Hong Kong are welcome to the United Kingdom. British Dependent Territories Citizens do not have to obtain a visa in advance to visit the United Kingdom. That is the position under the current Immigration Rules. Of course, in this matter as in any other, I cannot speak for the policies of future Governments; but I can repeat that this Government has no intention of introducing any visa requirement for such visitors. This is understandably a matter of great importance to people in Hong Kong. In response to their wishes therefore the Government has agreed to place an endorsement reflecting this position in the new BN(O) passports. The endorsement will read:

"In accordance with the United Kingdom Immigration Rules the holder of this passport does not require an entry certificate or visa to visit the United Kingdom."

A leaflet will be issued with each passport explaining the endorsement and the position under the Immigration Rules.

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9. The Governor has consulted the Executive Council in confidence on this procedure. They considered that omission of "current" from the endorsement would meet Hong Kong's requirements and be acceptable to the Legislative Council. Where the Parliamentary Statement was concerned, they queried whether with the inclusion of "current" in the third sentence it was necessary to continue with the first clause of the fourth sentence. Presumably such a statement was not normally made in respect of other executive acts, and to omit it would help to remove a likely source of considerable concern in Hong Kong regarding HMG's future intentions. They recommended strongly that the third and fourth sentences of the draft statement be combined as follows:

"This is the position under the current Immigration Rules and this Government has no intention [whatsoever] of introducing any visa requirement for such visitors."

10. As indicated in paragraph 3 above circumstances could arise in the future when the imposition of visas on Hong Kong had to be contemplated. This would in any circumstances be controversial and the endorsement would be cited in support of accusations of bad faith. Reference to the third and fourth sentences of the Parliamentary statement set out in paragraph 8 would help to counter such accusations.

11. The risk of challenge in the Courts by an individual passport holder would remain. The Parliamentary statement could be quoted in the explanatory leaflet.

In this way the fact that the possibility of future change would not only have been drawn individually to the attention of every holder of the passport with the endorsement. That could be advanced in Court in rebuttal of the challenge to the validity of the visa requirement.

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CONCLUSION

12. The risk of successful challenge would remain. The choice between the wording of the endorsement necessary to meet the wishes of Hong Kong and one containing the word "current" as preferred by the Attorney General is not between a formula bound to fail in the face of judicial challenge on the one hand and one proof from challenge on the other. It is a matter of degree of risk. If an endorsement worded to meeting Hong Kong's wishes is conceded the risk of successful challenge is not negligible; a Parliamentary statement on the lines set out in paragraph 8 above (as amended by paragraph 9) and incorporated in an explanatory leaflet issued with endorsed passports, would help, albeit not decisively.

13. An endorsement restricted to "current" Immigration Rules would in effect amount to rejection of Hong Kong's wishes, and in terms calculated, however unjustifiably, to arouse suspicions about Government intentions. It would carry an immediate political risk in terms of bitterness and disaffection in Hong Kong, with a detrimental effect on long-term confidence and on our ability to administer the territory effectively up to 1997. If this outcome is avoided by conceding the endorsement that Hong Kong have requested, combined with the proposed statement and leaflet, a future Government which had to introduce visas for Hong Kong would be confronted by the choice of having to introduce primary legislation or running a risk that the visa requirement imposed by Immigration Rules changes would be held by the Courts to be an abuse of power once an individual endorsement passport holder succeeded in getting a case before the Courts. The crucial question for decision is whether these possible practical and legal difficulties for a future Government outweigh the immediate and certain political risk implicit in a decision which runs counter to Hong Kong's wishes on this point.

CONFIDENTIAL

NOTICE TO BRITISH NATIONALS (OVERSEAS) ON VISITING THE UNITED KINGDOM

The endorsement on page of your passport reads:

"In accordance with the United Kingdom Immigration Rules the holder of this passport does not require an entry certificate or visa to visit the United Kingdom".

In explaining the purpose of the endorsement in Parliament on [date] the Secretary of State said:

"As we have made clear on many occasions visitors from Hong Kong are welcome to the United Kingdom. British Dependent Territories citizens do not have to obtain a visa in advance to visit the United Kingdom. This is the position under the current Immigration Rules and this Government has no intention of introducing any visa requirement for such visitors. This is understandably a matter of great importance to people in Hong Kong. In response to their wishes therefore the Government has agreed to place an endorsement reflecting this position in the new BN(O) passports. A leaflet will be issued with each passport explaining the endorsement and the position under the Immigration Rules."

This leaflet sets out the position on the lines indicated by the Secretary of State.

The 1983 Immigration Rules provide that a passenger seeking admission to the United Kingdom as a visitor must satisfy the immigration officer that the visit as stated is genuinely intended. (Paragraph 17 of the Rules, reproduced below, sets out the full requirements.) Most passengers seeking admission as visitors have little difficulty in satisfying the immigration officer that they meet the requirements of the rules for admission as a genuine visitor.

As the endorsement makes clear visitors do not require an entry certificate or visa under the 1983 rules. The entry certificate is however available as an optional facility if you wish to establish eligibility for admission as a visitor in advance. Passengers with entry certificates do not then need to satisfy the immigration officer as to their visit and may only be refused admission if the entry certificate was obtained on false representations or if circumstances have changed. You may apply for an entry certificate at the address below.

If you intend to stay in the United Kingdom other than as a visitor you should obtain information on the entry requirements well before your departure date from the address below.

[Address]

[Immigration Rules para 17]

Outstanding Issues for the Hong Kong Nationality Order: Note by the Home Secretary

1. FORMER SERVICEMEN

1. Hong Kong say that there are 270 former servicemen in Hong Kong who fought for Hong Kong during the Second World War. There is a strong body of opinion both here and in Hong Kong that the Government has a moral obligation to give these people special consideration in view of their former service to this country.

2. About 60 of the servicemen are eligible for registration as British citizens under section 4(5) of the British Nationality Act 1981 since they are or may conceivably become BDTCs who served the Crown under the government of a dependent territory by service in the Hong Kong Volunteers. Section 4(5) is intended to be used very sparingly and few of the 450 or so Crown Servants who have applied from Hong Kong are likely to succeed. The key criterion is the applicant's quality of service. It would be possible to conclude that the wholly exceptional service given by the former servicemen during the war, many of whom were prisoners of war, provides sufficient grounds for granting them British citizenship under section 4(5) of the Act. But to avoid resentment from other Crown Servants in Hong Kong and applications from other servicemen in other parts of the world (very few of whom would be eligible) we should need to make clear that the Home Secretary was prepared favourably to consider applications from eligible servicemen in Hong Kong because of the unique position of Hong Kong in the War and now.

3. There is no present provision under the law which would enable British citizenship to be granted now to the other BDTC servicemen who served in regular units - and so not under the government of a dependent territory - or to those who are not BDTCs.

4. It would be possible however to give an undertaking to accept those who might wish to come to the United Kingdom for settlement, together with their dependants. The numbers involved are small: some will be ethnic Chinese who are unlikely to want to come here and the rest may have wives still alive but would be unlikely to have many dependants who would qualify under the Immigration Rules. The implications for settlement figures are not therefore significant. But there are of course many others around the world who have given similar service. There would be a risk that a concession would lead to pressure from them for similar treatment. A decision to grant such a concession would therefore require careful presentation on the basis of the unique circumstances in Hong Kong.

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5. At the risk of causing resentment among these and other Crown Servants in Hong Kong I think I should offer to give favourable consideration to applications for British citizenship under section 4(5) from the 60 or so former servicemen who are or will become British Dependent Territories citizens, and who are eligible to apply, on the grounds of their outstanding war service.

6. I am also prepared, though with some misgivings in terms of the precedent set for ex-servicemen in other parts of the world to say that I would be prepared from the date of the Parliamentary announcement, to accept for settlement any of the 270 who wish to come and live here. The numbers likely to take up this concession are small and the returns in terms of goodwill in Hong Kong and in Parliament should be helpful.

NON-ETHNIC CHINESE

7. The Government's current proposal is that any Hong Kong British Dependent Territories citizen who does not acquire BN(O) status and who has no other form of nationality should automatically acquire British Overseas citizenship on 1 July 1997. Similar provision is made for the children and grandchildren of such persons if they would otherwise be stateless.

8. The non-ethnic Chinese community argue that that this is not adequate because British Overseas citizenship does not give them a right of abode anywhere. They therefore maintain that it amounts to a form of statelessness. They also argue that because, unlike the Chinese community in Hong Kong, they will not be entitled to Chinese citizenship they deserve special consideration from the Government; and they are concerned about the position of third and subsequent generations.

9. The Government's views on this request were explained fully by Ministers during the debates in Parliament in January. The communities concerned say that they wish to continue to live and work in Hong Kong. British citizenship could not give them the right to do this. The right of abode in Hong Kong is secured by the Joint Declaration. Nor would the grant of British citizenship prevent third and subsequent generations from becoming stateless, since the British Nationality Act 1981 only allows the transmission of British citizenship to two generations born overseas. British citizenship would not therefore help meet the main concern of the minorities in Hong Kong.

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10. The only justification for giving British citizenship to non-ethnic Chinese is that it would allow them to come to the United Kingdom after 1997 if things do not work out well for them in Hong Kong. We suspect that this is the real motivation of the people concerned. However, it is by no means clear that it would be right to grant such an insurance policy to this sector of the community alone in Hong Kong.

11. To grant these people British citizenship rather than British Overseas citizenship would also be contrary to the principles on which we based the British Nationality Act 1981. Our critics in the United Kingdom would seize on our change of mind as proof that we accepted their view of the worthlessness of British Overseas citizenship, and we would be urged to grant British citizenship or the right to settle here to other groups of British Overseas citizens.

12. The numbers potentially involved are considerable. There are currently estimated to be 11,500 ethnic minority BDTs in Hong Kong who might benefit from the grant of British citizenship after 1997. But there is potential for a considerable increase in these numbers between now and 1997. There are some 80,000 non-BDT residents in Hong Kong who are or could become eligible for naturalisation as BDTs, and who might consequently benefit from any concession. 15,000 of these may not become settled; a further 11,000 are already British citizens, and many more are unlikely anyway to seek British nationality. But the potential remain, including 11,000 citizens of India and Pakistan. Unless restricted in some way, the commitment up to 1997 is uncertain and may well be much larger than the size of the present BDT minority community.

13. There are two ways in which the future commitment might be limited. First Hong Kong could restrict by administrative means the numbers granted naturalisation from now on. But a conscious decision to introduce such restrictive criteria to ensure that few if any applicants would achieve naturalisation could give rise to unwelcome controversy and criticism about the way in which the naturalisation provisions were being applied.

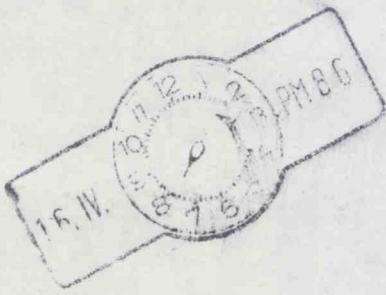
14. Alternatively it might be possible to set up a two-tier system whereby the present community and their children (perhaps 12,000 in all) could acquire British citizenship after 1997 but that those who become BDTs from now on and their children would acquire British Overseas citizenship. This course is favoured by Hong Kong, but in our view it would be cumbersome and divisive,

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as it could lead to split families, and would be bound to produce a number of hard cases.

15. The Home Secretary considers that the merits of the argument on both nationality and immigration grounds point clearly to giving British Overseas citizenship and not British citizenship to members of the ethnic minorities in Hong Kong who might otherwise risk statelessness. An announcement to this effect would be coupled with the reaffirmation of the right of abode in Hong Kong guaranteed by the Agreement with the Chinese. We should add to this an assurance that any British nationals who came under pressure to leave could expect the Government of the day to give their case for admission to the United Kingdom sympathetic consideration.

CONFIDENTIAL



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file
ccpc
7

10 DOWNING STREET

From the Private Secretary

13 April 1986

LI KASHING

Thank you for your letter of 11 April about Li Kashing.

Sir Yue Kong Pao asked before his last visit whether he could bring Li Kashing with him so that the Prime Minister could briefly meet and shake hands with him. The Prime Minister agreed, on Foreign Office advice. In the event Li Kashing cried off because his mother was ill.

If Sir Yeu Kong reviews his request, would that advice now change?

C D POWELL

A. C. Galsworthy, Esq., C.M.G.,
Foreign and Commonwealth Office

SECRET

SECRET

CEPC
6



Foreign and Commonwealth Office

London SW1A 2AH

Prime Minister

11 April 1986

It was also Li Kashing
whom Sir Yk Pao asked to
bring to the attention of

ms

C DP 11/4.

Dear Charles,

Li Kashing

You may like to see the attached telegram from the
Governor of Hong Kong about Li Kashing's involvement in
insider dealing, which is likely to come out in public
shortly.

As you know there will be a meeting between the Prime
Minister, the Foreign Secretary and the Home Secretary to
discuss this among other things on Wednesday 16 April.

Yours ever,

(A C Galsworthy)
Private Secretary

C D Powell Esq
10 Downing Street

CLOSED UNDER THE
FREEDOM OF INFORMATION
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SECRET
FM HONG KONG
TO IMMEDIATE FCO
TELNO 1031
OF 081006Z APRIL 86
INFO PRIORITY PEKING/D E Y O U FOR AMBASSADOR

FOLLOWING STRICTLY PERSONAL FOR HUM, HONG KONG DEPARTMENT FROM GOVERNOR

INSIDER DEALING TRIBUNAL : INVOLVEMENT OF PROMINENT HONG KONG CHINESE BUSINESSMAN AND CHINESE MAINLAND COMPANY, EVERBRIGHT.

1. IN NOVEMBER 1984 AN INSIDER DEALING TRIBUNAL WAS SET UP UNDER THE SECURITIES ORDINANCE (CAP. 333). IT WAS REQUIRED BY THE FINANCIAL SECRETARY TO CONSIDER WHETHER CULPABLE INSIDER DEALING HAD TAKEN PLACE BETWEEN 1 JANUARY 1984 AND 30 JUNE 1984 IN RELATION TO THE SHARES OF INTERNATIONAL CITY HOLDINGS (ICH) OR ANY RELATED COMPANIES. THE FINANCIAL SECRETARY'S ACTION WAS TAKEN IN RESPONSE TO THE ESTABLISHMENT OF A PRIMA FACIE CASE HAVING BEEN BROUGHT TO HIS ATTENTION BY THE SECURITIES COMMISSION. THE MEMBERS OF THE TRIBUNAL (INCLUDING THE CHAIRMAN, MR JUSTICE CLOUGH) WERE APPOINTED BY THE GOVERNOR.

2. THE CASE AROSE FROM THE PURPORTED PURCHASE IN JANUARY 1984 BY THE CHEERYBRIGHT COMPANY (IN EFFECT EVERBRIGHT) OF EIGHT BLOCKS OF FLATS UNDER CONSTRUCTION FROM ICH AND CHEUNG KONG HOLDINGS (CKH). EVERBRIGHT IS A HONG KONG COMPANY, SET UP BY PEKING WITH MUCH FANFARE IN 1983, UNDER THE MANAGEMENT OF WANG GUANGYING (BROTHER OF WANG GUANGMEI, WIDOW OF THE LATE CPG PRESIDENT LIU SHAOCHI AND ONCE DESIGNATED SUCCESSOR OF MAO - DISGRACED DURING THE CULTURAL REVOLUTION BUT NOW REHABILITATED). THE SALE WAS A HEALTHY INFLUENCE ON THE VALUE OF ICH SHARES ; BUT IT BECAME KNOWN THAT THE SALE WAS SUBJECT TO A 6 MONTH BREAK-CLAUSE ONLY IN JUNE 1984 WHEN THE BREAK OPTION WAS EXERCISED BY WANG GUANGYING (EVERBRIGHT) LEADING TO A DROP IN ICH SHARE VALUES.

3. THE "INSIDER DEALING" WAS ESSENTIALLY CONCERNED WITH THE SALE OF ICH SHARES DURING THE PERIOD WHEN THE EXISTENCE OF THE BREAK-CLAUSE WAS NOT PUBLICLY KNOWN; AND THE VALUE WAS THUS ARTIFICIALLY MAINTAINED BY THE BELIEF IN THE MARKET THAT THE SALE TO EVERBRIGHT WAS A FULL AND CONTRACTUAL ONE.

4. THE TRIBUNAL'S REPORT WHICH IS NOW READY IS NEARLY 600 PAGES LONG. AMONG THOSE NAMED BY THE TRIBUNAL FOR A HIGH DEGREE OF CULPABLE INSIDER DEALING IS LI KASHING (K.S. LI) AS A DIRECTOR OF STARPEACE, A SUBSIDIARY OF CHEUNG KONG HOLDINGS (CKH) (LI IS

CHAIRMAN

SECRET

SECRET

CHAIRMAN AND MANAGING DIRECTOR OF CKH). LI'S DEFENCE, THAT HE DID NOT REALISE THAT A COMPANY COULD BE HELD RESPONSIBLE FOR CULPABLE INSIDER DEALING; AND THAT HE DID NOT DISCOVER UNTIL JULY 1984 (AFTER THE REVOLUTION OF THE BREAK-CLAUSE) THAT C.H. CHOW, HIS RIGHT-HAND MAN IN STARPEACE, HAD DEALT IN ICH SHARES IN THE RELEVANT PERIOD WAS NOT ACCEPTED BY THE TRIBUNAL. THE TRIBUNAL TOOK THE VIEW THAT LI HAD GIVEN CHOW STANDING AUTHORITY TO DEAL IN THE SHARES AND SHOULD HAVE TAKEN ACTION TO INSULATE CHOW FROM THE "INSIDER" INFORMATION AFFECTING THE SHARE VALUES.

5. THE NAMING OF K.S. LI, PROBABLY HONG KONG'S MOST SUCCESSFUL BUSINESSMAN, WHO HAS A GOOD REPUTATION FOR BUSINESS INTEGRITY, WILL CAUSE A GREAT FURORE WHEN THE TRIBUNAL PUBLISH THEIR REPORT. HE IS THE DEPUTY CHAIRMAN OF THE HONG KONG BANK AND DUE FOR RE-ELECTION ON MAY 13. HE WILL TAKE IT AS GRAVELY INSULTING. IT WILL FEED HIS SUSPICIONS THAT IT SPRINGS FROM HOSTILITY TO HIM IN THE SECURITIES COMMISSION AND THE HONG KONG GOVERNMENT.

6. EVERBRIGHT AND WANG GUANGYING DID NOT DEAL IN SHARES AND ARE THEREFORE NOT NAMED. BUT REFERENCES TO THEIR FAILURE TO REVEAL THE BREAK-CLAUSE AND APPARENT INTENTION TO REPRESENT THE PURCHASE OF THE 8 BLOCKS AS FIRM RUN THROUGHOUT THE REPORT. THEY COULD WELL COME IN FOR SUBSTANTIAL CRITICAL PUBLIC COMMENT EVEN THOUGH TO THE DISCERNING IT WILL BE OBVIOUS THAT THEY WERE "INNOCENTS ABORAD". WANG GUANGYING'S OPPONENTS IN PEKING WILL REJOICE AT HIS DISCOMFITURE; BUT SUSPICION OF HONG KONG'S FREE-WHEELING CAPITALISM WILL BE FUELLED.

7. THE TRIBUNAL WILL PUBLISH THEIR REPORT ON OR SOON AFTER 25 APRIL. THE HONG KONG GOVERNMENT WILL MAKE NO COMMENT ON IT. THE FINDINGS ARE A MATTER FOR THE TRIBUNAL NOT FOR THE GOVERNMENT. IT WILL BE FOR THOSE WHO OBJECT TO ITS FINDINGS TO SEEK JUDICIAL REVIEW IF THEY SO WISH.

8. THIS INFORMATION COULD BE MARKET SENSITIVE. PLEASE TREAT IT ON A NEED-TO-KNOW BASIS. THE PRIVATE SECRETARY WILL NEED TO SEE IT REF. FCO TELNO 617.

YOUDE

LIMITED

HD/HKD

PS

SIR W. HARDING

DR WILSON

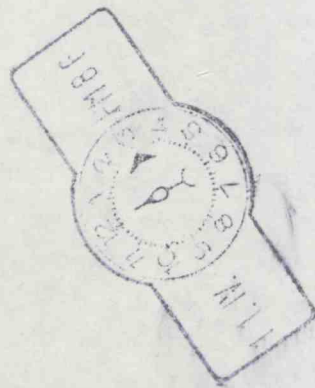
COPIESTO:

MR P. KENT, BANK OF ENGLAND

MR C. W. KELLY, H.M. TREASURY

-2-

SECRET



CJP.
16.30 - 17.15, on
Tuesday 15 April.
No 10

MRS. RYDER

Check schedule
revised meeting

CR

7/4

Change to Wednesday

BRITISH CITIZENSHIP FOR HONG KONG CHINESE

We need to find a time in the diary when the Prime Minister could discuss this subject with the Foreign Secretary and the Home Secretary. It might, for instance, be done immediately after some other meeting which both were attending. It is not wildly urgent, but we ought to try to do it in the next 4/5 weeks.

CJP

Charles Powell

5 April 1986

Meeting now needs
to deal also
with Sikhs, and is
more urgent. Next 10-12
days if possible please.

CJP.
7/4.



10 DOWNING STREET

John.
D.P.

— We had to
change this
meeting to

Wednesday 16:

as the Home
office weren't
ready with
Brexit.

CR.

8/4



Foreign and Commonwealth Office

London SW1A 2AH

1 April 1986

mb
Perhaps we could discuss this together. This is the kind of Pure Murkin

Dear William,

in detail
You asked that
to Home Secretary and Foreign
Secretary should discuss this
and report to you

We have seen copies of the exchange of letters between Charles Powell and yourself on the subject of wealthy Hong Kong Chinese businessmen who wish to acquire British citizenship. *N²/4*

No-one is suggesting that

The Foreign Secretary's initial view is that, in addition to the difficult question of principle involved, we would create major difficulties for ourselves, and for confidence in Hong Kong, if we were seen as "selling" British citizenship to certain wealthy Chinese.

We have also consulted the Governor of Hong Kong. Given the current extreme sensitivity of nationality issues in Hong Kong, he finds it difficult to judge at present what the local reaction would be to our granting British citizenship to these wealthy Chinese businessmen. His advice is that if possible we should defer consideration of the issue for a few weeks, and examine it further in the light of reactions in Hong Kong to the Government's eventual decisions on the nationality Order in Council. Sir Geoffrey Howe believes that this would be a sensible way to proceed.

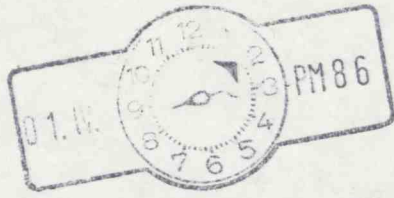
I am copying this letter to Charles Powell (No 10).

Yours Sincerely,
Colin Budd

(C R Budd)
Private Secretary

W R Fittall Esq
PS/Home Office

HONA KONA Meetings with Sandberg 8/85





cf

CAS
cc HO
FO

10 DOWNING STREET

THE PRIME MINISTER

20 March 1986

Dear Miss Dunn,

Thank you for letter of 28 February about the Nationality Order in Council. I was most grateful for the appreciative words about the debates in Parliament.

I am sorry that I am not yet in a position to give a full reply to this nor your earlier letter of 3 January. But we are looking very carefully into the points which you raised and I am fully aware of the concerns expressed by your members. I shall write to you again as soon as we have reached decisions. I hope that this will not be too long hence.

With best wishes,

Warm regards,

Yours sincerely

Rajendra Prasad

The Hon. Ms. Lydia Dunn, C.B.E., J.P.

6

MR. POWELLCDD
2093IMMIGRANTS FROM HONG KONG

The Prime Minister discussed with the Home Secretary this afternoon her recent correspondence with him about granting British nationality to certain Hong Kong Chinese businessmen.

The Prime Minister said that she found the Home Office arguments against giving the businessmen citizenship incompatible with arguments advanced by the FCO about the future of the Hong Kong and Shanghai Bank. The businessmen should, it was suggested, show signs of personal commitment to this country before naturalisation while the Foreign Office argued that the Hong Kong and Shanghai Bank should not be permitted to move its Headquarters here for fear of undermining the Hong Kong agreement.

The Home Secretary referred to his difficulties in granting these rich Chinese citizenship when thousands of Indians in Hong Kong were in an even more unprotected position. The Prime Minister suggested that the Chinese concerned should be given citizenship after, e.g. having been resident for six months and having bought a house here.

The Home Secretary undertook to discuss the wider issues involved with the Foreign Secretary and to report further to the Prime Minister.

N.C.W.

N. L. WICKS

19 March 1986



10 DOWNING STREET

Prime Minister

I have warmed
the letter up. But we
still can't reply on
substance, as the necessary
policy decisions are
not yet taken. I
will continue to chivy
the Home Office

C D P



10 DOWNING STREET

THE PRIME MINISTER

Thank you for your letter of 28 February about the Nationality Order in Council.

Unfortunately there is little I can say at the moment that will be new to you. After the debates in January, we sought and are now evaluating further information on the points you raised in your letter of 3 January. No decisions have yet been reached but you may rest assured that we are fully aware of the concerns expressed by your Members.

With best wishes,

*This is too much to
rush off. The letter
was very articulate
and substantive*

The Hon. Ms. Lydia Dunn, C.B.E., J.P.



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,



C/H? a.P.

Foreign and Commonwealth Office

London SW1A 2AH

17 March 1986

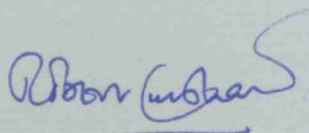
Dear Charles,

Letter to the Prime Minister from Miss Lydia Dunn

Thank you for your letter of 7 March about a letter to the Prime Minister from Miss Lydia Dunn, Senior Unofficial Member of the Legislative Council in Hong Kong.

The Home Office are still considering their response to the proposals previously put forward by Miss Dunn in her letter to all MPs of 3 January: there is as yet nothing substantive to add to what she already knows. However we think a short interim reply along the lines of the attached draft should be sent as a matter of courtesy. Miss Dunn has written an identical letter to Sir Geoffrey Howe which will also be acknowledged along similar lines.

Yours very



(R N Culshaw)
Private Secretary

C D Powell Esq
PS/10 Downing Street



DRAFT: minute/letter/teleletter/despatch/note

TYPE: Draft/Final 1+

FROM:

Reference

Prime Minister

VBIAOR

DEPARTMENT:

TEL. NO:

SECURITY CLASSIFICATION

TO:

Your Reference

- Top Secret
- Secret
- Confidential
- Restricted
- Unclassified

The Hon Lydia Dunn CBE JP
 Senior Unofficial Member of the
 Legislative Council
 Legislative Council Building

Copies to:

PRIVACY MARKING

SUBJECT:

.....In Confidence

8 Jackson Road

CAVEAT.....

Central

HONG KONG

Thank you for your letter of 28 February about the Nationality Order in Council.

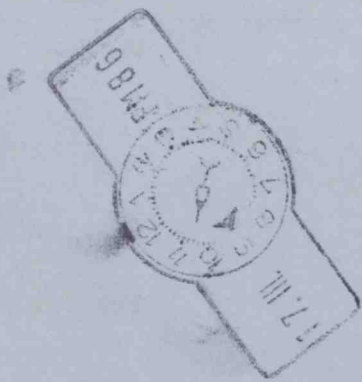
Unfortunately there is little I can say at the moment that will be new to you. After the debates in January, we sought and are now evaluating further information on the points you raised in your letter of 3 January. No decisions have yet been reached but you may rest assured that we are fully aware of the concerns expressed by your Members.

With best wishes

CJP

Enclosures—flag(s).....

HONG KONG: Passports nomenclature Oct. 1982



ccpc
ccpc
①



May we discuss this

CONFIDENTIAL

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.

CONFIDENTIAL

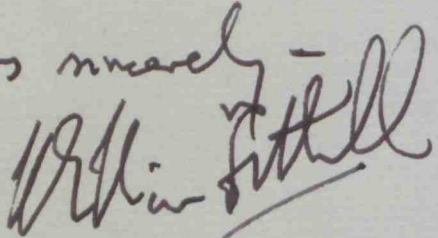
The situation of the people Mr Sandberg has in mind seems to be considerably outside these expectations. They could be granted British citizenship now only if the Home Secretary was prepared to offer immediate settlement in this country without the four year qualifying period, and he was prepared to 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]

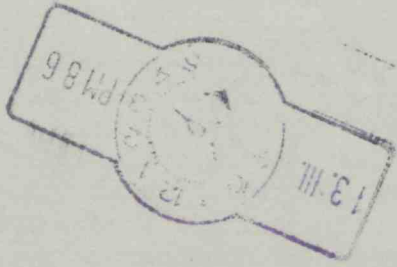
The Home Secretary would obviously like to be as helpful as these policy and legal considerations allow. He proposes, therefore, to write to Mr Sandberg and explain what action people would need to take in order to become eligible for British citizenship. He would make clear that businessmen from Hong 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

PLEASE RETURN TO
PLEASE RETURN TO



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10 DOWNING STREET

From the Private Secretary

7 March 1986

**HONG KONG (BRITISH NATIONALITY)
ORDER 1986**

I enclose a copy of a letter to the Prime Minister from Ms. Lydia Dunn, Senior Unofficial Member of LEGCO, about the draft Hong Kong (British Nationality) Order 1986. I should be grateful for an early draft reply. This should reach me by Friday 14 March.

I am copying this letter and enclosure to Stephen Boys Smith (Home Office).

(Charles Powell)

Robert Culshaw, Esq.,
Foreign and Commonwealth Office.

RESTRICTED

VK



10 DOWNING STREET

From the Private Secretary

7 March 1986

The Prime Minister has asked me to thank you for your letter of 28 February. She will be considering this with her colleagues and will reply as soon as possible.

(Charles Powell)

Ms. Lydia Dunn

MEMBERS OF LEGISLATIVE COUNCIL

立法局議員

28 February 1986

Rt Hon Margaret Thatcher MP
House of Commons
LONDON SW1A 0AA
UK

R713

Dear Mrs Thatcher,

Draft Hong Kong (British Nationality) Order 1986

I am writing on behalf of Unofficial Members of the Legislative Council to thank you for the interest you have been showing in the Draft Order and to tell you that the Draft Order is still very much a topic of great concern here in Hong Kong.

Members were encouraged by the forcefulness of argument and depth of knowledge about Hong Kong shown in the debates in both Houses. We were impressed by the feeling of unease about the Draft Order expressed by almost all MPs who spoke. We were particularly struck by the unanimity in supporting our requests of the Lords who spoke in their debate on 20 January and the effect that this had in causing the Government to reconsider the Draft Order and to seek ways of satisfying the requests. The people of Hong Kong could not have asked for better proof that they still have staunch and energetic friends in Britain whose words are listened to. I think you will understand the great sense of relief and renewed hope that touched all parts of the community here when news of the debates reached Hong Kong.

Interest in the Draft Order continues in Hong Kong, and there is much speculation about the outcome of the British Government's deliberations on the views expressed on it. We have received formal messages of support from most of Hong Kong's 19 district boards and numerous letters of sympathy and encouragement from a wide range of organisations and private citizens. We welcome the undertaking by Mr Timothy Renton during his visit to Hong Kong in January that "providing a satisfactory formula can be found, Her Majesty's Government will agree to the position being made clear in the BN(O) passports" that the holders of these passports will have the right to enter the

United Kingdom without visas on bona fide visits. We hope that an acceptable form of wording will be available well before the revised Order is introduced into Parliament.

Since our motion on 8 January, which included the request to make full British citizens the few remaining British nationals in Hong Kong who fought for the defence of British territory, we have learned from research carried out by the Hong Kong Government that the total number of ex-servicemen is no more than 270, and not 400, as was previously estimated. We hope that the British Government will take account of this small number and grant them full British citizenship.

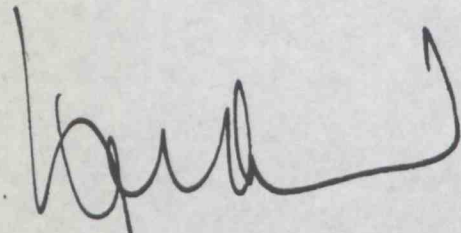
You will, I think, have received a copy of a letter from the Council of Hong Kong Indian Associations to the Home Secretary dated 17 February 1986. I need make no comment on the logical and powerful argument that the letter conveys, except to stress that Members of the Legislative Council fully support the Council's case and believe strongly that full British citizenship should be granted to all Hong Kong BDTs of non-Chinese origin who have no other nationality. We have made it clear that the Chinese majority in Hong Kong will not begrudge the minorities this treatment, and this view has been echoed many times in the past few weeks by prominent organisations and private citizens throughout the territory. It is therefore quite misleading of the Minister of State for Home Affairs, Mr Waddington, to suggest that there will be a "knock-on effect" if this request is granted.

It now remains for the British Government to find a solution to this nationality problem that will satisfy Parliament and put the worries and uncertainties of so many people in Hong Kong to rest. We rely very much on you to help ensure this, and we have no doubt that you will continue to strive on our behalf for a just solution.

For your convenience I am enclosing a copy of my original letter to Peers and MPs of 3 January 1986 and a copy of my speech in the Legislative Council on 8 January 1986.

With very best wishes,

Yours sincerely,



Lydia DUNN
Senior Unofficial Member

MEMBERS OF LEGISLATIVE COUNCIL

立法局議員

3 January 1986

The White Paper on the Draft Hong Kong
(British Nationality) Order 1986

I am writing to you on behalf of all the Unofficial Members of the Legislative Council to express their deep concern on issues raised in this White Paper. That concern is shared by all Unofficial Members, both the 22 appointed Members and the 24 elected Members, and accurately reflects, I believe, the views of the community at large.

You may already have received reports about the adjournment debate on the White Paper on the Draft Hong Kong (British Nationality) Order 1986, which took place in the Legislative Council on the 4th December last. My purpose in writing to you is to impress on you the importance which LegCo Members attach to this draft legislation and the deep sense of unease and disappointment which they and many other people have about the measures it proposes.

Their worries have focussed on (i) the acceptability in countries around the world of yet another unproven type of British passport, and (ii) the proposal to leave stranded in Hong Kong nearly 10,000 people of

non-Chinese origin with a form of British citizenship so circumscribed as to make it practically useless. There has also been widespread sympathy for the claims by a small group of former servicemen who defended Hong Kong on Britain's behalf in the Second World War.

Acceptability of the BN(O) Passport

On the day of the debate we were assured by the Hong Kong Government that it is the intention of HMG and the Chinese Government that Chinese British Dependent Territories Citizens (BDTCs) will be allowed to hold both British National (Overseas) (BN(O)) passports and Special Administrative Region passports after 1 July 1997 and that the BN(O) passports will be allowed to state, albeit in an indirect manner, that their holders have the right of abode in Hong Kong. But doubts remain whether the BN(O) passport will be of any practical use. These doubts will persist until we see HMG take action to ensure that the new passport is fully acceptable. This must include negotiations with third countries to ensure that some 70 visa abolition agreements now applying to the BDTC passport will also apply to the BN(O) passport. Equally important, we must be convinced that the introduction of a sixth type of British passport will not make it difficult for Hong Kong people to enter the United Kingdom. They do not any longer expect to be given a right of abode. But they do expect to have an unqualified right to visit the land of which they are nationals, and not to be harrassed by immigration officials who question their credentials and are suspicious of their motives. Measures should be introduced to allow unobstructed and untroubled entry into the United Kingdom by bona fide travellers from Hong Kong: this could be achieved by words in the BN(O) passport stating that the holder has permission to visit for the duration of the passport or at least for a specified period. This would help to make third countries less wary of those who travel on the novel passport.

Those who are not of Chinese descent

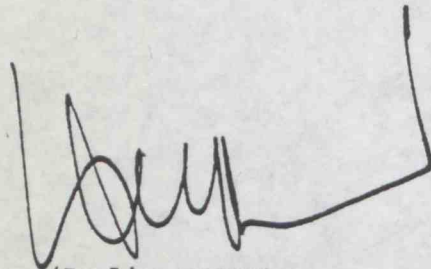
There are in Hong Kong between 8,000 and 10,000 BDTs who because of their race will not become Chinese Nationals in 1997. To prevent them, their children and their grandchildren from becoming stateless in 1997 the Draft Order proposes that they should become British Overseas Citizens (BOCs). This status gives them no right of abode in Britain or anywhere else : their right of abode in Hong Kong must derive instead from the laws of a region which will be part of a country whose Nationality Law is drawn up along racial lines. These people include some 6,000 Indians and between 2,000 and 3,000 Portuguese, Pakistanis, Eurasians, and people of other races. Most of them were born here; many of them have grandparents who were born here or brought here by British employers. They have contributed to Hong Kong's wealth and diversity and they regard themselves as loyal British subjects. They have no wish to migrate to Britain or anywhere else, but if they are left only with the choice of a citizenship which gives them no home or of applying for Chinese nationality in order to avoid statelessness, many of them will leave Hong Kong well before 1997: this will be Hong Kong's loss and Britain's shame. HMG must prevent this by making available to these minorities full British citizenship. Members of the Legislative Council are convinced that the Chinese majority in Hong Kong will not begrudge the ethnic minorities' special treatment.

Former Servicemen

Among those who will also be dispossessed in 1997 if this Draft Order is passed are fewer than 400 former servicemen, who fought for King and country in defence of Hong Kong and in other theatres of war during the Second World War. Section 4 of the British Nationality Act 1981 gives the Home Secretary discretion to register a Hong Kong BDT as a British Citizen and to waive the residential requirements if he has been in Crown Service : the British Government should make it clear that it will give sympathetic consideration to all applications from these ex-servicemen. To deny them this consideration would be to disown a brave and loyal group of people who, more than anyone else, deserve Britain's gratitude, not her indifference.

There is a good deal of lingering cynicism in Hong Kong about the gradual erosion of the rights and privileges of British subjects outside the United Kingdom as a result of successive amendments in recent years to the laws governing nationality and immigration. The forthcoming debate in Parliament on the White Paper may be the last opportunity for the British people to demonstrate their special responsibility for Her Majesty's subjects in Hong Kong at this time of transition from British Dependent Territory to Chinese Sovereign territory. Members of the Legislative Council have so strongly advocated their three proposals because they believe that acceptance of them will go some way to restore faith in Britain's commitment to Hong Kong among those of her subjects whose anxiety for the future is greatest.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Lydia Dunn', with a long horizontal stroke extending to the right.

(Lydia DUNN)
Senior Unofficial Member

DRAFT SPEECH BY HON LYDIA DUNN, CBE, LLD, JP
LEGISLATIVE COUNCIL - 8.1.86

White Paper on the Draft Hong Kong
(British Nationality) Order 1986

Sir,

I rise to move the Motion standing in my name on the Order Paper.

This Motion reflects the anxieties expressed in this Council on the matter of the White Paper on the Draft Hong Kong (British Nationality) Order 1986.

The substance of Unofficial Members' views is by now well known both here in Hong Kong and in Westminster. I have sent a letter to all Members of both Houses of Parliament, which includes of course all Members of the British Government, expressing our detailed views. For the record I am tabling a copy of this letter.

Today I wish to make only two points. The first is that the views of the Unofficial Members on this matter are unanimous.

Unanimity among Members in historic times of an entirely appointed Council was the rule rather than the exception. Unanimity among Members of an entirely elected body is rare. In our Council I am glad to say that unanimity is neither so rare as to be astonishing nor so common as to be unremarkable. On really important issues that affect fundamentally the lives of Hong Kong people we are able to reach agreement among a very diverse gathering of representatives of the people.

On the matter of nationality we are unanimous. Our views have received comprehensive support in the community since they were published. It would be irresponsible for the British Government to ignore them.

The second point I wish to make is that the action we ask should be taken is action that can be taken by the British Government alone and if it is not taken responsibility will rest solely with the British Government.

This is nothing to do with the Joint Declaration. No prolonged negotiations with foreign governments are required. The decisions and administrative steps that we want taken are for the British Government to take. They affect the rights and privileges enjoyed by British nationals. Put simply we ask the British Government

to allow British nationals holding British National (Overseas) passports to visit Britain freely and to make this right clear in the passports;
to make full British Citizens those British nationals who are of non-Chinese descent;
to make full British Citizens those few remaining British nationals in Hong Kong who fought for the defence of British territory.

We consider that these modest requests are the very least the people of Hong Kong can expect to see satisfied after nearly a century and a half of British rule. They are totally within the gift of the British Government. The Hong Kong Government has a duty, as this Motion makes clear, to convey to the British Government the strength of feeling both in this Council and among the people of Hong Kong. It will do their authority in this community no good if it falls on deaf ears. We can only ask in this way because we are not represented in Parliament. If our requests are rejected, it will add to the profound resentment felt by many of Britain's most loyal subjects who will be seen by people around the world as a mean and unworthy denial of the just claims of Britain's most vulnerable and deserving nationals.

Sir, I beg to move.

FCS/86/032COP
072SECRETARY OF STATE FOR THE HOME DEPARTMENTHong Kong Nationality Order in Council

Thank you for your letter of 31 January.

I am grateful for your agreement to look carefully at the requests made by the Hong Kong Legislative Council. It is indeed of great importance that we carry Hong Kong opinion with us on this, so far as is possible.

My officials are in contact with yours about the wording of a possible endorsement in the BN(O) passport. We were most grateful for your department's agreement to the line taken by Tim Renton at his press conference in Hong Kong, which indicated acceptance of the principle of an endorsement subject to finding suitable wording. This has done a certain amount to calm sentiment in Hong Kong : but public opinion there will be waiting very anxiously for an eventual decision on the wording.

Hong Kong officials have now visited the UK and provided your officials with further information on the non-Chinese BDTCs and ex-servicemen. I fully accept that these requests present great difficulties. However it is also true that feelings in Parliament are strong on both issues.

/I would



I would certainly like David Waddington to be very positive about the likely international acceptability of BN(O) passports during the next Parliamentary debate on the Order. We clearly cannot make formal approaches to third countries until Parliament has passed the necessary legislation, but we are committed to making every effort thereafter to ensure that BN(O)s have the same rights of access as are currently enjoyed by Hong Kong BDTs. I think that this is now generally understood in Hong Kong but we will provide further briefing for David Waddington emphasising this before the next debate.

I look forward to hearing your further conclusions on all these points.

I am copying this minute to the Prime Minister, to members of OD(K), John Wakeham, Bertie Denham, and to Sir Robert Armstrong.

GEOFFREY HOWE

FOREIGN AND COMMONWEALTH OFFICE
10 February 1986

HONG KONG

FURLE

P 718



QUEEN ANNE'S GATE LONDON SW1H 9AT

31 January 1986

Dear Geoffrey,

CDP 31/1

HONG KONG NATIONALITY ORDER IN COUNCIL

Thank you for your minute of 22 January ^{at 11.45} about the impact in Hong Kong of the debates on the draft nationality Order.

I share your concern. We must do everything we reasonably can to secure the Order in March and to take Hong Kong with us. We do not want to weaken the credit which we have rightly earned through negotiating the agreement; and I fully recognise the need to keep Hong Kong's co-operation and good will for the years ahead.

We can take some comfort, and perhaps credit, from the fact that the arguments now centre on the three points you mention. We always knew that nationality would be one of the most sensitive and controversial matters following on from the agreement, and despite the criticisms, no-one in either House seems to have tried to re-open the fundamental questions of our arrangements for the vast majority of British Dependent Territories citizens in Hong Kong. If we can get the tactics right and we can reach some accommodation on the outstanding issues, we should have a reasonable prospect of having the nationality arrangements in place by Easter as we have promised.

I agree, therefore, that we need to concentrate on the three requests from Hong Kong. Our aim should be to try as far as possible to reach an understanding with the Hong Kong Government and to be reasonably sure that the Order will not flounder in Parliament for failure to do so.

We are already in touch with your officials on the possibility for endorsing the passport. There are problems, and I do not myself believe that we can dismiss the difficulties of appearing to bind future administrations, but given the central importance of meeting the Hong Kong Government on this, we must try to find some way of reconciling the various points of view.

I agree also that my officials should have discussions with Hong Kong officials on the other two suggestions about granting British citizenship to the non-ethnic Chinese minority who might otherwise be stateless in 1997, and to ex-servicemen. At this stage the discussions must be without prejudice to the final outcome, and I can see formidable difficulties in the way of our meeting the wishes of the Legislation Council not least because of the implications of our doing so for our wider immigration and nationality policies.

/I hope

The Rt Hon Geoffrey Howe QC MP

I hope also that you might consider whether we can do anything more to provide fuller reassurances about the likely acceptability of the BN(O) passport to third countries. The point was made a number of times in the Commons, and I am sure it would be helpful if we can strengthen the assurances that David Waddington was able to give then.

I agree with you that we need to move quite quickly on all this. I hope, therefore, that the detailed discussions with officials can be concluded soon. I shall then write to you and colleagues again to seek agreement on the way forward.

I am copying this letter to the Prime Minister, to members of OD(K), John Wakeham, Bertie Denham, and to Sir Robert Armstrong.

Yours,

Douglas.

HONG KONG PT 18

Putime





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I am sure this
is right.
CDP
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MR POWELL

Hong Kong Nationality Order in Council

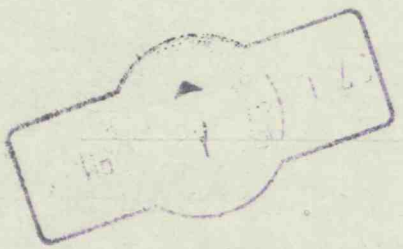
With reference to my minute (B.07290) of 24 January, I understand that Home Office officials are advising the Home Secretary to reply to the Foreign and Commonwealth Secretary's minute of 22 January by saying that he would like to help on this subject if possible and by proposing detailed discussions between officials of the two Departments. The purpose of the discussions would be to find a common position on the risk of having to impose a visa regime on people in Hong Kong and on policy in the light of that risk.

- ✓ 2. I suggest that the Prime Minister either should not intervene in the correspondence at the present stage or should intervene only to say that she would like to be informed of the outcome of the discussions between the two Departments and of the resulting recommendations for policy.

C L G Mallaby

27 January 1986

CONFIDENTIAL



COLLECTOR

CONFIDENTIAL AND PERSONAL

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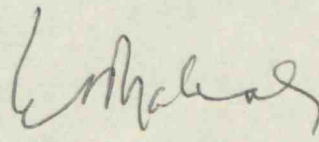
B.07290

MR POWELL

Hong Kong Nationality Order in Council

I was struck by a point in the Foreign and Commonwealth Secretary's minute of 22 January to the Home Secretary. After arguing the case for an inscription in passports to the effect that no visas or entry certificates would be needed, the minute says that the Government could impose a visa requirement if this became necessary. On enquiry, I found that there appears to be a real difference between the FCO, who think that circumstances requiring visas are at present completely unforeseeable, and the Home Office, who think that a visa requirement is a high probability. I am exploring this further and shall look for a way round it.

2. I suggest that the Prime Minister might not react to the Foreign and Commonwealth Secretary's minute for a few days.



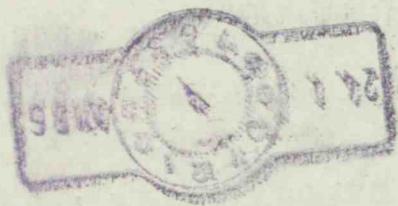
C L G Mallaby

24 January 1986

CONFIDENTIAL AND PERSONAL

HONG KONG PR 19

Swain





FCS/86/016

SECRETARY OF STATE FOR THE HOME DEPARTMENTHong Kong Nationality Order in Council

I am becoming seriously concerned about the situation which is developing around the Hong Kong Nationality Order in Council. You are I think aware of the general background.

A tremendous head of steam has now built up in Hong Kong on this issue. The Hong Kong Legislative Council, supported by the Hong Kong Government, have made three requests :

- (a) that we should grant British citizenship to non-Chinese BDTCs if they become stateless;
- (b) that we should grant British citizenship to some 500 former servicemen who fought in the Second World War; and
- (c) that we should agree to put an endorsement in BN(O) passports indicating that holders do not require a visa or entry certificate to visit the UK.

As you know the senior Unofficial member of the Legislative Council, Miss Lydia Dunn, has written to all Members of Parliament about these requests. The Hong Kong Council of Indian Associations have also written about the non-Chinese BDTCs, and have sent a small delegation to the UK which has in recent days achieved considerable publicity for their cause.

/Debates have



Debates have now been held in both Houses. You will, I am sure, have received reports on these from David Waddington and Simon Glenarthur. In the Commons almost every speaker urged the Government to make concessions, though a few on the Government side suggested that to concede British citizenship to the ethnic minorities would be wrong at this stage. In the Lords, no-one spoke in favour of the Government : most of the speakers favoured concessions on all three of the Legislative Council requests, with particular emphasis on the extension of British citizenship to the ethnic minorities.

If we make no concessions on any of these proposals, the Governor of Hong Kong has advised that there will be an open confrontation between HMG and the Hong Kong Legislative Council. We have managed, not always easily, to come through the last three difficult years in Hong Kong, including the period of the conclusion of the agreement, without such a confrontation : to fail now would be very damaging, not least to the Hong Kong Government, and it would undermine what we have achieved so far by the agreement. If we make no moves, the Unofficial members of the Hong Kong Executive and Legislative Councils will not give up : they will send a delegation here to lobby the Prime Minister, and they will lobby extensively in Parliament against the Order. Since it cannot be amended in Parliament when we put it forward for final approval, they will ask for its rejection. I therefore think that we need to consider what moves might be possible.

/The Governor



The Governor of Hong Kong has advised that of the three UMELCO requests, the one which is held most strongly is that relating to the passport endorsement. If this were met, but the other two requests were not, it is unlikely that there would be a confrontation between the Legislative Council and HMG. From this point of view therefore, the crux is the question of the passport endorsement. This is an area where I think that a move should be possible. David Waddington and Tim Renton discussed this possibility before the debates, and the former most helpfully agreed to take the line in the debates that we would keep looking for an acceptable formula.

I accept that it would not be right to put an endorsement in a passport which gave a misleading impression that the holder was not subject to the immigration rules. However I believe that Hong Kong would be satisfied with an endorsement which read :

"The holder of this passport does not require an entry certificate or a visa to enter the UK as a bona fide visitor".

This is a correct statement of fact. There is also a clear implication that the bona fide status of visitors can be checked by immigration officers. In order to make sure that there was no confusion among the holders of such passports, I would propose that a leaflet be issued at the same time as the passport advising the holder exactly what his immigration status with regard to the UK is. This leaflet could also explain the advantage of obtaining an entry certificate, so that there would be no suggestion of discouraging visitors from Hong Kong from using this facility.

/It is clear



It is clear that nothing less than an endorsement in the passport will be sufficient to prevent a confrontation between the Legislative Council and HMG. There may be some room for adjustment of the formula of this endorsement, but I am bound to say that it will not do any good in Hong Kong unless it makes clear that prior entry clearance is not necessary for bona fide visitors.

I understand that the main argument which has been advanced against this kind of endorsement is that, because it could not be removed from the passport, it would commit future governments not to introduce a visa or entry certificate requirement for visitors from Hong Kong. I do not find this argument convincing. The logical conclusion would be that no government could ever put any endorsement in a passport in case it made it more difficult for a future government to change the law or practice : this would apply equally for instance to right of abode endorsements.

The imposition of a visa or entry certificate requirement for visitors from Hong Kong would be difficult enough at any time : as you know, in response to enquiries from MPs about whether visas would be required, we have told them firmly that BN(O)s would be subject to the same rules as BDTCs are subject to now. But if there ever were a crisis, such as occurred with the Tamils last year, I do not think that the use of the endorsement I propose would make it significantly more difficult for a future government to introduce a visa requirement for BN(O)s from Hong Kong. It would be necessary to announce that in view of the crisis the rules were being changed and that notwithstanding the endorsement visas would be required.

/To sum up



To sum up on this point I think that by agreeing to this endorsement we would lose nothing, and would stand a very good chance of avoiding the worst of the confrontation in Hong Kong which now threatens.

I can see that the moves which are requested for the ethnic minorities and the ex-servicemen pose much greater problems. From the strictly Hong Kong point of view, given the Governor's advice, I would not have felt justified in pressing you to make concessions on them. However I am becoming concerned about the Parliamentary situation, particularly in the House of Lords. Although UMELCO may acquiesce in failure to meet these requests, they are unlikely to drop them publicly. If the Order, which is essential to the implementation of the nationality provisions of the Sino-British agreement, were to suffer a defeat in the Lords, we should be severely embarrassed vis-a-vis the Chinese Government. It would also be very damaging to our relationship with Hong Kong. I therefore propose that we should set in hand urgently more detailed studies of the implications of concessions in the two areas of the ethnic minorities and the ex-servicemen. I understand that the Hong Kong Government are prepared to send officials to London to assist in this. At the very least, even if we decide that no concessions are possible, this will demonstrate clearly the Government's seriousness in reconsidering the position following the two debates.

I hope very much that you can agree to these proposals.

/I am

CONFIDENTIAL



I am copying this letter to the Prime Minister,
Members of OD(K), John Wakeham and Lord Denham.

A handwritten signature in dark ink, appearing to read 'G. Howe', written over a faint rectangular stamp.

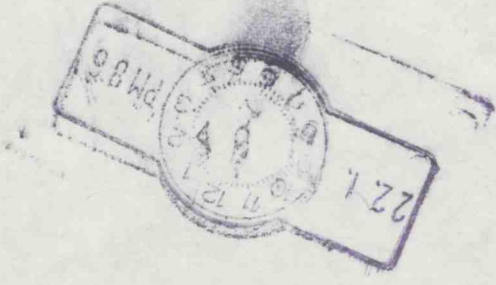
GEOFFREY HOWE

Foreign & Commonwealth Office

22 January 1986

CONFIDENTIAL

2





cpc

slw
(18)

10 DOWNING STREET

From the Private Secretary

21 January 1986

HONG KONG : IMMIGRATION

When the Prime Minister saw Mr. Sandberg, Chairman of the Hong Kong and Shanghai Bank, on other business this morning, he referred to a problem which he had discussed the day before with the Home Secretary, namely the position of four or five extremely wealthy Hong Kong Chinese who wished to acquire British passports. The people in question had immense wealth and were prepared to invest substantially in the United Kingdom. He understood that it was at the Home Secretary's discretion to allow people such as them to acquire British nationality in these circumstances provided they were prepared to live in the United Kingdom. The problem was that the Hong Kong Chinese in question could not meet the second criterion because they needed to be able to continue to manage their investments from Hong Kong. It seemed absurd for the United Kingdom to forego the opportunity of the substantial investment in question on a technicality. The Home Secretary had promised to write to him about it.

BF // The Prime Minister said that she would seek the Home Secretary's advice.

I am copying this letter to Stephen Boys Smith in the Home Office.

(C. D. POWELL)

Len Appleyard, Esq.,
Foreign and Commonwealth Office.

**SPEAKING NOTE**

1. I am sending you across copies of Telnos 145, 146 and 149 just received from Hong Kong. From this you will see that there is a prospect of unofficials sending a delegation shortly to London to lobby the Prime Minister on nationality matters.

2. Draft order in Council implementing nationality arrangements from Hong Kong Agreement to be debated in Parliament on 16 January. Briefly unofficials making three demands:

(i) Endorsement to be placed in the passport stating that holders need no visa or entry certificate to enter the United Kingdom as a visitor.

(ii) Hong Kong minority communities (Indians, Portuguese etc) to be given full British citizenship instead of British Overseas citizenship.

(iii) Ex-servicemen in Hong Kong who are British Dependent Territories citizens to be given full British citizenship in recognition of their service.

CONFIDENTIAL

3. At the moment Home Office position on all three negative, though ^{we} are urging Mr Waddington not to shut the door in the debate: General line should be that purpose of debate is to listen to views of MPs, after which Government will decide whether to change terms of order in Council.

4. Foreign Office can see why concessions to minority communities and ex-servicemen are very difficult. But believe that concession could be made without losing anything on endorsement in passports. *Government has made clear this is most important area for unificials.*

5. Home Office objections are doctrinaire in nature. Department intend to recommend as soon as MPs views have been given in debate that Foreign Secretary should write to Home Secretary urging a concession on this point. Letter will be copied to you.

6. You will no doubt wish to ask Home Office to provide briefing to Prime Minister in due course on this subject.

CONFIDENTIAL

RGRGRG

ZCZC

HMLNAN 0499

CONFIDENTIAL

DD 141030Z FCOLN

DD 150100Z PEKIN

FM HOKON TO FCOLN

140920Z JAN

GRS 300

CONFIDENTIAL

FM HONG KONG

TO DESKBY 141030Z FCO

TELNO 145

OF 140920Z JANUARY 86

INFO DESKBY 150100Z PEKING

YOUR TELNO 85 : WHITE PAPER ON DRAFT NATIONALITY ORDER.

1. UNOFFICIALS REMINDED ME THIS MORNING AT THE EXECUTIVE COUNCIL MEETING THAT THE LEGISLATIVE COUNCIL WAS EXPECTING A STATEMENT BY THE CHIEF SECRETARY TOMORROW IN RESPONSE TO MISS DUNN'S REQUEST FOR A REPORT ON THE PROGRESS OF HMG'S DELIBERATIONS CONTAINED IN HER STATEMENT OF JANUARY 8 (MY TELNO 080). I TOLD THE COUNCIL THAT IT WOULD NOT BE POSSIBLE TO TELL THE LEGISLATIVE COUNCIL WHAT POSITION HMG WOULD TAKE IN PARLIAMENT. I ALSO INFORMED THEM IN STRICT CONFIDENCE OF THE POSITION AS STATED IN PARAS 1 TO 4 IN YOUR TEL UNDER REFERENCE. FOR REASONS WHICH WILL BE EVIDENT FROM MY IFT I DID NOT GIVE THEM THE CONTENT OF PARAGRAPH 5:

2. EXCO UNOFFICIALS COMMENTED THAT IT WOULD BE HELPFUL FOR ME AND HMG TO KNOW THE POSITION OF LEGCO UNOFFICIALS. THEY WOULD NOT LET THE ISSUE, PARTICULARLY OF THE ENDORSEMENT IN THE PASSPORTS...

2. EXCO UNOFFICIALS COMMENTED THAT IT WOULD BE HELPFUL FOR ME AND HMG TO KNOW THE POSITION OF LEGCO UNOFFICIALS. THEY WOULD NOT LET THE ISSUE, PARTICULARLY OF THE ENDORSEMENT IN THE PASSPORTS, DIE. THEY WOULD CONTINUE TO FIGHT FOR THE ENDORSEMENT OF VISA-FREE ENTRY IF NECESSARY BEYOND THE DEBATE ON THE WHITE PAPER. THEY CONTINUED TO EMPHASISE THAT THIS WAS IN THE GIFT OF THE BRITISH GOVERNMENT.

3. WHETHER OR NOT THEY WOULD SEND A DELEGATION TO LONDON WAS AGAIN AN OPEN QUESTION. THEY WOULD MEET ON THE MORNING OF FRIDAY 17 JANUARY TO REVIEW WHAT MINISTERS AND MEMBERS OF PARLIAMENT HAD SAID IN THE DEBATE IN THE HOUSE OF COMMONS (EVEN THOUGH THE DEBATE TAKES PLACE AT 3 A.M. HERE IT WILL BE BROADCAST LIVE BY HONG KONG RADIO). IN THE LIGHT OF THAT DEBATE THEY WILL DECIDE WHETHER

(A) TO AWAIT FURTHER DEVELOPMENTS: OR

(B) TO SEND A DELEGATION TO LONDON EITHER IMMEDIATELY OR AT A LATER DATE.

4. THEY MADE CLEAR THAT IF THE DELEGATION WENT TO LONDON IT WOULD SEEK A PERSONAL INTERVIEW WITH THE PRIME MINISTER. IT WOULD NOT BE CONTENT WITH LESS.

5. THE DISCUSSION WILL BE CONTINUED IN EXCO AT 9.30 A.M. HONG KONG TIME TOMORROW.

6. ON THE IMPLICATIONS OF THIS SITUATION PLEASE SEE MY LFT.

YOUDE

YYYY

HMLNAN 0497

NNNN

14/10047

ZCZC

HMI NAN 0506

CONFIDENTIAL

DD 141130Z FCOLN

DD 150100Z PEKIN

141040Z JAN

GRS 500

DD

CONFIDENTIAL

FM HONG KONG

TO DESKBY 141130Z FCO

TELNO 146

OF 141040Z JANUARY 86

INFO DESKBY 150100Z PEKING

Hmg

MY IPT : WHITE PAPER ON DRAFT NATIONALITY ORDER.

1. THE STATEMENT THAT THE UNOFFICIALS WILL NOT BACK DOWN ON THE PROPOSITION THAT AN ENDORSEMENT REGARDING VISA-FREE ENTRY TO THE UK SHOULD BE MADE IN THEIR PASSPORTS MUST BE TAKEN SERIOUSLY. ON WHAT THEY SAID THIS MORNING, PROVIDING IT WERE CLEARLY DEMONSTRATED THAT THE CASE MADE FOR THE MINORITIES AND THE EX-SERVICEMEN HAD BEEN EXAMINED ON ITS MERITS, AND THEY HAD BEEN GIVEN A FAIR HEARING (AND NOT SIMPLY TURNED DOWN OUT OF HAND), THERE WOULD BE GRUMBLING, ILL-FEELING AND NO DOUBT SARCASM IN THE PRESS, IF THEY WERE NOT MET IN FULL BUT I DOUBT IF THOSE ISSUES WOULD BECOME MATTERS FOR A CONFRONTATION BETWEEN UNOFFICIALS AND HMG. (RESENTMENT AMONG THE MINORITIES WOULD OF COURSE REMAIN) IF ON THE OTHER HAND THE UNOFFICIALS REQUEST FOR AN ENDORSEMENT IN THE PASSPORTS IS REFUSED, A CONFRONTATION BETWEEN THE LEGISLATIVE COUNCIL OF HONG KONG AND HMG WILL ENSUE.

2. IN THE LIGHT OF THIS MORNING'S DISCUSSION IT SEEMS LIKELY THAT IF MINISTERS ARE REASONABLY POSITIVE ABOUT THE POSSIBILITY OF AN ENDORSEMENT BEING MADE IN THE PARLIAMENTARY DEBATE THE UNOFFICIALS MAY BE PERSUADED BY THEIR SENIOR MEMBERS (WHO ARE DOING THEIR UTMOST TO AVOID A CONFRONTATION) TO AWAIT DEVELOPMENTS. IF THERE IS SIMPLY A HOLDING STATEMENT THE UNOFFICIALS MAY DECIDE EITHER TO SEND A DELEGATION OR TO AWAIT THE OUTCOME OF THE PARLIAMENTARY DEBATE AND GO LATER TO PRESS THEIR CASE. IF THE HOLDING STATEMENT READS NEGATIVELY OR IS ACCOMPANIED ONLY BY A STATEMENT OF THE DIFFICULTIES OF MAKING THE ENDORSEMENT (AS IN PARA 5 OF YOUR TELNO 85) THERE IS A REAL CHANCE THAT THEY WILL DECIDE TO VISIT LONDON AND ASK FOR A MEETING WITH THE PRIME MINISTER: AND MAKE THIS

LONDON AND ASK FOR A MEETING WITH THE PRIME MINISTER: AND MAKE THIS DECISION PUBLIC.

3. IT REMAINS MY STRONG ADVICE TO MINISTERS THAT THEY SHOULD SHOW A POSITIVE ATTITUDE IN THE DEBATE TOWARDS THE ENDORSEMENT. IF THEY DO NOT THE RISK OF A CONFRONTATION (SEE PARA 1 ABOVE) IS HIGH.

4. I CAN SEE THAT MINISTERS MIGHT BE DISPOSED TO AWAIT THE OUTCOME OF THE DEBATE, BUT AS UNOFFICIALS POINTED OUT IF THIS DECISION IS NOT TAKEN NOW, AND THE SITUATION IS ALLOWED TO REACH THE POINT WHERE A DELEGATION IS SENT TO LONDON TO CALL ON THE PRIME MINISTER THERE WILL BE A POLITICAL PRICE TO BE PAID. IF THE UNOFFICIALS WERE THEN REBUFFED THE SENSE OF RESENTMENT WILL BE SEVERE. IF ON THE OTHER HAND IT WERE DECIDED THAT THE P.M. SHOULD CONCEDE WHAT MINISTERS HAD APPARENTLY NOT FAVOURED AND WHAT COULD NOT BE OBTAINED BY THE GOVERNMENT OF HONG KONG, THIS WOULD BE TAKEN AS INDICATING THAT UNOFFICIALS, AND PARTICULARLY ELECTED UNOFFICIALS, WERE IN A POSITION TO GET FROM LONDON WHAT COULD NOT BE OBTAINED THROUGH THE GOVERNMENT OF HONG KONG. THE CONSEQUENCES FOR THE REPUTATION OF HMG AND THE AUTHORITY OF THE HONG KONG GOVERNMENT: AND THE IMPLICATIONS FOR THE FUTURE MANAGEMENT OF THE LEGISLATIVE COUNCIL WILL BE OBVIOUS.

5. EVEN TO SEEK TO DELAY THE SENDING OF A DELEGATION COULD BE HAZARDOUS. YOU WILL RECALL THE DEEPLY EMBEDDED BELIEF THAT MY PREDECESSOR DISSUADED THE UNOFFICIALS FROM SENDING A DELEGATION AT A CRUCIAL POINT IN THE LORDS DEBATE ON THE NATIONALITY ACT: AND THAT THEY LOST THE OPPORTUNITY OF GETTING A FAVOURABLE VOTE IN THE LORDS ON AN ISSUE OF GREAT CONCERN TO THEM AS A CONSEQUENCE.

YOUDE

YYYY

HMLNAN 0506

NNNN

114/1125#

CONFIDENTIAL

FM HONG KONG

TO DESKBY 141130Z FCO

TELNO 149

OF 141025Z JANUARY 86

INFO DESKBY 150100Z PEKING (PERSONAL FOR AMBASSADOR)

FOLLOWING PERSONAL FOR WILSON, AUS ASIA FROM GOVERNOR

1. YOU WILL SEE FROM MY TELNO 146 THAT IF WE ALLOW THESE ISSUES TO GET TO THE POINT WHERE THE UNOFFICIALS ANNOUNCE THAT THEY ARE SENDING A DELEGATION TO SEE THE PRIME MINISTER WE SHALL HAVE REACHED AN EXTREMELY TRICKY POINT IN THE RELATIONS BETWEEN HONG KONG AND LONDON.
2. THE PRIME MINISTER WOULD BE BOUND TO RECEIVE UNOFFICIALS. IN HER MEETING WITH THE UNOFFICIALS ON 19 SEPTEMBER 1984 (AT WHICH THE PUS WAS PRESENT) SHE TOLD THE UNOFFICIALS THAT THEY SHOULD NOT HESITATE TO SEEK ANOTHER VISIT TO LONDON IF THEY THOUGHT THAT WAS NECESSARY.
3. THE UNOFFICIALS ARE UNANIMOUS THAT IT IS WITHIN THE GIFT OF THE BRITISH GOVERNMENT TO GIVE THEM THE ENDORSEMENT THEY WANT. ON SOME ISSUES IT CAN BE ARGUED THAT THE DIFFICULTY LIES WITH THE CHINESE. ON THIS ONE IT CANNOT AND THEY WILL NOT BE SATISFIED WITH ARGUMENTS ABOUT PROBLEMS WITH THE IMMIGRATION RULES. AS MISS DUNN SAID, IF THERE IS A WILL THERE IS A WAY.
4. IF IT GETS TO THE POINT WHERE THEY SEE THE PRIME MINISTER AND THEY ARE TURNED DOWN, THE SENSE OF RESENTMENT AND BETRAYAL AMONG EXCO UNOFFICIALS WILL BE STRONG. THEY PUT THEIR NAMES ON THE LINE IN FAVOUR OF ACCEPTANCE OF THE AGREEMENT IN SPITE OF THEIR RESERVATIONS SEMICOLON THEY ARE NOW LOOKING FOR A RECIPROCAL UNDERSTANDING FROM HMG ON THEIR CONCERNS.
5. MISS DUNN AND HER SENIOR COLLEAGUES IN LEGCO ARE TRYING THEIR BEST TO KEEP TEMPERS DOWN AND TO AVOID A CONFRONTATION ARISING. SOME OF THE ELECTED MEMBERS HAVE THE BIT BETWEEN THEIR TEETH. YOU KNOW SIR S Y'S FEELINGS ON NATIONALITY ISSUES: I WOULD NOT EXCLUDE HIS VOLUNTEERING TO LEAD A DELEGATION. IF HE DID THAT WOULD PUT THE PRIME MINISTER IN A VERY DIFFICULT POSITION INDEED.

YOUDE



CUPC

FCS/85/331

CDP
17/12.

LORD PRIVY SEAL

Hong Kong: Nationality Order in Council

1. Thank you for your letter of 5 December. I hope that it will be possible to debate the Hong Kong Nationality Order in Council in the Commons in the first week after the House returns, and shortly thereafter in the Lords. If we delay too long there is a danger that Hong Kong will feel that Parliament is not sufficiently interested in its affairs.
2. Tim Renton is leaving on a Far Eastern tour on 17 January from which he will not return until 28 January and I hope therefore that it will be possible to have the Commons debate during the first few days of the new session.
3. In the House of Lords, Janet Young will be available from 14 January onwards.
4. I am copying this minute to the Prime Minister, the Lord President, the Home Secretary and other OD(K) colleagues.

(GEOFFREY HOWE)

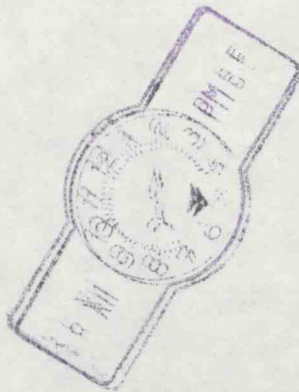
Foreign and Commonwealth Office

17 December 1985

HONG KONG

PASSPORTS

OCT-82



CONFIDENTIAL

ccp



QUEEN ANNE'S GATE LONDON SW1H 9AT

12 December 1985

Dear John,

*EDP
12/12*

HONG KONG

Thank you for your letter of 5 December about the timing of the Hong Kong nationality debate.

I had suggested a debate before Christmas to avoid points raised on the White Paper gaining too much momentum, but I quite understand what you say, and I do not press the point. I accept your proposal that the debate should instead be arranged in the first week back after the recess, and I am grateful to you for suggesting this. It would also be very helpful if the debate in the Lords could take place the week after.

I am copying this letter to the recipients of yours - the Prime Minister, the Lord President, to other OD(K) colleagues, John Wakeham, Bertie Denham, and to Sir Robert Armstrong.

*Conner,
Doyler.*

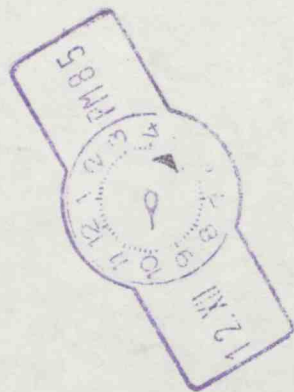
The Rt Hon John Biffen, MP

CONFIDENTIAL

HONG KONG

PASSPORTS

OCT 82



CONFIDENTIAL

2 P'PS CC PC



PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

5 December 1985

CDP
57^{xii}

Dear Douglas.

HONG KONG

Thank you for your letter of 19 November proposing an early debate on the draft Hong Kong Nationality Order In Council.

I quite understand the commitment to having a preliminary debate on the White Paper so that any points arising can be considered before the draft Order In Council is laid formally. While I recognise the arguments for having a debate in the Commons before the Christmas Recess it seems to me that we would not want to discuss this so soon after the debate in the Legislative Council of Hong Kong that we seem to be giving to real consideration to views expressed in that debate. I propose therefore to fix the debate for sometime in the first week when the House returns in the New Year.

I am writing in similar terms to Geoffrey Howe: and copying this letter to recipients of his minute of 25 November.

Handwritten signature of John Biffen

JOHN BIFFEN

Rt Hon Douglas Hurd MP
Home Secretary

HONG KONG
PASSPORTS

OCT 82



CONFIDENTIAL

CCPE



PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

5 December 1985

Dear Geoffrey,

HONG KONG

Thank you for your minute of 25 November supporting Douglas Hurd's proposals for an early debate on the draft Hong Kong Nationality Order In Council.

I quite understand the commitment to having a preliminary debate on the White Paper so that any points arising can be considered before the draft Order In Council is laid formally. While I recognise the arguments for having a debate in the Commons before the Christmas Recess it seems to me that we would not want to discuss this so soon after the debate in the Legislative Council of Hong Kong that we seem to be giving to real consideration to views expressed in that debate. I propose therefore to fix the debate for sometime in the first week when the House returns in the New Year.

I am writing in similar terms to Douglas Hurd: and copying this letter to recipients of his letter of 19 November.

John Biffen

JOHN BIFFEN

Rt Hon Sir Geoffrey Howe MP
Secretary of State for
Foreign and Commonwealth Affairs

HONG KONG

PASSPORTS

OCT 82





CCPC

FCS/85/307

LEADER OF THE HOUSE OF COMMONS

CD
25/11/85

Hong Kong: White Paper on the Nationality Provisions of the Hong Kong Act 1985

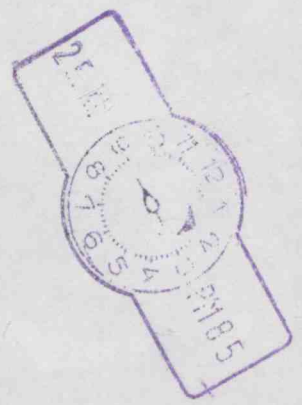
1. Douglas Hurd wrote to you on 19 November proposing arrangements for debates in the Commons and Lords on the draft Hong Kong Nationality Order in Council. I support his proposals.
2. Given the importance of the question of nationality in Hong Kong and the fact that the Order arises from the Hong Kong Act, which I introduced in the Commons, I can see considerable advantage in a Foreign and Commonwealth Minister being available to support the Home Office during the debates.
3. Tim Renton, as Minister with special responsibility for Hong Kong, would be the most appropriate. He will however be away from 9 - 16 December in the Middle East, but would be available from 17 - 19 December. If the debate cannot be held on one of these days we will try to make another Foreign and Commonwealth Office Minister available.
4. Janet Young could similarly be available for the debate in the House of Lords, when a date is set for that.
5. I am copying this minute to the recipients of the Home Secretary's.

(GEOFFREY HOWE)

Foreign and Commonwealth Office

25 November 1985

Hong Kong Oct. 82
Passports.



CONFIDENTIAL

cc to



QUEEN ANNE'S GATE LONDON SW1H 9AT

19th November 1985

Dear John,

EDD
19 xi

HONG KONG: WHITE PAPER ON THE NATIONALITY PROVISIONS
OF THE HONG KONG ACT 1981

I thought it would be helpful if I wrote to you about the arrangements which I hope can be made for debates in both Houses before Christmas on the proposals in the White Paper on Hong Kong which was published on 17 October (Cmd 9637).

As I said in my minute to the Prime Minister of 30 September, we are committed to having preliminary debates on the White Paper and to consider any points which are made in advance of laying formally the draft Order in Council under the affirmative resolution procedure. That Order needs to have been made by next April. Hong Kong is expecting the debates to take place in mid-December. I understand that for this reason the Legislative Council of Hong Kong will debate the White Paper on 4 December. There would be advantage in following that up before the Christmas recess. We do not want to leave time for any uncertainty to build up in Hong Kong and we need to show we are leaving sufficient time to consider the points made in Parliament before laying the Order. All this points to the appropriate time for the debates being in the latter half of the week of 9 December or early the following week, and I judge, subject to the views of colleagues, that as a matter of tactics, it would clearly be preferable to have the debate in the Commons before that in the Lords.

The purpose of the debate is to allow Parliament to put forward views on the draft Order in Council attached to the White Paper while it is still in a form in which it can, if necessary, be amended. I doubt if we need a substantive motion for this and given the very limited room we have for manoeuvre within the terms of the Sino-British Joint Declaration and the Hong Kong Act 1985, it would not be helpful to leave ourselves open to amendments either from the Opposition or Government supporters. I see advantage therefore in a half-day debate on the adjournment in the Commons if that could be arranged, followed by a take note motion in the Lords.

I hope that you, and the Lord President, will find it possible to arrange debates in the way I have suggested.

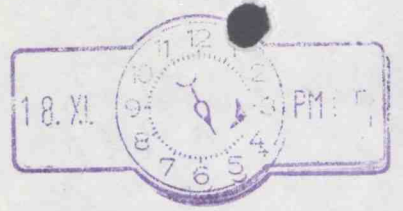
I am copying this letter to the Prime Minister and the Lord President and also to other OD(K) colleagues, John Wakeham, Bertie Denham and Sir Robert Armstrong.

Yours,
John Biffen

The Rt Hon John Biffen, MP

CONFIDENTIAL

HONG KONG
PASSPORTS
OCT 82



CONFIDENTIAL



MINISTRY OF DEFENCE
MAIN BUILDING WHITEHALL LONDON SW1A 2HB
Telephone 01-218 2111/3 (Direct Dialling)
01-218 9000 (Switchboard)

MO 5/14

8th October 1985

Mr Charles,

*CDD
OK*

HONG KONG NATIONALITY ORDER IN COUNCIL

The Defence Secretary has seen a copy of the Home Secretary's minute to the Prime Minister of 30th September. He is content with the draft White Paper containing the Hong Kong Nationality Order in Council.

I am copying this letter to the Private Secretaries to the members of OD(K), the Lord Privy Seal, the Chief Whip, Lord Denham and Sir Robert Armstrong.

Yours etc,

Richard Mottram

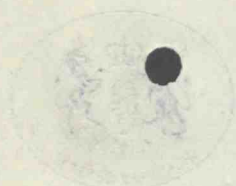
(R C MOTTRAM)

C Powell Esq
No 10 Downing Street

CONFIDENTIAL

HONG KONG; Nomenclature of Passports: Oct 1982

MINISTRY OF DEFENCE



CONFIDENTIAL

SECRET

CONFIDENTIAL



PRIME MINISTER

NSP/M
CDP 7/x

HONG KONG NATIONALITY ORDER IN COUNCIL

In the absence of the Attorney General I have considered the draft White Paper containing the Hong Kong Nationality Order in Council circulated under cover of the Home Secretary's minute of 30 September. I confirm that I am content for it to be published.

I am copying this minute to members of OD(K), to John Biffen, John Wakeham, Bertie Denham and Sir Robert Armstrong.

Richard Armstrong

4 October, 1985

CONFIDENTIAL

HONG KONG OCT 82
NOMENCLATURE IN HK PASSPORTS



COMMISSIONER



NSPM
EOP
1/K

PM/85/84

PRIME MINISTER

Hong Kong Nationality Order In Council

attached

1. I confirm that I am content with the draft White Paper containing the Hong Kong Nationality Order in Council circulated under cover of the Home Secretary's minute of 30 September. The White Paper and Order were drawn up in consultation with FCO and Hong Kong Government officials, and have been approved by the Hong Kong Executive Council.

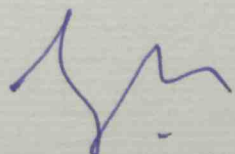
2. Although the issues involved were aired thoroughly during the debate on the Hong Kong Bill we should not underestimate the political sensitivity of nationality questions in Hong Kong and we should allow ample time to debate these. We can expect continued criticism both for our refusal to grant right of abode in the UK to BDTs, and for our failure to obtain Chinese agreement to a transmissible form of nationality for BDTs. Given however that EXCO has agreed to this Order I think that opposition will be of manageable proportions.

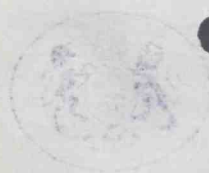
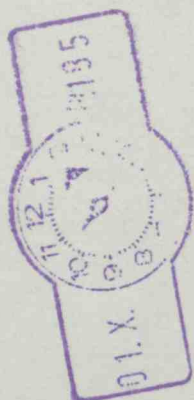
3. We will also need to be careful to bear Chinese sensitivities in mind during the passage of the Order. The negotiation of the Exchange of Memoranda on nationality associated with the Joint Declaration was extremely difficult. The Chinese will be watching carefully to see that we implement it to the letter.

4. I am copying this minute to colleagues in OD(K), to John Wakeham, Bertie Denham and to Sir Robert Armstrong.

Foreign and Commonwealth Office

1 October 1985


(GEOFFREY HOWE)





FILE

10 DOWNING STREET

From the Private Secretary

1 October 1985

HONG KONG ACT 1985

The Prime Minister has considered the Home Secretary's minute of 30 September seeking agreement to the publication of a White Paper on the nationality provisions of the Hong Kong Act 1985.

Subject to the views of colleagues, the Prime Minister is content for the White Paper to be published as proposed.

I am copying this letter to the Private Secretaries to members of OD(K), the Lord Privy Seal, the Chief Whip, Lord Denham and Sir Robert Armstrong.

(C. D. POWELL)

Hugh Taylor, Esq.,
Home Office.

CONFIDENTIAL

Ry

CONFIDENTIAL



Yes

Prime Minister

Agree to publication of the white paper which gives effect to the nationality provisions

of the Hong Kong Act?

EDP 30/9.

PRIME MINISTER

.... This minute seeks your agreement, and that of other colleagues, to the publication of a White Paper, draft attached, on the nationality provisions of the Hong Kong Act 1985. The purpose of the White Paper is to present to Parliament the draft of an Order in Council to implement the nationality arrangements of the Sino-British Agreement on the future of Hong Kong. This draft is at Annex 1 of the draft White Paper.

You will recall that during the debates on the Hong Kong Bill in Parliament some concern was expressed that in a matter of such importance as nationality detailed amendments of the law were to be made by an Order in Council thereby restricting opportunity for Parliament to debate and seek to amend the provisions. It was therefore agreed to lay before Parliament a preliminary draft Order (which was described as "an Order with green edges") for full debate. We undertook to consider points made during those debates and to see whether they called for any changes to be made to the draft Order, recognising, of course, that the Order itself had to be consistent with the provisions of the Hong Kong Act. The draft Order would then subsequently be laid before Parliament again in the usual way.

We are committed to making the Order within a year of the passing of the Hong Kong Act: that is to say, by April 1986. We have also promised to introduce the preliminary draft well in advance of this date to give time to Parliament and the people of Hong Kong to assess it and to give their views. The Hong Kong Government have asked for a period of eight weeks for this purpose. This timetable points to publication of the White Paper in the middle of next month so that the debates on it could take place before Christmas.

The general lines of the nationality provisions were, as you know, settled during the negotiations with the Chinese, and embodied in the enabling provisions of the Hong Kong Act. The proposed Order in Council does no more than give more detailed legislative form to the agreement already reached, and there are no particular points to which I need draw your attention. The text of both has been agreed between my Department and the Foreign and Commonwealth Office and also with the Hong Kong Government. It seems unlikely that the White Paper will attract much public attention here, although there will be more interest in its provisions in Hong Kong. Comments made in Hong Kong will no doubt be reflected in Parliamentary debates here but insofar as people in Hong Kong may take the opportunity to revive the arguments about the general shape of the agreement reached with the Chinese, we shall have to make it quite clear that neither that agreement nor the terms of the subsequent legislation can now be altered.

I am copying this letter and enclosures to other OD(K) colleagues, and also to John Biffen, John Wakeham, Bertie Dunham and Sir Robert Armstrong. I should be grateful to know whether you and they are content. In order to allow time for printing and publication, which will take place simultaneously in London and Hong Kong, it would be helpful if any comments could reach me by 11 October.

Douglas Hurd

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30th

September 1985

Section 2(2).

SCHEDULE

SUPPLEMENTARY PROVISIONS

Preliminary

1. In this Schedule "the relevant date" means 1st July 1997 and "enactment" means any provision of an Act, other than this Act, passed before the relevant date and any provision of an instrument made before that date under any such Act.

Nationality

2.—(1) Her Majesty may by Order in Council make provision whereby—

(a) British Dependent Territories citizenship cannot be retained or acquired on or after the relevant date by virtue of a connection with Hong Kong; and

(b) persons who are British Dependent Territories citizens by virtue of any such connection may before that date (or before the end of 1997 if born in that year before the relevant date) acquire a new form of British nationality the holders of which shall be known as British Nationals (Overseas).

(2) An Order under this paragraph may require applications in respect of the new status mentioned in sub-paragraph (1)(b) above to be made before such time or times as are specified in the Order and may make provision whereby that status is to be held on and after the relevant date only by persons who are British Dependent Territories citizens immediately before that date.

(3) An Order under this paragraph may make provision for the avoidance of statelessness and may contain such supplementary, transitional and consequential provisions as appear to Her Majesty to be necessary or expedient for the purposes of the Order, including provisions amending the British Nationality Act 1981 and any other enactment.

1981 c. 61.

(4) No Order shall be made under this paragraph unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

Adaptation of law

3.—(1) Her Majesty may before the relevant date by Order in Council make such provision as appears to Her Majesty to be necessary or expedient in consequence of or in connection with the provisions of section 1(1) of this Act—

(a) for repealing or amending any enactment so far as it is part of the law of Hong Kong; and

(b) for enabling the legislature of Hong Kong to repeal or amend any enactment so far as it is part of that law and to make laws having extra-territorial operation.

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DRAFT 17/9/85

The Nationality Provisions of the
Hong Kong Act 1985

A draft Order-in-Council

Presented to Parliament by the
Secretary of State for the Home Department
by Command of Her Majesty
October 1985

Cmnd 000

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THE NATIONALITY PROVISIONS OF THE HONG KONG ACT 1985 A DRAFT ORDER IN COUNCIL

Introduction

The Hong Kong Act 1985 (c.15) received Royal Assent on 4 April 1985. It made provision for the ending of British sovereignty and jurisdiction over Hong Kong on 1 July 1997, in accordance with the terms of the Joint Declaration on the Question of Hong Kong reached between Her Majesty's Government and the Government of the People's Republic of China (hereafter "The Chinese Government"). Paragraph 2 of the Schedule to the Hong Kong Act conferred power to give effect by Order in Council to the provisions of the United Kingdom Memorandum associated with the Joint Declaration. The purpose of this White Paper is to present the text of a draft Order in Council, which is at Annex 1.

2. During the passage of the Hong Kong Bill Her Majesty's Government gave two undertakings concerning the Parliamentary handling of the proposed Order. The first was that it would be made within a year of the passing of the Bill, subject only to Parliament's own agreement (1). The second was that in view of the constitutional significance of the Order it should be subject to more extended Parliamentary scrutiny than the usual affirmative resolution procedure allows (2). Orders made under the affirmative resolution procedure require Parliament's positive approval, usually following a debate of one and a half hours, and cannot be amended, but merely accepted or rejected as a whole. It is Her Majesty's Government's intention to provide time for debates in both Houses on this White Paper and the annexed draft Order before the draft Order is re-presented for approval by each House of Parliament under the affirmative procedure. Her Majesty's Government will take careful note of points raised in

1. Official Report: Volume 71, Number 43, Column 735; Volume 460, Number 46, Column 484.
2. Official Report: Volume 72, Number 56, Column 1069, Volume 460, Number 46, Column 503.

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those debates and will consider if these call for any changes to be made in the terms of the draft Order (which must of course be consistent with the Joint Declaration and the Hong Kong Act) before it is re-presented for approval.

3. Her Majesty's Government hope that the widest possible consideration will now be given to the proposals in the draft Order both in Hong Kong and in the United Kingdom. Accordingly they have arranged for this White Paper to be published simultaneously in Hong Kong. They intend to allow ample time for the public to make known their views before initiating the first debates in both Houses. To assist the process of public consideration paragraphs 4 to 7 outline the background to the provisions which the draft Order will put into effect, and paragraphs 8 to 33 provide a commentary on the draft Order itself.

Background

4. The Joint Declaration on the Question of Hong Kong was accompanied by an exchange of Memoranda between Her Majesty's Government and the Chinese Government setting out their respective positions as to the status of British Dependent Territories citizens (BDTCs) in Hong Kong and related issues (Cmnd 9352). Her Majesty's Government in their Memorandum state that all those who on 30 June 1997 are BDTCs by virtue of a connection with Hong Kong will cease to have that status with effect from 1 July 1997, and it will not be possible to acquire BDT citizenship by virtue of a connection with Hong Kong on or after 1 July 1997. But those who will lose BDT citizenship will be eligible to retain an appropriate status (not to be acquired by anyone born on or after 1 July 1997) which will enable them to continue to use British passports, provided that they hold or are included in such a passport before 1 July 1997 (or up to 31 December 1997 if born in the first six months of that year). Arrangements will be made for the renewal and replacement of those passports by United Kingdom Consular Officers, and for the holders of such passports to receive British Consular protection when in third countries.

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The Chinese Government in their Memorandum state that all Hong Kong Chinese compatriots, whether they are holders of the BDTc passport or not, are Chinese nationals. But taking account of the historical background of Hong Kong and its realities, the competent authorities of the Chinese Government will, with effect from 1 July 1997, permit Chinese nationals in Hong Kong who were previously BDTcs to use travel documents issued by the United Kingdom Government for the purpose of travelling to other states and regions.

5. It follows from the terms of the United Kingdom Memorandum that the status that Hong Kong BDTcs will be eligible to retain will not be transmissible to any subsequent generation and that only those people who are already BDTcs by virtue of a connection with Hong Kong on 30 June 1997 may retain it.

6. The Hong Kong Act sets out the framework within which the Order in Council will fit. The Act allows for provision to be made by Order in Council whereby BDT citizenship cannot be retained or acquired on or after 1 July 1997 by virtue of a connection with Hong Kong, and whereby BDTcs by virtue of any such connection may before that date (or up to 31 December 1997 for persons born in the first six months of that year) acquire a new form of British nationality. The holders of the new nationality will be known as British Nationals (Overseas)(BN(O)). The Hong Kong Act also provides that such an Order may, inter alia:

- provide that the new status may be held on or after 1 July 1997 only by people who are BDTcs on 30 June 1997;
- make provision for the avoidance of statelessness; and
- make such other consequential provisions as may be necessary for the purpose of the Order, including provisions amending the British Nationality Act 1981 and any other enactment.

The annexed draft Order in Council has been prepared within this framework.

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7. Once the Order in Council has been finally approved by Parliament, arrangements will be made for those eligible to become BN(0)s to apply, if they so wish, for that status, together with the passports in which the status will be recorded. These arrangements are outside the scope of the draft Order and are being considered separately between Her Majesty's Government and the Government of Hong Kong. They will be announced in due course.

Commentary on the provisions in the draft Order (1)

Citation, commencement and extent.

8. Article 1 sets out the title and commencement date of the Order and ensures that it forms part of the law of Northern Ireland, the Channel Islands, the Isle of Man and the Dependent Territories. Commencement should be no later than 1 July 1987 in order to continue the present practice of issuing passports which have a 10 year validity period. This arrangement will also give maximum time for the issuing authorities to cope with applications for BN(0) passports, and for third countries to grow accustomed to the new nationality status.

Connections with Hong Kong

9. Articles 2 and 3 should be read with the provisions of paragraph 2(1)(a) of the Schedule to the Hong Kong Act.

10. Article 2(1) defines BDTs who are such by virtue of a connection with Hong Kong and who, unless they are also BDTs by virtue of a separate connection with another dependent territory (see paragraph 19 below) will therefore lose their BDT status on 1 July 1997 and be entitled to acquire BN(0) status. It encompasses all the Hong Kong BDTs listed in Annex 2, although in fact the great majority (about 3.19 million) of the roughly 3¼ million BDTs in Hong Kong are BDTs by birth, and about 53,000 are BDTs by registration or naturalisation. The various categories covered by Article 2(1)(a) to 2(1)(f) are dealt with in paragraphs 11 to 16 below.

1. The text of the Order refers, where appropriate, only to the masculine gender (ie he, his). The Interpretation Act 1978 provides that words importing the masculine gender include the feminine, and vice versa. The normal practice in United Kingdom legislation is to refer to the masculine gender in all suitable cases. The Order should therefore be taken to include the feminine gender.

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11. Article 2(1)(a) concerns BDTCs born, naturalised or registered in Hong Kong, or found abandoned there as newborn infants, or their children. These persons are considered to have a sufficient connection with Hong Kong for the purposes of the Order. This is subject to a qualification only in relation to persons born in Hong Kong on or after 1 January 1983, because of the provisions for the acquisition of BDTC status by birth under the British Nationality Act 1981. Under that Act persons born in Hong Kong on or after 1 January 1983 are not BDTCs unless at the time of their birth either of their parents is settled in a dependent territory or is a BDTC. Consequently article 2(3) of the Order provides that a person born in Hong Kong after 1 January 1983 is not taken to have a connection with Hong Kong for the purposes of the Order, notwithstanding that he or she is born in Hong Kong, unless either parent is settled in Hong Kong or is a BDTC by virtue of a connection with Hong Kong. For example, a child born in Hong Kong on or after 1 January 1983 to parents who are BDTCs by virtue of a connection with Gibraltar and who are in Hong Kong temporarily will not lose his or her BDTC status in 1997 just because of his or her birth in Hong Kong (see paragraph 18 below).

12. Article 2(1)(b) concerns people who became BDTCs through adoption by parents who are Hong Kong BDTCs. This accords with the provision for acquisition of BDTC status by adoption under section 15(5) of the British Nationality Act 1981 whereby a child adopted in a Dependent Territory becomes a BDTC if the adopter or, in the case of joint adoption, one of the adopters is a BDTC. It follows that adoption in Hong Kong is not necessarily sufficient in itself to establish a connection with Hong Kong for the purposes of the Order. On the other hand, adoption in another dependent territory may in some circumstances establish such a connection. This article is therefore so framed as to ensure that a person is considered to have a connection with Hong Kong for the purposes of the Order if he or she is adopted by parents either of whom is a BDTC by virtue of a connection with Hong Kong, regardless of where the adoption actually took place.

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13. Article 2(1)(c) is concerned with people registered outside Hong Kong. Registration may have taken place outside Hong Kong on the basis of a connection with Hong Kong, particularly as certain of the provisions for registration contained in the British Nationality Act 1948 did not contain any residential qualifications. Examples of persons who come within Article 2(1)(c) are:

a) A child born and registered outside Hong Kong before 1 January 1983 under section 7(1) of the British Nationality Act 1948 (which provided for the registration of the minor children of citizens of the United Kingdom and Colonies (CUKCs)) where the mother was born in Hong Kong and the father was an alien; and

b) An alien woman registered outside Hong Kong before 1 January 1983 under section 6(2) of the British Nationality Act 1948 (which provided for the registration of the wives of CUKCs) on the basis of her marriage to a CUKC born in Hong Kong.

No similar provision is necessary for naturalisation outside Hong Kong because, generally speaking, naturalisation in any dependent territory is based on qualifying residence or service in that territory.

14. Article 2(1)(d) concerns people born in another dependent territory to parents settled in Hong Kong at the time of the birth. It is consistent with the provisions of section 15(1)(b) of the British Nationality Act 1981, whereby a person born in a Dependent Territory to a non-BDTC settled in a Dependent Territory acquires British Dependent Territories citizenship at birth. The term "settled" in a Dependent Territory is defined in section 50(2) of the British Nationality Act 1981 as "being ordinarily resident in ... that territory without being subject under the Immigration laws to any restriction on the period for which he might remain". A person settled in Hong Kong who leaves Hong Kong temporarily still remains settled in Hong Kong, and is therefore covered by this provision. Thus the child of a person settled in Hong Kong who is born in another dependent territory while his or her parents are temporarily absent from Hong Kong is regarded as having a connection with Hong Kong for the purposes of the Order. But the child born in another dependent territory of persons who have left Hong Kong permanently to

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settle elsewhere, and are therefore no longer settled in Hong Kong, is not regarded as having such a connection. If the parent in question is not only settled in Hong Kong but is also a Hong Kong BDTC, any children born outside Hong Kong will also be covered by one or more of the other provisions of Article 2(1).

15. Article 2(1)(e) refers to BDTCs who are such through a grandparental connection. This accords with section 23(1)(b) of the British Nationality Act 1981, which provides that a citizen of the United Kingdom and Colonies (CUKC) born to a person who was a CUKC by his or one of his parents birth, naturalisation or registration in a Dependent Territory became a BDTC on 1 January 1983.

16. Article 2(1)(f) refers to women who became BDTCs by marriage in the circumstances set out in section 23(1)(c) of the British Nationality Act 1981. This provides that a woman who was a CUKC immediately before 1 January 1983 became a BDTC on that date if she was then, or had at any time been, the wife of a man who became a BDTC on 1 January 1983, or who would have done so but for his death.

17. Article 2(2) defines the term registration in paragraph (1). Were the term "registered" to be left undefined there could be some doubt whether it included registration as a citizen of the United Kingdom and Colonies under the British Nationality Act 1948.

18. Article 2(3) provides that children born in Hong Kong on or after 1 January 1983 shall not be regarded as having a connection with Hong Kong if their parents were only there temporarily, or if neither of them was a Hong Kong BDTC. It accords with the way in which BDTC citizenship is acquired at birth under the British Nationality Act 1981. The same provision cannot be made for persons born before 1983: prior to 1983, birth in Hong Kong was in itself sufficient to confer citizenship of the United Kingdom and Colonies, and thus to establish a clear connection with Hong Kong irrespective of the nationality or immigration status of the parents.

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Loss of British Dependent Territories citizenship

19. Article 3 provides for those people identified under Article 2(1) as BDTCs by virtue of a connection with Hong Kong to lose that citizenship on 1 July 1997. But it does not affect those persons who can also establish an independent route to BDT citizenship by an exclusive connection with another Dependent Territory. Such people will retain their BDT citizenship. Examples are:

- a) a person born after 1 January 1983 in Bangkok to a father who was born in Hong Kong and a mother who was born in Gibraltar; and
- b) a child jointly adopted after 1 January 1983 in Bermuda where the mother is a BDTC by virtue of birth in Hong Kong, and the father is a BDTC by virtue of birth in Bermuda.

Right to acquire new status of British National (Overseas).

20. Article 4(1) specifies the date on which BN(0) status will come into being. For the reasons explained in paragraph 8 above it is intended that it should be introduced 10 years before 1 July 1997.

21. Article 4(2) enables Hong Kong BDTCs who will lose that citizenship on 1 July 1997 to have an entitlement to acquire BN(0) status and to hold or be included in a passport appropriate to that status. The reference to passports is consistent with the terms of the United Kingdom Memorandum (see paragraph 4 above).

22. Article 4(3) accords with the terms of the United Kingdom Memorandum. In order to be eligible to acquire BN(0) status a person must be a British Dependent Territories citizen on 30 June 1997. A person who acquires BN(0) status and who subsequently renounces or is deprived of BDTC status before 30 June 1997 will not meet this requirement, and thus cannot retain BN(0) status beyond that date. This Article therefore provides for BN(0) status to be lost at the same time as the renunciation or deprivation of BDTC status if this is done before July 1997.

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Removal of Hong Kong from list of Dependent Territories

23. Article 5 deletes Hong Kong from the list of British Dependent Territories in Schedule 6 to the British Nationality Act 1981 as from 1 July 1997.

Provisions for reducing statelessness

24. Article 6 sets out the provisions proposed during the debates on the Hong Kong Bill for avoiding or reducing statelessness. The underlying principle is that no one who loses BDTC status as a result of the Order (hereafter "former BDTC") nor any child born on or after 1 July 1997 to such a person, should be stateless as a result of the Joint Declaration. This principle was extended in the Committee stage of the Hong Kong Bill in the House of Lords to the grandchildren of former BDTCs if they are born stateless (1). The provisions in respect of these grandchildren parallel those of section 17(2) and (3) of the British Nationality Act 1981. These provide that a child born stateless outside the Dependent Territories is entitled to be registered as a BDTC if an application is made within 12 months of the birth and if:

- a) his or her mother or father ("the parent in question") was a BDTC by descent at the time of the birth and
- b) the father or mother of the parent in question was a BDTC otherwise than by descent at the time of the birth of the parent in question, or became such a BDTC on 1 January 1983, or would have done so but for his or her death.

1. Official Report: Volume 461, Number 60, Columns 237-8

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25. Article 6(1) provides that those Hong Kong BDTs who have not acquired BN(0) status, for whatever reason, should automatically acquire British Overseas citizenship (BOC) on 1 July 1997 if they would otherwise be stateless. In addition it makes similar provision for persons who cease to be BN(0)s on 1 July 1997 under Article 4(3), if they too would otherwise be stateless.

26. Article 6(2) confers British Overseas citizenship automatically at birth on children born on or after 1 July 1997 to former Hong Kong BDTs if those children would otherwise be stateless. It covers such children both of Hong Kong BDTs who became BN(0)s, and of those who failed to acquire BN(0) status, and who themselves became BOCs under Article 6(1).

27. Article 6(3) and (4) fulfil Her Majesty's Government's commitments to grandchildren born after 1 July 1997, of former Hong Kong BDTs if the grandchildren are born stateless. It was proposed during the passage of the Hong Kong Bill that the automatic provisions made for the first generation should not apply to the second generation, but that they should have an entitlement to registration as BOCs parallel to the entitlement to registration as BDTs provided by sections 17(2) and (3) of the British Nationality Act 1981, which are described in paragraph 24 above.

28. Article 6(5) qualifies Article 6(3) to the extent that section 17(4) of the British Nationality Act 1981 qualifies section 17(2). That is to say, it empowers the Secretary of State to accept an application within 6 years rather than 12 months of birth, if he thinks fit in the special circumstances of any particular case.

Amendments to British Nationality Act 1981

29. Article 7 sets out the amendments which will be necessary to the 1981 Act.

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30. Article 7(2) includes BN(0)s in the categories of those eligible to apply for registration as British citizens under section 4 of the British Nationality Act 1981.

31. Article 7(3) provides that BN(0)s will remain Commonwealth citizens in line with other British nationals.

32. Article 7(4) - 7(12) encompasses all the other amendments which will be necessary to the British Nationality Act 1981 and to the British Nationality (Falkland Islands) Act 1983. In particular, Article 7(4)(d) ensures that no fee will be charged for registration as a BN(0).

Consequential amendments

33. Article 8 relates to the various consequential amendments to the other enactments set out in the Schedule to the Order.

Conclusion

34. Her Majesty's Government hope that the early publication of the annexed draft Order will provide the basis for informed discussion of its provisions, and that the interested public - in particular Hong Kong BDTCs - will make their views known before the forthcoming Parliamentary debates.

DRAFT HONG KONG (BRITISH NATIONALITY) ORDER

ARRANGEMENT OF ARTICLES

1. Citation, commencement and extent.
 2. Connections with Hong Kong.
 3. Loss of British Dependent Territories citizenship.
 4. Right to acquire new status of British National (Overseas).
 5. Removal of Hong Kong from list of dependent territories.
 6. Provisions for reducing statelessness.
 7. British Nationality Acts.
 8. Consequential amendments.
- Schedule: Consequential amendments.

CONFIDENTIAL**DRAFT HONG KONG (BRITISH NATIONALITY) ORDER****Citation, commencement and extent**

1.-(1) This Order may be cited as the Hong Kong (British Nationality) Order 1986 and shall come into operation on 1st July 1987.

(2) This Order extends to Northern Ireland.

(3) This Order extends to the Channel Islands and the Isle of Man and to all dependent territories.

Connections with Hong Kong

2.-(1) For the purposes of this Order a person shall be taken to have a connection with Hong Kong if -

(a) subject to paragraph (3) below, he, his father or his mother was born, naturalised or registered in Hong Kong or found abandoned there as a newborn infant; or

(b) he, his father or his mother was adopted (whether or not in Hong Kong) and the adopter or, in the case of a joint adoption, one of the adopters was at the time of the adoption a British Dependent Territories citizen by virtue of his having a connection with Hong Kong as specified in this Article; or

(c) he, his father or his mother was registered outside Hong Kong on an application based (wholly or partly) on any of the following:-

- (i) residence in Hong Kong;
- (ii) descent from a person born in Hong Kong;
- (iii) descent from a person naturalised, registered or settled in Hong Kong

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- (whether before or after the birth of the person registered);
- (iv) descent from a person adopted (whether or not in Hong Kong) in the circumstances specified in subparagraph (b) above;
 - (v) marriage to a person who is a British Dependent Territories citizen by virtue of his having a connection with Hong Kong as specified in this Article or would have been so but for his death or renunciation of citizenship;
 - (vi) Crown service under the government of Hong Kong;
 - (vii) where citizenship has been renounced and subsequently resumed, birth, naturalisation or registration in Hong Kong; or
- (d) at the time of his birth his father or mother was settled in Hong Kong; or
- (e) his father or mother was born to a parent who at the time of the birth was a citizen of the United Kingdom and Colonies by virtue of his having a connection with Hong Kong as specified in this Article; or

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(f) being a woman, she was married before 1st January 1983 to a person who is a British Dependent Territories citizen by virtue of his having a connection with Hong Kong as specified in this Article or would have been so but for his death.

(2) In paragraph (1) above "registered" means registered as a British Dependent Territories citizen or, before 1st January 1983, as a citizen of the United Kingdom and Colonies.

(3) A person born in Hong Kong on or after 1st January 1983 shall not be taken to have a connection with Hong Kong under paragraph (1)(a) above by virtue of his birth there unless, at the time of his birth, one of his parents was -

- (a) settled in Hong Kong; or
- (b) a British Dependent Territories citizen by virtue of his having a connection with Hong Kong as specified in this Article.

Loss of British Dependent Territories citizenship

3. Any person who, immediately before 1st July 1997 -
- (a) is a British Dependent Territories citizen by virtue (wholly or partly) of his having a connection with Hong Kong; and
 - (b) but for his having a connection with Hong Kong would not be a British Dependent Territories citizen,

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shall on that date cease to be such a citizen. -

Right to acquire new status of British National (Overseas)

4.-(1) On and after 1st July 1987 there shall be a new form of British nationality the holders of which shall be known as British Nationals (Overseas).

(2) Any person who is a British Dependent Territories citizen by virtue (wholly or partly) of his having a connection with Hong Kong and who, but for his having a connection with Hong Kong, would not be such a citizen shall be entitled, before 1st July 1997 (or before the end of 1997 if born in that year before that date), to be registered as a British National (Overseas) and to hold or be included in a passport appropriate to that status.

(3) Any person who, having become a British National (Overseas) by virtue of paragraph (2) above, ceases at any time before 1st July 1997 to be a British Dependent Territories citizen shall at the same time cease to be a British National (Overseas).

Removal of Hong Kong from list of dependent territories

5. On and after 1st July 1997 the British Nationality Act 1981^(a) shall have effect as if in Schedule 6 to that Act (British Dependent Territories) the words "Hong Kong" were omitted.

Provisions for reducing statelessness

6.-(1) Where a person ceases on 1st July 1997 by virtue of Article 3 to be a British Dependent Territories citizen and would, but for this paragraph, thereby be rendered stateless, he shall become on that date a British Overseas citizen.

(a) 1981 c.61.

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(2) Where a person born on or after 1st July 1997 would, but for this paragraph, be born stateless, then, if at the time of the birth his father or mother is a British National (Overseas) or a British Overseas citizen by virtue of paragraph (1) above, he shall be a British Overseas citizen.

(3) A person born stateless on or after 1st July 1997 outside the dependent territories shall be entitled, on an application for his registration as a British Overseas citizen made within the period of twelve months from the date of the birth, to be registered as such a citizen if the requirements specified in paragraph (4) below are fulfilled in the case of either that person's father or his mother ("the parent in question").

(4) The requirements referred to in paragraph (3) above are -

- (a) that the parent in question was a British Overseas citizen by virtue of paragraph (2) above at the time of the birth; and
- (b) that the father or mother of the parent in question was, immediately before 1st July 1997, a British Dependent Territories citizen otherwise than by descent by virtue of having a connection with Hong Kong or would have been so but for his or her death.

(5) If in the special circumstances of any particular case the Secretary of State thinks fit, he may treat paragraph (3) above as if the reference to twelve months were a reference to six years.

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British Nationality Acts

7.-(1) The British Nationality Act 1981^(a) ("the 1981 Act") and the British Nationality (Falkland Islands) Act 1983^(b) ("the 1983 Act") shall have effect subject to the following provisions of this Article.

(2) Section 4(1) of the 1981 Act (acquisition by registration: British Dependent Territories citizens, etc.) shall have effect as if after the words "British Dependent Territories citizen," there were inserted the words "a British National (Overseas),".

(3) Section 37 of the 1981 Act (Commonwealth citizenship) shall have effect as if in subsection (1)(a) -

(a) the reference to the 1981 Act included a reference to this Order;

(b) after the words "British Dependent Territories citizen," there were inserted the words "a British National (Overseas),".

(4) Section 41 of the 1981 Act (regulations and Orders in Council) shall have effect as if -

(a) any reference in it to the 1981 Act included a reference to this Order;

(b) in subsection (1)(f) after the word "citizenship" there were inserted the words "or of the status of a British National (Overseas)";

(c) in subsection (1)(i) after the words "British Dependent Territories citizens," there were inserted the words "British Nationals (Overseas),";

(a) 1981 c.61.

(b) 1983 c.6.

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(d) in subsection (2) -

(i) at the end of paragraph (a) there were inserted the words "other than an application for the purpose of acquiring the status of a British National (Overseas)";

(ii) at the end of paragraph (b) there were inserted the words "other than registration as a British National (Overseas)".

(5) Section 42 of the 1981 Act (registration and naturalisation: general provisions) shall have effect as if -

(a) in subsection (2)(b) after the words "British Dependent Territories citizen," there were inserted the words "a British National (Overseas),";

(b) in subsection (4) -

(i) the reference to the 1981 Act included a reference to this Order;

(ii) after the words "British Dependent Territories citizen" there were inserted the words ", or as a British National (Overseas),";

(iii) after the words "as the case may be," there were inserted the words "a British National (Overseas) or".

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(6) Section 43 of the 1981 Act (exercise of functions of Secretary of State by Governors and others) shall have effect as if -

- (a) any reference in it to the 1981 Act included a reference to this Order;
- (b) in subsection (1)(b) at the end there were inserted the words "and in cases concerning British Nationals (Overseas) or the status of a British National (Overseas)";
- (c) in subsection (2) at the end there were inserted the following paragraph -

"(c) renunciation and deprivation of the status of a British National (Overseas)."

(7) The following provisions of the 1981 Act shall have effect as if any reference in them to the 1981 Act included a reference to this Order, namely -

- (a) section 45 (evidence);
- (b) section 46(1) (offences);
- (c) sections 47 and 48 (legitimated and posthumous children).

(8) Section 50 of the 1981 Act (interpretation) shall have effect as if in paragraph (1) after the definition of "association" there were inserted the following definitions:-

"British National (Overseas)" means a person who is a British National (Overseas) under the Hong Kong (British Nationality) Order 1986, and "status of a British National (Overseas)" shall be construed accordingly;

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"British Overseas citizen" includes a person who is a British Overseas citizen under the Hong Kong (British Nationality) Order 1986.

(9) Section 51 of the 1981 Act (meaning of certain expressions relating to nationality in other Acts and instruments) shall have effect as if in subsection (3) -

(a) at the end of paragraph (a)(ii) there were inserted the words "or who under the Hong Kong (British Nationality) Order 1986 is a British National (Overseas)";

(b) in paragraph (b) after the words "British Dependent Territories citizen" there were inserted the words "nor a British National (Overseas)".

(10) The provisions of section 12 of the 1981 Act (renunciation) shall apply in relation to British Nationals (Overseas) and the status of a British National (Overseas) as they apply in relation to British citizens and British citizenship.

(11) The provisions of section 40 of the 1981 Act (deprivation of British citizenship) shall apply in relation to persons registered as British Nationals (Overseas) under this Order and the status of a British National (Overseas) as they apply in relation to persons registered as British citizens under the 1981 Act and British citizenship.

(12) Section 2 of the 1983 Act (acquisition of British citizenship by registration) shall have effect as if -

(a) in subsection (1)(a) at the end there were inserted the words "or who, having become such a citizen by virtue of that section, is a British National (Overseas)";

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(b) in subsection (2)(a) at the end there were inserted the words "or who, having become such a citizen by virtue of registration or naturalisation under the 1981 Act, is a British National (Overseas)".

Consequential amendments

8. The enactments specified in the Schedule to this Order shall have effect subject to the amendments there specified, being amendments consequential on the provisions of this Order.

CONSEQUENTIAL AMENDMENTS

WEST INDIES ACT 1967^(a)

1. In section 13(3) (power to make changes in nationality or citizenship law in certain events), after "British Dependent Territories citizens" insert ", British Nationals (Overseas)".

2. In Schedule 3 (modifications of British Nationality Acts), in paragraph 5 after "status of" insert "British National (Overseas) or".

MARINE ETC BROADCASTING (OFFENCES) ACT 1967^(b)

In section 3(3) (persons prohibited from broadcasting whilst on or over high seas), after "British Dependent Territories citizen" insert ", a British National (Overseas)".

ANTARCTIC TREATY ACT 1967^(c)

In section 1(3) (persons prohibited from harming Antarctic flora and fauna), after "British Dependent Territories citizen" insert ", a British National (Overseas)".

CONSULAR RELATIONS ACT 1968^(d)

In section 1(2) (meaning of certain terms in Schedule 1), after "British Dependent Territories citizen" insert ", a British National (Overseas)".

-
- (a) 1967 c.4; section 13(3) and Schedule 3 were amended by the British Nationality Act 1981, Schedule 7.
 - (b) 1967 c.41; section 3(3) was amended by the British Nationality Act 1981, Schedule 7.
 - (c) 1967 c.65; section 1(3) was amended by the British Nationality Act 1981, Schedule 7.
 - (d) 1968 c.18; section 1(2) was amended by the British Nationality Act 1981, Schedule 7.

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CHILDREN ACT 1975^(a)

1. In Part II of Schedule 1 (adoption orders), after "British Dependent Territories citizenship" insert ", the status of a British National (Overseas)".

2. In Schedule 2 (status conferred in Scotland by adoption), after "British Dependent Territories citizenship" insert ", the status of a British National (Overseas)".

ADOPTION ACT 1976^(b)

In section 47(2) (nationality enactments), after "British Dependent Territories citizenship" insert ", the status of a British National (Overseas)".

ADOPTION (SCOTLAND) ACT 1978^(c)

In section 41(2) (nationality enactments), after "British Dependent Territories citizenship" insert ", the status of a British National (Overseas)".

STATE IMMUNITY ACT 1978^(d)

In section 4(5) (definition of "national of the United Kingdom"), after "British Dependent Territories citizen" insert ", a British National (Overseas)".

DEEP SEA MINING (TEMPORARY PROVISIONS) ACT 1981^(e)

1. In section 1(6) (meaning of certain terms in section 1), after "British Dependent Territories citizen" insert ", a British National (Overseas)".

-
- (a) 1975 c.72; Schedules 1 and 2 were amended by the British Nationality Act 1981, Schedule 7.
 (b) 1976 c.36; section 47(2) was amended by the British Nationality Act 1981, Schedule 7.
 (c) 1978 c.28; section 41(2) was amended by the British Nationality Act 1981, Schedule 7.
 (d) 1978 c.33; section 4(5) was amended by the British Nationality Act 1981, Schedule 7.
 (e) 1981 c.53; sections 1(6) and 14(3) were amended by the British Nationality Act 1981, Schedule 7.

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2. In section 4(3) (persons who may be guilty of offences under regulations), after "British Dependent Territories citizen" insert ", a British National (Overseas)".

CIVIL AVIATION ACT 1982^(a)

In section 105(1) (general interpretation), in the definition of "United Kingdom national" after "a British Dependent Territories citizen" insert ", a British National (Overseas)".

AVIATION SECURITY ACT 1982^(b)

In section 38(1) (interpretation, etc.), in the definition of "United Kingdom national" after "British Dependent Territories citizen" insert ", a British National (Overseas)".

CAPITAL TRANSFER TAX ACT 1984^(c)

In section 155(1) (visiting forces, etc.), after "British Dependent Territories citizen" insert ", a British National (Overseas)".

COMPANY SECURITIES (INSIDER DEALING) ACT 1985^(d)

In section 15(3) (expressions used in section 6), after "British Dependent Territories citizens" insert ", British Nationals (Overseas)".

(a) 1982 c.16.
(c) 1984 c.51.

(b) 1982 c.36.
(d) 1985 c.8.

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PERSONS WHO ARE BRITISH DEPENDENT TERRITORIES CITIZENS (BDTCs) BY
VIRTUE OF A CONNECTION WITH HONG KONG

(References throughout are to the relevant section of or schedule to the British Nationality (BN) Act 1981).

A. Those citizens of the UK and Colonies (CUKCs) who became BDTCs
on 1 January 1983 by reason of a connection with Hong Kong

Reference to
Article 2(1) of
the draft Order

- 2(1)(a) 1. A CUKC born in Hong Kong; S.23(1)(a).
- 2(1)(a) 2. A CUKC born to a parent who at the time of birth was a CUKC by his birth, naturalisation or registration in Hong Kong; S.23(1)(b).
- 2(1)(a) 3. A CUKC found abandoned and deemed to have been born in Hong Kong under section 2(2) of the BN(No 2) Act 1964; S.23(1)(a).
- 2(1)(a) 4. A CUKC by naturalisation in Hong Kong; S.23(1)(a).
- 2(1)(a) 5. A CUKC by registration in Hong Kong under:
- a) Section 5A(2) of the BN Act 1948 (Commonwealth citizenship and ordinary residence or relevant employment; S.23(1)(a).
 - b) Section 6(1) of the BN Act 1948 (ordinary residence or Crown service); S.23(1)(a).
 - c) Section 6(2) of the BN Act 1948 (marriage to a man who had at any time been a CUKC); S.23(1)(a), S.23(1)(c).
 - d) Section 7 of the BN Act 1948 (registration of minors); S.23(1)(a).

e) Section 1 of the BN Act 1964 (resumption of citizenship);
S.23(1)(a).

f) Section 12(6) of the BN Act 1948 as amended by section
3(1)(b)(iii) of the BN Act 1958 (descent in the male line
from a CUKC born or naturalised in the UK and Colonies);
S.23(3).

g) Section 1 of the BN(No 2) Act 1964 (stateless persons);
S.23(1)(a).

6. A CUKC by registration outside Hong Kong under:

2(1)(c)(i)(vi) a) Section 5A(2) of the BN Act 1948 (Commonwealth citizenship
and ordinary residence or relevant employment); S.23(1)(a).

2(1)(c)(i)(vi) b) Section 6(1) of the BN Act 1948 (ordinary residence or Crown
Service); S.23(1)(a).

on the grounds of ordinary residence in Hong Kong, relevant
employment or Crown Service under the Hong Kong Government, as
the case may be.

2(1)(c)(v) 7. A CUKC by registration outside Hong Kong under Section 6(2) of
the BN Act 1948 where the husband was a CUKC through a
connection with Hong Kong as specified in Article 2(1) of the
draft Order; S.23(1)(c).

2(1)(c)(ii)
2(1)(c)(iii) 8. A CUKC by registration outside Hong Kong under section 7(1) of
the BN Act 1948 who had a parent who was a CUKC at the time of
registration and became a BDTC, or would have done so but for
his or her death, by reason of his or his father's birth,
naturalisation or registration in Hong Kong; S. 23(2).

2(1)(c)(ii)
2(1)(c)(iii) 9. A CUKC by registration outside Hong Kong under section 1 of the
BN (No 2) Act 1964 whose mother was a CUKC at the time of
registration and became a BDTC, or would have done so but for
her death, by reason of her or her father's birth, registration
or naturalisation in Hong Kong; S.23(2).

2(1)(c)(ii) 10. A CUKC registered outside Hong Kong under section 12(6) of the
2(1)(c)(iii) BN Act 1948 as amended by section 3(1)(b)(iii) of the BN Act
1958 by virtue of descent in the male line from a person born or
naturalised in Hong Kong; S.23(3).

2(1)(c)(ii) 11. A CUKC registered outside Hong Kong under section 1 of the BN
2(1)(c)(iii) Act 1964 (resumption) by virtue of a qualifying connection with
2(1)(c)(v) Hong Kong, or, if a woman, by virtue of having been married to a
man who had such a connection; S.23(4).

(A person has a qualifying connection with Hong Kong for the purposes of this section if he, his father or father's father was born, registered or naturalised in Hong Kong).

2(1)(e) 12. A CUKC born to a parent who at the time of the birth was a CUKC
and was himself born to a CUKC by birth, naturalisation or
registration in Hong Kong; S.23(1)(b).

2(1)(e) 13. A child who was a CUKC by descent under section 5(1)(b) of the
BN Act 1948 by reason of his birth being registered at a UK
Consulate and had a grandparent who was a CUKC by reason of
birth, naturalisation or registration in Hong Kong; S.23(1)(b).

2(1)(f) 14. A woman who was married before 1 January 1983 to a person who is
a BDTC by virtue of a connection with Hong Kong as specified in
Article 2 of the draft Order or would have been so but for his
death; S.23(1)(c).

B. Those who became BTDCs on or after 1 January 1983 by reason of a
connection with Hong Kong

2(1)(a) 1. A person born in Hong Kong to a parent who was at the time of
2(1)(d) the birth a BDTC by birth, registration or naturalisation in
Hong Kong, or who was settled in Hong Kong; S.15(1).

2(1)(a) 2. A person found abandoned in Hong Kong as a new-born infant;
S.15(2).

- 2(1)(a) 3. A person naturalised in Hong Kong; S.18(1), S.18(2).
- 2(1)(a)
2(1)(c)(ii)(iii) 4. A person born in Hong Kong and registered as a BDTC by reason of a parent becoming settled in Hong Kong or registered or naturalised in Hong Kong; S.15(3).
- 2(1)(a)
2(1)(c)(i) 5. A person born in Hong Kong and registered as a BDTC by reason of residence in Hong Kong for the first ten years of his/her life; S.15(4).
- 2(1)(a) 6. A person registered in Hong Kong as a BDTC whilst a minor under:
a) section 17(1) (Secretary of State's discretion);
b) section 17(2) (entitlement within 12 months of birth outside the dependent territories if certain residence or other requirements are met); and
c) section 17(5) and (6) (entitlement after 3 years residence in a dependent territory if born to a BDTC by descent).
- 2(1)(a)
2(1)(c)(i) 7. A person registered as a BDTC on an application based on the grounds of ordinary residence in Hong Kong since 1 January 1973; S.19.
- 2(1)(a)
2(1)(c)(v) 8. A woman registered as a BDTC on an application made within five years after commencement on the grounds that immediately before 1 January 1983 she would, had she applied for it, have been entitled to registration as a CUKC under section 6(2) by virtue of:
a) her marriage to a man who was then her husband and who became on 1 January 1983 a BDTC by virtue of any of serial A 1-13 above, provided that he had not renounced BDTC up to the date of application, and they remained married throughout the period; S.20(1).
b) having been married to a man she was no longer married to on the date of application, and who became, or would but for his death have become, a BDTC by virtue of any of serial A 1-13 above; S.20(2).

c) being married to a man who was her husband on the date of application and who either became a BDTC on 1 January 1983 by virtue of any of serial A 1-13 above but who had renounced BDTC; or who would have become such a BDTC but for his having renounced CUKC; S.20(3).

2(1)(a) 9. A person born in a foreign country within 5 years of the
2(1)(c)(ii,iii) commencement of the BN Act 1981 and registered as a BDTC on an application made within 12 months of the birth, and whose grandfather was born, naturalised or registered in Hong Kong; S.21.

2(1)(a) 10. A person registered as a BDTC on the grounds that immediately
2(1)(c)(ii,iii,v) before 1 January 1983 he would, had he applied, have been entitled to register under section 1 of the BN Act 1964 (resumption) as a CUKC by virtue of having an appropriate qualifying connection with Hong Kong, or, if a woman, by virtue of having been married before 1 January 1983 to a person who has, or would if living, have had such a connection; S.22(1).

(A person has a qualifying connection with Hong Kong for the purposes of this section if he, his father or father's father was born, registered or naturalised in Hong Kong).

2(1)(a) 11. A person registered as a BDTC on the grounds that he had before
2(1)(c) 1 January 1983 ceased to be a CUKC as the result of a
(ii,iii,v,vii) declaration of renunciation and had an appropriate qualifying connection with Hong Kong, or, if a woman, by virtue of having been married before 1 January 1983 to a person who has, or would if living, have had such a connection; S.22(2).

(A person has a qualifying connection with Hong Kong if he, his father or father's father was born, registered or naturalised in Hong Kong).

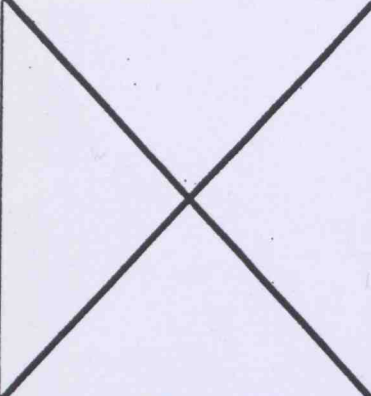
2(1)(a) 12. A person born on or after 1 January 1983 outside the United
2(1)(c)(ii,iii,vi) Kingdom and dependent territories who is stateless and registered as a BDTC on the grounds that at the time of birth his father or mother was a BDTC by virtue of a connection with Hong Kong as set out in Article 2(1) of the draft Order; Schedule 2, paragraph 4.

- 2(1)(a) 13. A person born in Hong Kong on or after 1 January 1983 who was
 2(1)(c)(i) stateless and was registered as a BDTC on the grounds of
 residence in Hong Kong; Schedule 2, paragraph 3.
- 2(1)(a) 14. A person born outside Hong Kong before 1 January 1983 and
 2(1)(c)(ii,iii,vi) registered as a BDTC on the grounds that if section 1 of the BN
 (No 2) Act 1964 had been in force he would have been entitled to
 be registered as a CUKC and whose mother became or would but for
 her death have become a BDTC by reason of birth, naturalisation
 or registration in Hong Kong; Schedule 2, paragraph 5.
- 2(1)(b) 15. A person adopted, whether or not in Hong Kong, and the adopter
 or one of the adopters is a BDTC on the date of the adoption
 order by virtue of a connection with Hong Kong as set out in
 Article 2(1) of the draft Order; S.15(5).
- 2(1)(d) 16. A person born in the dependent territories outside Hong Kong to
 a parent who was at the time of birth settled in Hong Kong, or
 who was a BDTC by virtue of a connection with Hong Kong as set
 out in Article 2(1) of the draft Order; S.15(1).
- 2(1)(a) 17. A person born outside the Dependent Territories to a
 2(1)(b) parent who is a BDTC otherwise than by descent by reason of
 birth, adoption, naturalisation or registration in Hong Kong;
 S.16.
- 2(1)(a) 18. A person who was a BDTC by virtue of a connection with Hong Kong
 2(1)(c) as set out in Article 2(1) of the draft Order and who had ceased
 (ii,iii,vi,vii) to be a BDTC as the result of a declaration of renunciation of
 BDT citizenship, but subsequently registered as a BDTC; S.24.
- 2(1)(a) 19. A person born in the United Kingdom on or after 1 January 1983,
 who is a BDTC on the grounds that he would otherwise be
 stateless and one of his parents is a BDTC by virtue of a
 connection with Hong Kong as set out in Article 2(1) of the
 draft Order; Schedule 2, paragraph 1.

NOTE

In serials B1, B6(c), B8, B14 and B17 above reference to a person who was a BDTC at the time of his or her child's birth should be taken to include persons who would have been such but for their death.

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DEPARTMENT/SERIES <i>PRGM 19</i> PIECE/ITEM <i>1798</i> (one piece/item number)	Date and sign
Extract details: <i>NA PANTLING TO DAVID BARCLAY</i> <i>DATED 17 JANUARY 1985</i> <i>WITH ATTACHED DRAFT LETTER</i>	
CLOSED UNDER FOI EXEMPTION	
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Enter the department and series,
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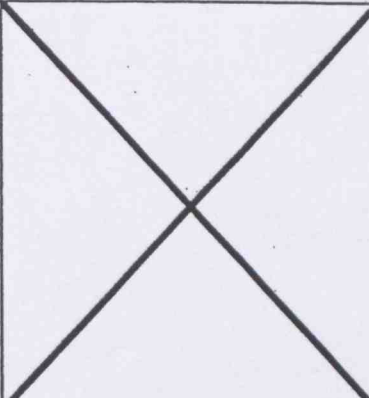
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DEPARTMENT/SERIES <i>prem 19</i> PIECE/ITEM <i>1798.</i> (one piece/item number)	Date and sign
Extract details: <i>SIR BRIAN CUBBON TO LORD PENNOCK</i> <i>DATED 5 JUNE 1984</i>	
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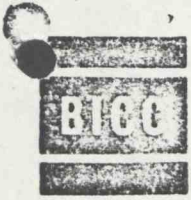
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201

18/5/2

C

Mr Moore
for advice please



BICC plc

P.O. Box 5 . 21 Bloomsbury Street . London WC1B 3QN . England

Telephone: 01-637 1300 - Telex: 23463 & 28624 - Telegraphic Address: Bicalbest London WC1

The Lord Pennock
Chairman

Your Ref:

Our Ref:

Sir Brian Cubbon
Permanent Secretary
The Home Office
50 Queen Anne Gate
London SW1

16 May 1984

PERMANENT UNDER
RECEIVED
17 MAY 1984
SECRETARY OF STATE

Who might
write - etc
not me -
the plan
etc

Dear *Brian*,

After our discussion at Sunningdale I promised to send you a copy of the letter I received about Bill Stones' problem in Hong Kong. If you could advise me roughly along the lines we discussed it would be of great help.

I hope you enjoyed the weekend, it is always a tonic for the industrialists.

Lucy,

Lucy

Sunmisaalc.

China Light & Power Company, Limited

147 Argyle Street, Kowloon, Hong Kong

Tel. 3-7111386 3-7115111

Telex 44438 Light HK

1st May, 1984

RECEIVED

- 8 MAY 1984

BY
THE LORD PENNOCK

PRIVATE & CONFIDENTIAL

Lord Pennock
Chairman
BICC Limited
P. O. Box 5
21 Bloomsbury Street
London WC1B 3QN
England

Dear Ray,

You will no doubt recall the discussion I had with you regarding the very important part played by two of my Chinese Engineers in my negotiations with Senior Chinese Officials on our Joint Venture Nuclear Power Station. Whilst a considerable amount of work remains to be done I have little doubt, that GEC will be given the order for the two 975 MW Conventional Islands. This export is of great significance not only to GEC but also to U.K., since this will be China's largest Joint Venture and their first Commercial Nuclear Power Station.

Without the assistance and support of my two colleagues who have no U.K. passports and have to travel in and out of China on a Certificate of Identity and or Hong Kong Passport success would be impossible. They are always at risk in China, especially when this involves them in arguing my case with such important people as Vice Premiers and Vice Ministers of China. You can well imagine the anxieties they have under such circumstances.

We as a team have opened up China to a lot of U.K. trade and despite this I have to seek visas for them to accompany me on business trips to Britain.

Naturally they are disturbed by the recent statements made in Hong Kong by Sir Geoffrey Howe on the territories administration after 1997. Their greatest concern is for the future of their families.

A U.K. passport would not only give them greater confidence when negotiating in China, but would also permit them to stay in Hong Kong as long as conditions are reasonable and at the same time allow them to emigrate to other countries if the environment changes adversely.

.../2

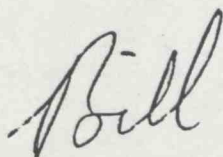
Lord Pennock
Page 2
1st May, 1984

I would be most grateful if you would pursue your suggestion of bringing this matter to the attention of the Right Honourable the Viscount Whitelaw.

In anticipation I attach personal details of my two colleagues.

Look forward to seeing you in mid May.

Yours sincerely,

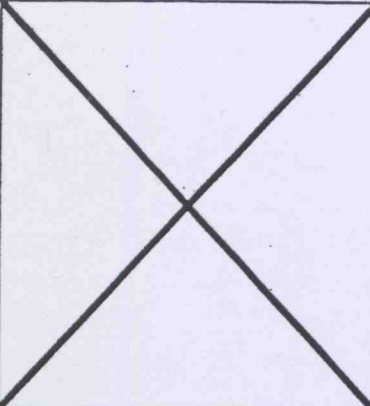
A handwritten signature in cursive script that reads "Bill".

W. F. Stones

WFS/bw

Attach.

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DEPARTMENT/SERIES <u>PRGM 19</u> PIECE/ITEM <u>1798</u> (one piece/item number)	Date and sign
Extract details: <u>ATTACHMENT TO LETTER</u> <u>WF STONES TO LORD PENNOCK</u> <u>DATED 1 MAY 1984</u>	
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Enter the piece and item references, .
eg. 28, 1079, 84/1, 107/3

Enter extract details if it is an extract rather than a whole piece.

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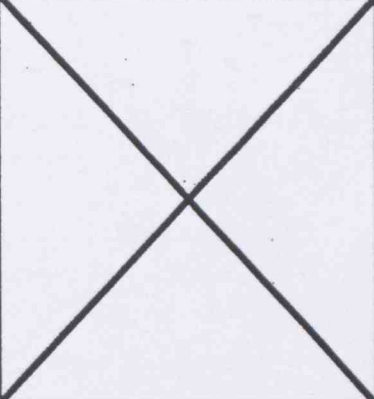
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Sign and date next to the reason why the record is not available to the public ie. Closed under FOI exemption; Retained under section 3(4) of the Public Records Act 1958; Temporarily retained; Missing at transfer or Number not used.

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DEPARTMENT/SERIES <i>prem 19</i> PIECE/ITEM <i>1798</i> (one piece/item number)	Date and sign
Extract details: <i>DAVID BARCLAY TO HUSH TAYLOR INC ATTACHMENTS DATED 31 DECEMBER 1984</i>	
CLOSED UNDER FOI EXEMPTION	
RETAINED UNDER SECTION 3(4) OF THE PUBLIC RECORDS ACT 1958	
TEMPORARILY RETAINED	<i>OKO</i> <i>14/12/2016</i>
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Foreign and Commonwealth Office

London SW1A 2AH

From the Parliamentary Under Secretary of State

18 August 1983

ENDORSEMENTS IN PASSPORTS OF BRITISH
DEPENDENT TERRITORIES CITIZENS

Thank you for your minute of 29 July. We are grateful that you were able to accept the proposal in paragraph 6 of Geoffrey Howe's minute, subject to the proviso that it should be made clear to the Hong Kong Government that this is the final change in the wording of passports and that the matter should now be regarded as closed.

We were aware of the disadvantages to which you drew attention. It is our firm view, however, that the importance of allaying the concern expressed by Hong Kong outweighs the possible danger to which you refer with regard to passports held by British Overseas citizens.

It is of course right that the change should be applied to all British Dependent Territories citizens. It will however only be authorities of the Dependent Territory who will insert the endorsement. Our posts when issuing BDTC passports will not be able to do so and the passport holders in those cases will have to make subsequent application to the authorities of the territory concerned to have the endorsement added. The position will be explained to all the dependencies and our overseas posts.

We have informed the Government of Hong Kong of what has been agreed and have emphasised that HMG cannot consider any further changes to the wording in the passports. You will be pleased to know that the agreement has been very well received in Hong Kong as a move that demonstrates HMG's concern for local feelings.

✓ I am copying this to the Prime Minister.

Ray Whitney

The Rt Hon Leon Brittan QC MP
Secretary of State for Home Affairs
Home Office
Queen Anne's Gate
LONDON SW1

Hong Kong,
Oct 5 1983
KH Passports

19 AUG 1983



CONFIDENTIAL



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Foreign and Commonwealth Office Secretary

ENDORSEMENTS IN PASSPORTS OF BRITISH DEPENDENT TERRITORIES CITIZENS

Thank you for your recent minute. The proposal which you favour, to substitute the present endorsement on page 5 of a BDTC passport with one indicating the holder's right to abode in Hong Kong, has some disadvantages.

If any change is to be made it would be desirable for it to apply universally to other dependencies as well as Hong Kong. The present endorsement could readily be dropped from all BDTC passports but as you are aware the possession of a BDT citizenship by virtue of a connection with a dependency does not necessarily confer the right to abode in that dependency: Bermuda is one example. The endorsement to the effect that the holder had the right of abode in the dependency concerned could not therefore be placed in all BDTC passports though no doubt it would be in most if you invited other dependencies to make the endorsement where appropriate. Secondly there is the danger that the endorsement of BDTC passports in this way would expose more clearly the fact (which has already caused embarrassment in our relations with the Canadians) that a passport held by a British Overseas citizen does not confer the right of abode anywhere.

If it is your view that the advantage in the Hong King context of making this future change outweigh the disadvantages, especially as regards British Overseas citizens, then I would not want to raise objection to it, provided it was made quite clear to the Hong Kong Government, as you suggest, that this is the final change in the wording of the passport and that the matter is now finally closed. On that basis I could accept the proposal in paragraph 6 of your minute.

I am copying this to the Prime Minister.

L. B

29 July 1983

CONFIDENTIAL

Hong Kong,
Oct 87
Nomenclature of
HK Passports

30 JUL 1983

11 12 1 2 3
4 5 6 7 8 9



FCS/83/131

Home Secretary

*Amint ref from
Home Secretary.*

*A & C. 15.
7*

Endorsements in Passports of British
Dependent Territories Citizens (BDTC's)

1. I am sure you are aware that the passage of the British Nationality Act 1981 (BNA) caused considerable resentment in Hong Kong, where it was widely considered to demonstrate HMG's lack of commitment to the territory in comparison with Gibraltar and the Falklands. During her visit to Hong Kong in September 1982, the Prime Minister noted the strength of feeling about the Act and in particular the Executive Council's request that BDTC's should be permitted to describe themselves as 'British' in their passports. She discussed this with our predecessors on 21 October. After further consulting Willie Whitelaw, Francis Pym wrote to the Prime Minister on 16 November. She approved his recommendations.

2. Apart from the use of the nationality description, these covered the following arrangements:

- a) the note at the bottom of page 1 of the passports would read 'Attention is drawn to the notes at the back of the passport and to any observation relating to control under the Immigration Act, 1971, on page 5';
- b) the stamp 'holder is subject to control under the Immigration Act 1971' would continue to be inserted on page 5;

/c)



- c) note 2 on the back page should read 'Citizenship and National Status. British citizens have the right of abode in the United Kingdom. No right of abode in the United Kingdom derives from the status as British nationals of British Dependent Territory citizens, British overseas citizens, British protected persons and British subjects.'

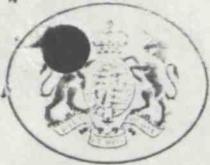
3. The Governor of Hong Kong and the nine Unofficial members of the Executive Council visited London last week. During their visit, they made a strong plea for the removal of the endorsement on page 5. They believe this to be superfluous, given that BDTC's by definition do not have the right of abode in the United Kingdom, and are convinced that it will cause difficulties for BDTC's in third countries. Moreover, they pointed out that the endorsement had not before 1 January been made on passports issued in Hong Kong and that to introduce it now would look as though we were attempting to undermine the effect of our concession on the nationality description. This would cause people to doubt HMG's commitment to Hong Kong at a particularly sensitive point in our negotiations with the Chinese over the future of the territory. The Unofficials put forward two alternative proposals. One was to remove the endorsement on page 5, with consequential amendments to the note on page one, and the other to replace the endorsement on page 5 with 'holder has the right of abode in Hong Kong'.

4. I sympathise with the points made by the Unofficials. Immigration matters are of course your province, but it does seem to me too that the endorsement on page 5 is superfluous in BDTC passports. When control under the 1971 Act was first brought in there was a unitary citizenship and a strong case for spelling out the difference between the various passport holders. That is no longer so since the introduction of the new citizenship categories under the BNA, as we have tacitly admitted by not including a 'right of abode' endorsement in British citizen passports. Moreover the position is clearly stated on the back page. I am sure your Immigration Officers are in no doubt that BDTC's are subject to control.



5. My more direct concern is inevitably with the political arguments. Whatever the reasons for Hong Kong having not previously included the endorsement, I have no doubt that insisting on it now would be very harmful to HMG's standing in the territory. There has already been a very strong reaction among the media and the public which has been dampened only by the announcement that we are considering the points made by the Unofficials. As you know, the second phase of the talks on the future of Hong Kong began in Peking on 12 July and it is essential that we should do everything we can to underline HMG's commitment to Hong Kong and its people. Not to do so would not only severely weaken confidence in the territory, but would also give the wrong signals to the Chinese.

6. Of the two alternative proposals put forward by the Unofficials, I favour the second. The inclusion of a positive statement that the holder had right of abode in Hong Kong would I think be most helpful in protecting the interests of BDTC's in third countries. It would assure immigration officers that the passport holders were returnable to the Dependent Territories and might assist in the context of visa abolition agreements, an area of concern to Hong Kong. It might also imply by omission that the holder did not have the right of abode in the UK. We would of course have to make this change in all BDTC passports, not just Hong Kong ones.



7. I hope that you will feel able to agree to this proposal. I believe it has merit and would bring benefits rather than difficulties for HMG. It would be, moreover, of great political use at this critical time. If you do, I would be prepared to make it clear to the Hong Kong Government that we consider the passports issue to be closed and that they should not expect HMG to make any more changes.

8. This is a particularly delicate point in our negotiations; and I believe it important to be able to say something to the Hong Kong Government as soon as possible. I would therefore be grateful for an early reply.

9. I am copying this minute to the Prime Minister.



AS
to See

A J Coles Esq
10 Downing Street

NDL
/ca

With the compliments of

ALAN DONALD

FOREIGN AND COMMONWEALTH OFFICE

LONDON, SW1A 2AH

CONFIDENTIAL

GR 120

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FM HONG KONG 221040Z NOV 82
TO IMMEDIATE F C O
TELEGRAM NUMBER 1358 OF 22 NOVEMBER

HKK 340/1
AF26/1

YOUR TELNO 971 : NOMENCLATURE IN PASSPORTS

227

See 229

THIS IS INDEED GOOD NEWS AND I AM SURE THAT ALL CONCERNED WILL
BE MOST GRATEFUL FOR YOUR EFFORTS.

2. I CAN SEE WHY YOU WOULD NOT WISH TO GIVE THE DECISION GREAT
PUBLICITY IN THE UK BUT WE SHALL HAVE TO SAY SOMETHING PUBLICLY
HERE. THERE HAS BEEN STRONG PRESS INTEREST IN IT AS WELL AS
QUESTIONS IN THE LEGISLATIVE COUNCIL. IF WE TAKE THE INITIATIVE
IT CAN BE PRESENTED POSITIVELY AND ACCURATELY AND AVOID GARBLED
REPORTING WHICH MIGHT BE THE RESULT OF A LEAK.

3. I PROPOSE THEREFORE THAT A STATEMENT SHOULD BE MADE IN
LEGISLATIVE COUNCIL ON WEDNESDAY NOVEMBER 24. THE TEXT OF THE
PROPOSED STATEMENT IS IN MY I.F.T. GRATEFUL FOR CONFIRMATION
THAT YOU AGREE AND FOR ANY COMMENTS ON THE TEXT DESKBY 240100Z.

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YOUDE

- LIMITED
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- LEGAL ADVISERS
- PS
- PS/LORD BELSTEAD
- PS/MR RIFKIND
- PS/PUS
- MR DONALD
- LORD N G LENNOX
- MR GIFFARD

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ho
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Hong Kong

10 DOWNING STREET

From the Private Secretary

18 November, 1982.

Hong Kong Passports

The Prime Minister has seen Mr. Pym's minute of 16 November.

Mrs. Thatcher has noted the Home Secretary's views as recorded in paragraph 10, but agrees that the Foreign and Commonwealth Secretary should act as he proposes.

I am sending a copy of this letter to John Halliday (Home Office).

A. J. COLES

John Holmes, Esq.,
Foreign and Commonwealth Office.

SECRET



PM/82/96

THE PRIME MINISTERPrime Minister3 ①
F

The Home Secretary has reservations but seems disposed to go along.

Agree with Mr. Sainsbury's recommendations.

Yes Mr. A.J.C. 17/11

Hong Kong Passports

1. The Home Secretary and I have given further thought to Hong Kong passports which we discussed with you on 21 October. We have in particular considered the questions then raised about the implications of describing the nationality of Hong Kong belongers as British in their passports, and on what the passport to be issued in future to Hong Kong belongers might look like.
2. On the first of these two points the proposed new wording presents no legal problem as such. The description of nationality in passports, which are documents to facilitate international travel, is not bound to follow precisely the definitions of citizenship in our domestic legislation. There is no doubt that the holders of Hong Kong passports are British in the internationally accepted sense that we are entitled to give them consular protection and to represent their interests abroad.
3. On the other hand to add 'British' in the space provided for 'National status' in Hong Kong passports will affect the symmetry and clarity of our original scheme, which was that the entry under 'National status' should in every case repeat exactly the definitions of citizenship in the British Nationality Act 1981. Under that scheme there would have been five possible descriptions of national status in British passports:

/i)



- i) British Citizen for those with a right of abode in the United Kingdom.
- ii) British Dependent Territories Citizen (BDTC) plus the name of the dependent territory for those with right of abode in a particular dependent territory.
- iii) British Overseas Citizen (BOC) for those who inherit a claim to citizenship which is not reinforced by sufficient connection with the United Kingdom or with a particular dependent territory to give them the right of abode.
- iv) British Protected Person (BPP) for those whose interests we would protect abroad but who have no claim to citizenship nor to any right of abode in the United Kingdom or in a Dependent Territory.
- v) British Subject for a small number of residuals who for passport purposes can be bracketed with BPPs.

All these categories apart from the first, British citizen, are expected to diminish over the years; BDTCs as dependencies become independent, and the remaining three categories because the status of BOC, of BPP and of British Subject cannot in general be transmitted by descent.

4. The advantage of the system ~~just~~ described is that it ties descriptions in passports firmly to the terms used in the recent Nationality Act which in turn are compatible with our immigration

/legislation



legislation and practice. The drawback is that these are more definitions of citizenship than simple descriptions of nationality which would be arguably more appropriate in an international travel document.

5. It would be convenient to be able to confine any revised description of nationality in passports to Hong Kong belongers. But there are two reasons why this cannot be done:

- i) Other dependencies would demand to be included in any special arrangement made for Hong Kong particularly as Gibraltarians already are a favoured category and the Falkland Islanders will become one if Lord Bruce of Donington's proposed Bill succeeds. We could not easily explain to the remaining dependent territories in terms they would be likely to accept that the revision we were prepared to make at Hong Kong's request has no practical significance.
- ii) I would not favour making an arrangement which could be misconstrued by the Chinese government as having some special and exclusive bearing on Hong Kong unwelcome to them in the context of negotiation over its future.

6. This means that any provision for the description of nationality in Hong Kong passports will have to extend at least to the passports of the other dependent territories. If we do this an attempt could be made to push us further to describe BOCs, BPPs and the residual British subjects as British in their passports. If this were to happen we could deploy the familiar argument that this could raise false hopes in the immigration context, and reinforce it by pointing out the distinction between passport holders who have a right of abode in a particular dependent

/ territory



territory and those who have none. But our position would be weak in logic and we might be unable to prevent a revival of parliamentary interest in the immigration aspect. The significant difference between BDTCs and BOCs is that there are compelling reasons for us to help Hong Kong because the passport question has become entwined with considerations of their future, and because Hong Kong has a political weight which enables them to advance their interests in ways that are not available to BOCs, BPPs and residual British subjects.

7. In view of these considerations I suggest that the best course to follow would be to leave the five formulas in paragraph 3 above unamended as descriptions of nationality in passports, except in the case of BDTC where 'British' should be inserted against the printed words 'National status/Nationalité' and immediately above 'British Dependent Territories Citizen'. A specimen is enclosed to show roughly how this might appear in passports issued to Hong Kong belongers.

8. You will recall that when we discussed this on 21 October the question arose of whether the words 'Holder is subject to control under the Immigration Act, 1971' might be transferred from page 5 to page 1 of the passport. The observation is probably better left on page 5 where immigration officials round the world have become used to finding it, but I suggest that we should amend the note at the foot of page 1 to read 'Attention is drawn to the notes at the back of this passport and to any observation relating to control under the Immigration Act, 1971 on page 5'; and that we should add a new note at the back of the book immediately after that on validity as follows:

/'Citizenship



'Citizenship and National Status British citizens have the right of abode in the United Kingdom. No right of abode in the United Kingdom derives from the status as British nationals of British Dependent Territories citizens, British Overseas citizens, British protected persons and British subjects'.

This can be done as the notes are revised to bring them in line with the terms of the British Nationality Act 1981.

9. I propose to introduce these amendments in United Kingdom passports when existing stocks run out in about 12 months' time. Governors in the Dependent Territories will be asked to take parallel action. Meanwhile I recommend that we should introduce our revision of the description of BDTCs in passports when the Nationality Act comes into force on 1 January 1983.

10. The Home Secretary has seen this memorandum and agrees that if something has to be done for Hong Kong this is the best way forward. It remains his view however that the steps we propose may well cause additional unwelcome difficulties to the Government in some future emergency affecting Hong Kong and will weaken our position in the application of immigration control to British Overseas Citizens.

11. I am copying this minute to the Secretary of State for Home Affairs.

Foreign and Commonwealth Office
16 November 1982

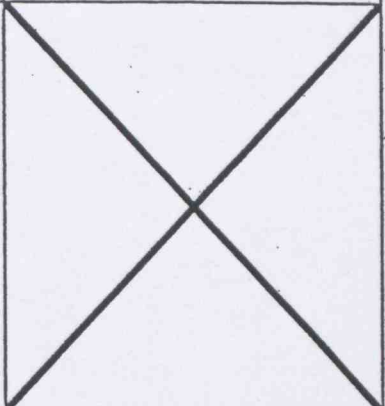
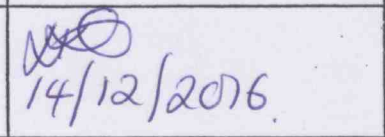
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H-k: nomenclature of
H-k patients

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The National Archives

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eg. HO 405, J 82.

Enter the piece and item references, .
eg. 28, 1079, 84/1, 107/3

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SUBJECT



file 256²

10 DOWNING STREET

From the Private Secretary

21 October, 1982

DP

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HONG KONG PASSPORTS

The Prime Minister chaired a short meeting, attended by the Home Secretary and the Foreign and Commonwealth Secretary, this afternoon to discuss the proposal that the term "British National" should be entered in British passports issued by the Governor of Hong Kong. Your letter of 5 October and Roger Bone's letter of 11 October were before the meeting.

The Prime Minister said that during her visit to Hong Kong it had been represented to her that the use of the term "British National" would do much to boost the confidence of the people of Hong Kong. Moreover, the Governor had pointed out that if this was not done, it might be difficult to secure the necessary amendments to Hong Kong legislation which followed from the British Nationality Act. It was clear that the use of this term would confer no right of abode in the United Kingdom. The Foreign and Commonwealth Secretary confirmed that Hong Kong belongers would of course enjoy our protection and consular assistance when travelling abroad.

The Home Secretary said that he did not wish to be unhelpful but he had to warn, on the basis of past history, that in every case when we had agreed to use wording which superficially appeared to confer a right of entry to this country, the description had in the event been used to obtain entry. In the case of Hong Kong, the consequences could be serious. We had to ask ourselves how many Hong Kong Chinese would seek to come here, if the situation in Hong Kong deteriorated. While the term "British Nationals" did not confer any legal right of abode, it had a connotation close to that of the term "British Citizens". Furthermore, we had to bear in mind that there were other dependent territories whose citizens might seek the same concession.

The Prime Minister said that while she appreciated these problems, refusal to make this gesture could have a very serious effect on confidence in Hong Kong, given the state of our discussions with the Chinese about the future of the territory. After further discussion, the Home Secretary said that he would be glad to look at the matter, in conjunction with the Foreign and Commonwealth Secretary, and see whether he could help. But we should safeguard our general position to the maximum extent possible - Hong Kong should not be a precedent for other dependent territories.

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The Prime Minister thought it would be helpful if the precise implications of the change could be spelt out in any further paper on the matter. She would like to see a specimen of the passport which a Hong Kong belonger would have in future. There was room for discussion as to precisely how the reference to "British National" should be worded. It might also be possible to bring forward to page 1 of the passport the endorsement that appeared on page 5, namely: "The holder is subject to control under the Immigration Act 1971".

D/K
The Prime Minister would be grateful if this matter could now be looked at again and if she could receive further advice from the Home Secretary and the Foreign and Commonwealth Secretary as soon as possible on the way forward.

I am sending a copy of this letter to Roger Bone (Foreign and Commonwealth Office).

A. J. COLES

Colin Walters, Esq.,
Home Office

Original in Cabinet of Hong Kong

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CALL ON LORD BELSTEAD BY SIR S Y CHUNG, SENIOR MEMBER OF THE HONG KONG EXECUTIVE COUNCIL, 14 OCTOBER 1982

Present

Lord Belstead

Sir S Y Chung

Mr A E Donald

Mr R D Clift

Mr M Arthur

Future of Hong Kong

1. At Lord Belstead's invitation, Sir S Y Chung described the present views in Hong Kong in the aftermath of the Prime Minister's visit. People on the inside, such as UMELCO, appreciated the Prime Minister's efforts and thought she had done an extremely good job. The talks were an important step forward and the start of a long process of negotiation. Meanwhile, there was concern at the recent Chinese statements about the future which appeared to be an attempt to harden their line on sovereignty and he noted in particular the 'Observer' article of 10 October which mentioned a Chinese Governor and Chinese control on foreign affairs in Hong Kong.

2. Sir S Y stressed the importance of briefing the Unofficials on the content of the discussions with the Chinese. At present they really only knew that there had been friendly talks. It was important that the Unofficials should not

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begin to lose their nerve.

3. Mr Donald said that the points referred to by Sir S Y appeared as part of alleged '5 Principles'. These were probably journalistic speculation on points of detail. Mrs Thatcher's discussions had concentrated on principle.

4. Lord Belstead asked about views in Hong Kong on the stress which the Prime Minister had placed on the treaties. Sir S Y said that he supported 100% the Prime Minister's remarks on this score.

5. Lord Belstead asked whether there were ways of providing greater reassurance to the Hong Kong media. Sir S Y said that something might be done with radio and television but the press was really too diffuse. Moreover the Communist press would do what they could to suggest that a Chinese takeover was inevitable.

6. Lord Belstead asked how consultation with people in Hong Kong might be set up. Sir S Y said that he understood that the Hong Kong Government was preparing a paper on this. He agreed with Lord Belstead that the District Boards should be involved.

7. Lord Belstead asked whether it would be helpful if more influential visitors went to Peking for discussion with the Chinese authorities. Sir S Y said that most visitors went for business purposes. It was difficult for them to get over to the Chinese the basis of Hong Kong's confidence and success. The most effective advocate might be a third party

who clearly had no self-interest in the Hong Kong situation. However, it was very difficult to find such a person. If education of the Chinese authorities could not be conducted in this way it might be necessary for this to be done in a more painful and dangerous manner, by accepting a further decline in the Hong Kong economy. The problem was whether this would have an effect on the Chinese leaders before Hong Kong became bankrupt.

8. Lord Belstead asked about the present position on the Hong Kong Stock Exchange. Sir S Y noted that in fact the Hong Kong Stock Exchange had a very small capacity. The top ten companies were equal in total to the value of IBM. He referred to rumours that the Bank of China might have been supporting the Hong Kong dollar. Mr Donald commented that this was probably unfounded.

9. Sir S Y reiterated the importance of UMELCO being kept informed about the progress of the talks. This was particularly important when China was reiterating her position on sovereignty. This encouraged fears that HMG might back down. Lord Belstead underlined the importance of keeping a steady nerve in the talks. We have known that China would take a tough line. The Prime Minister had made our position abundantly clear and we had not shifted from it.

British Nationality Act

10. Sir S Y referred to the Hong Kong legislation which was coming before the Executive and Legislative Councils as a consequence of the British Nationality Act. This was

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inevitably linked in the minds of Unofficials with their request that they should be described as 'British' in their passports. If they did not get a positive answer on this it would be difficult for them to pass the legislation.

11. Lord Belstead said that this had been referred to by the Prime Minister. It was now under discussion in London. It was not yet resolved but he hoped that there would be an early answer.

12. Sir S Y emphasised the shortness of time. The legislation would take six weeks to pass. The question of designation in passports was an important symbol. It was necessary to counteract any suggestion that the British Government might renege on its commitment to Hong Kong. Lord Belstead emphasised that the Prime Minister had taken a very robust line. She had been criticised in some quarters for being too tough but there was no doubt about her commitment to Hong Kong.

Distribution:

PS/Lord Belstead
PS/PUS
Mr Giffard
Mr Donald
HKGD (to enter)
FED
NTD
Mr Coles, 10 Downing Street
Governor, Hong Kong

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*Original on Future of
Hong Kong P13*

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PS
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Mr Giffard
Mr Donald

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Planning Staff (Mr Walden)
FED
Mr Coles No.10
Governor HONG KONG
HMA Peking

CALL ON THE SECRETARY OF STATE BY SIR S Y CHUNG,
SENIOR MEMBER OF THE HONG KONG EXECUTIVE COUNCIL,
14 OCTOBER 1982

Present

Mr Francis Pym MC MP
Mr R D Clift
Mr J C Holmes

Sir S Y Chung

Future of Hong Kong

1. Sir S Y Chung said that he was very grateful for the Prime Minister's achievement, during her visit to Peking, in obtaining agreement on talks with the Chinese. In his view, this had been entirely the correct objective. Moreover, he disagreed with those who thought that she should not have laid so much stress in her public pronouncements on the Hong Kong treaties. Thinking people did not agree with this.
2. Sir S Y said that he and other Unofficial Members in Hong Kong were concerned at Chinese tactics of spreading rumours since the Prime Minister's visit. It was important to counteract these. Mr Pym said that it would be wrong to try to do this point by point; this would merely spur the Chinese to further statements. Sir S Y said that he was not suggesting any public action but he thought that the matter should be discussed with the Hong Kong Unofficials. The Unofficials felt somewhat uneasy because the Chinese appeared to have laid their cards on the table whereas people in Hong Kong did not know exactly what the British hand consisted of.

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3. Mr Pym emphasised that meetings with the Chinese had only just begun. There was no question of any negotiation having taken place but he quite took the point about periodic briefing of the Unofficials and he would consider this. Sir S Y asked that there should be no change in what he understood to be the present position of the British Government (i.e. that sovereignty should only be conceded if there were fully satisfactory arrangements allowing for the continuation of the status quo as regards administration) without consultation with the Unofficials in Hong Kong.

4. Mr Pym emphasised that there was no thought of the British Government changing its position but he undertook to pass Sir S Y's request to the Prime Minister. He stressed that people in Hong Kong should have confidence in HMG; the Prime Minister's position was robust and she placed particular importance on the views of the people of Hong Kong. Sir S Y said that there was a danger in the negotiations being too long drawn out. He did not think that confidence in Hong Kong could hold out for much longer than 1¹/₂ to 2 years. Mr Pym commented that he hoped that a favourable result could be achieved in a much shorter time but it was of course impossible to make firm predictions.

5. Sir S Y said that he hoped it would be possible for the Governor of Hong Kong to take part in the negotiations with the Chinese. The Unofficials had full confidence in Sir Edward Youde. Mr Pym said that he would convey this to the Prime Minister.

British Nationality Act 1981

6. Sir S Y said that the amending legislation for Hong Kong consequent upon the passing of the British Nationality Act was shortly to come before the Executive and Legislative Councils. At the same time they were concerned about the description to be placed in the passports of British Dependent Territories Citizens. It would be very difficult for the Hong Kong Councils to pass their legislation if they did not have a favourable answer on the description. He stressed that there was a timing element. About 6 weeks were needed to get the legislation through in Hong Kong. People in Hong Kong had noted the Prime Minister's encouraging remarks on the question during her visit. Mr Pym confirmed that Ministers were considering the matter urgently.

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A meeting on
this has been
arranged for
Thursday.

A.F.C. 15.
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Hong Kong & General Department
18 October 1982

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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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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 John,

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

/remark

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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 Donnington'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

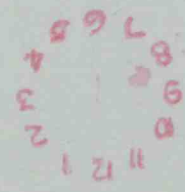
(R B Bone)
Private Secretary

A J Coles Esq
10 Downing Street

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Immunization

Registration



11 OCT 1982

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.

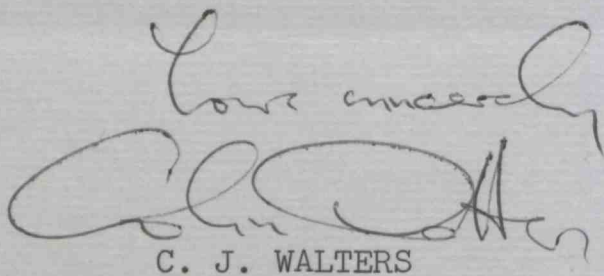
A passport is something that people use in order to travel, and the Home Secretary believes that to enter 'British National' in the passports of those who are subject to our immigration control would have two highly undesirable consequences. First,

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

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12/11
Mary King

10 DOWNING STREET

From the Private Secretary

4 October 1982

Visit of the Prime Minister to the Far East

I think the Prime Minister would find it helpful to have a brief note soon explaining how Departments propose to follow up the various points outstanding from her visit to the Far East. In preparing such a note you may like to bear the following points in mind.

Hong Kong

I understand that, following a brief discussion at Cabinet last Thursday, the Home Secretary may wish to let the Prime Minister have his views on the question of the use of the term "British nationals" in Hong Kong passports.

China

As you know, the Prime Minister undertook to consider whether we could help with:

- (a) The Luda destroyer project;
- (b) Fees for Chinese students in Britain and English language training for Chinese.

In considering advice on these matters, I believe that the Prime Minister will wish to consider carefully whether it is appropriate to make any further gestures to the Chinese until they have shown themselves disposed to be helpful over the future of Hong Kong (or, conversely, whether any such gestures could help to produce the solution we require).

Japan

You will recall that the Prime Minister invited the Japanese Prime Minister to visit Britain, though without naming a date. The Prime Minister told me later that she thought we should attempt to time the visit in the way most likely to advance our economic interests.

In view of the references to the future of Hong Kong in this letter, I am not copying it to other Departments, but you will doubtless consult them before replying.

JC

John Holmes, Esq.
Foreign and Commonwealth Office

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