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QUEEN ANNE'S GATE LONDON SW1H 9AT

30 August 1985

Dear Foreign Secretary

MACAU

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I am writing to express my strong concern about an issue which although it may be familiar to you has only recently been brought to Home Office attention. It concerns the fact that due to the lack of any special provision in the Act of Accession of Portugal to the European Community, Chinese residents of Macau who have Portuguese nationality but otherwise no links with Portugal itself will enjoy the same rights under the Treaty of Rome as Continental Portuguese. I understand that approximately 85,000 Macanese are currently thought to be entitled to Portuguese nationality; that figure will grow in the future. The first my Department learnt of this problem was after the Treaty of Accession had been signed.

There is here a very unwelcome potential immigration problem that would be created by any move by a substantial proportion of those people to emigrate to the United Kingdom, for instance in the event of the early return of Macau to Chinese control (I understand Sino-Portuguese negotiations on the future of Macau are due to start in the first half of 1986). Equally important is the fact that the prospect of this situation is likely to prove highly embarrassing and controversial in the forthcoming months as it becomes increasingly well-known to Hong Kong nationals and to critics of our nationality policy in respect of Hong Kong nationals. The favourable position of Macanese of Portuguese nationality as compared with Hong Kong BDTs as regards rights of entry to the United Kingdom once Portugal accedes to the Community is a gift to our critics. The debates on the Hong Kong Nationality Order will give them an ideal opportunity to use it.

I understand that your Department tried, when the problem became known, to get Portugal to agree to the exclusion of Macanese Portuguese from the scope of the Treaty of Rome: our proposal being that the Portuguese should make the same sort of declaration as regards the definition of Portuguese nationals for EC purposes as we did with regard to our own nationals when we acceded to the Community. I gather, however, that that attempt failed. I also recognise that strictly speaking Macau has no better status than Hong Kong as regards the European Community and that indeed you did ensure that this should be the case. Nonetheless this will not satisfy our critics and we may well find ourselves under pressure to find some way of treating Hong Kong BDTs more favourably as regards rights of entry to the United Kingdom than we would wish to do. Even if we resist this pressure, as I am sure that we should, our ability in practice to prevent large scale immigration will, it seems, now depend not merely on the integrity and efficiency of those issuing passports and entry certificates in Hong Kong but also on the honesty and competence of Portuguese officials in Macau.

In all these circumstances you will understand my concern that some means of retrieving the situation, even at this late stage, can be found. If not then I fear that we can expect a major row in due course over this issue both here

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The Rt Hon Sir Geoffrey Howe, QC, MP

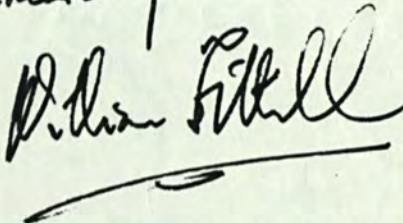
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and in Hong Kong. I gather that discussions with the Portuguese on this problem are still possible and that in fact you and your officials are already in touch with them on the matter. I also understand that one possibility that has already been raised, connected with the return of Macau to China in due course, is that the Portuguese might amend their nationality law so as to remove the availability to Macanese entitled to Portuguese nationality of dual Chinese/Portuguese nationality - a concept which the Chinese would not accept in any event; at the same time the criteria for the grant of Portuguese nationality to Macanese could be tightened. Such a move would be helpful provided it could be done quickly and that it did not lead to a rush on the part of Macanese currently eligible for Portuguese nationality but likely to cease to be so with any change in the law, to acquire it before the new law could be enacted. Doubtless your officials will continue to keep me in close touch with developments.

Finally I am disturbed at the fact that although your officials were alerted to this problem in April of this year the first formal approach to my Department came in late June after the Portuguese had signed the Treaty of Accession. There has been excellent co-operation between our Departments especially over the Hong Kong negotiations and I am sure that you will be as concerned as I was to learn what has happened in this case.

I am copying this letter to the Prime Minister and Sir Robert Armstrong.

Yours sincerely


Approved by the Home Secretary
and signed in his absence

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