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THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Macau

See Pt 2

1. Your predecessor wrote to me on 30 August expressing concern about the fact that the instruments of accession of Portugal to the European Community do not contain any special arrangements to limit the rights of access to the European Community of Portuguese passport holders in Macau. It may help if I recount the course of our contacts with the Portuguese over this issue.

2. Because of the Hong Kong dimension, we were concerned to avoid Macau receiving any special status vis-a-vis the Community by virtue of Portugal's accession. The Portuguese gave us an assurance that they would alert us privately in advance of any possible Portuguese request in the accession negotiations for a special status for Macau. In the event, the Portuguese made no such request, and Macau was given no special status vis-a-vis the Community.

3. As Leon Brittan mentioned in his penultimate paragraph on 12 April, the Governor of Hong Kong drew attention to the possibility that some residents of Macau, by virtue of their being entitled to Portuguese nationality, could benefit from better conditions of access to the European Community, including the UK, after Portuguese accession than residents of Hong Kong. He was concerned about the reactions in Hong Kong. We immediately instructed our missions in Brussels and Lisbon to try to obtain more information on the likely scale of the problem.

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4. Initial reactions from the Portuguese were that the number of Portuguese passport holders in Macau was small. After repeated approaches to the Portuguese both bilaterally and through the European Community, it became clear early in May that the number of residents in Macau who held or might be entitled to Portuguese passports was much higher than the Portuguese originally had indicated. It is, of course, axiomatic that nationals of a new Member State have the same rights of access throughout the Community as nationals of existing Member States, subject only to the transitional measures appropriate to the labour market, unless the Member State itself wishes to make distinctions among its nationals. We therefore approached the Portuguese again in an attempt to persuade them to agree to the inclusion in the instruments of accession of a statement on the lines of the declaration made by the UK on accession to the Community limiting the definition of Portuguese nationals for Community purposes to citizens of the European territory of Portugal. The Portuguese response at the end of May was to say that their constitution did not allow them to distinguish between holders of Portuguese nationality and that the most they could do was to table a memorandum explaining the way in which Portuguese nationality law applied to Macau. Your officials have a copy of this memorandum which is dated 31 May. In it the Portuguese estimated that about 85,000 people in Macau would be eligible for Portuguese nationality. A senior Portuguese official told us at the time that that figure allowed for eventual acquisition of nationality as a result of marriage or residence.

5. When I met the Portuguese Foreign Minister in Lisbon on 5 June, I made a further attempt to persuade him to make a statement on the lines we had suggested, but the Portuguese remained adamant that they could not take a step which would amount to introducing into Portuguese nationality law the sort of two-tier system we have. Before signature of the Treaty of

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Accession, we insisted on inclusion in the conclusions of the negotiating conference of a statement to the effect that further contacts with the Portuguese would probably be necessary about this matter. This statement allows us to raise the question again within the Community should we need to do so.

6. On 3 June, the Governor of Hong Kong reported that many of its Portuguese Chinese nationals in Macau were fluent in English. There had been no earlier suggestion that any significant number of Macau residents might wish to come to the UK. Indeed, we have been told repeatedly by the Portuguese that one of the requirements for acquisition of Portuguese nationality was the ability to speak Portuguese which placed effective limits on the members. Set against the population of Portugal (10 million), - to say nothing of 38 million Spaniards - the number of potential immigrants from Macau would not appear likely to represent a major immigration problem.

7. Both in relation to Hong Kong and from the point of view of potential immigration we need to consider what further action we should take with the Portuguese. I agreed with my Portuguese opposite number in June that the matter should be discussed further bilaterally at official level and, as I have said, we have reserved the possibility of taking action on the Community front. You will be aware that the Governor of Hong Kong and the Executive Committee fear that further UK pressure on the Portuguese would be resented in Hong Kong and they are not pressing us to take any further action. There is no question of the position of Macau affecting the arrangements we have agreed for Hong Kong.

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8. I agree, however, that we must continue to discuss with the Portuguese the need to tighten up the criteria for granting Portuguese nationality to Macau residents. I therefore propose to proceed on the basis agreed between our officials and outlined in the fourth paragraph of your letter. There is already some evidence that the Portuguese are beginning to clamp down in the corrupt issues of passports, no doubt partly as a result of our representations. Our officials will also need to work closely on a line for use in debates on the Hong Kong Nationality Order and the Spanish and Portuguese Accession Bill.

9. I am sorry that your predecessor felt that your Department had not been adequately consulted. It would not in any event have been possible to persuade the Portuguese to amend their constitutional provisions in order to discriminate between different categories of Portuguese passport-holders. I have instructed my officials to ensure that the Home Office is consulted immediately in instances involving potential immigration.

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

A handwritten signature in black ink, appearing to be 'G. Howe', written in a cursive style.

GEOFFREY HOWE

Foreign and Commonwealth Office
20 September 1985

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EMU PR: Entzogen

