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Foreign and Commonwealth Office

London SW1A 2AH

Prime Minister ⁽¹⁾

20 March 1984

FCS proposes an early meeting of OD(K) to consider the attached draft agreement on the future of Hong Kong.

See letter to F/CO.

Dear John, You may like to discuss with Sir Geoffrey tomorrow.

MR 4/3

p.a.

Future of Hong Kong: Draft Agreement with the Chinese

The next major step in the negotiations with the Chinese will be to put forward a draft of an Agreement. We wish to do this in time for Sir Geoffrey Howe to discuss it during his planned visit to Peking in mid-April. The Ambassador and Governor recommend that we should hand over our draft to the Chinese by 3 April to give them time to absorb it before Sir Geoffrey's visit.

I enclose the text of a draft Agreement and Annexes, together with a covering note which Sir Geoffrey Howe proposes to circulate to OD(K). In view of the importance of this subject he wished to give the Prime Minister the opportunity to look at the papers before circulating them more widely. But time is already short if we are to meet the 3 April deadline referred to above. Once Ministers have approved a text for handing to the Chinese, it will have to be considered formally by EXCO (the Governor is circulating the enclosed drafts informally to EXCO now, on the clear understanding that Ministers have not yet considered them). Sir Geoffrey therefore believes that the matter should be discussed in OD(K) as soon as possible. We are in touch with the Cabinet Secretariat and I understand that a meeting has been arranged for 26 March. On present plans, Sir Geoffrey will be in Jordan with The Queen at that time, but considers that the subject cannot wait until his return and therefore hopes that the Prime Minister would agree to hold a meeting on that date at which Sir Geoffrey would, if necessary, be represented by Mr Luce.

As the covering note makes clear, there is a difficult balance to strike in these drafts between providing enough detail to cover all the points of interest to us, and pitching our opening bid so high that the Chinese recoil entirely from our proposal. Sir Geoffrey considers that the present drafts probably contain too much detail, even for an opening bid, but would be interested to have colleagues' views on this point. He also believes that it will be vital for the Governor to emphasise strongly to EXCO that this is a maximalist draft Agreement, and that the Chinese will certainly seek to cut out much of the detail. We should therefore need to prepare fall-back positions and agree them with EXCO.



I should be grateful to know whether the Prime Minister would be content for Sir Geoffrey to circulate these papers and to propose an early meeting of OD(K) to consider them. He would be happy to have a word about this at the meeting on 21 March if the Prime Minister wished.

Yours ever,

P F Ricketts

(P F Ricketts)
Private Secretary

A J Coles Esq
10 Downing Street

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From the Private Secretary

21 March 1984

Future of Hong Kong: Draft Agreement with the Chinese

Thank you for your letter of 20 March. The Prime Minister had a brief word about it with the Foreign and Commonwealth Secretary this morning.

Although Mrs. Thatcher has not yet been able to read the proposed paper for OD(K) and the accompanying documents, she agreed that the Foreign and Commonwealth Secretary should circulate them to OD(K).

If Sir Geoffrey Howe cannot be present for the meeting arranged for 26 March, the Prime Minister would be content for Mr. Luce to represent him.

I am copying this letter to Richard Hatfield (Cabinet Office).

A. J. COLES

Peter Ricketts, Esq.,
Foreign and Commonwealth Office.

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DRAFT NOTE FOR OD(K)

FUTURE OF HONG KONG: DRAFT AGREEMENT WITH THE CHINESE

1. The attached draft Agreement, annexes and draft Chinese statement together make up a package through which we might seek to tie the Chinese down to guaranteeing the greatest degree of continuity of systems for Hong Kong in return for accepting that after 1 July 1997 sovereignty and the right of administration will be vested in China.

2. The Agreement, and particularly Article 2(4), set out what we expect from the Chinese Basic Law establishing the Special Administrative Region of Hong Kong (China). The Chinese would be committed by the Agreement to giving Hong Kong full autonomy in everything but external relations and defence. The annexes, which form an integral part of the Agreement, are based on our working papers discussed with the Chinese over the last four months. They seek to commit the Chinese to detailed provisions in each of the various fields. The Chinese draft statement also forms part of the Agreement, and the Chinese are committed to observing it by Article 2(2) of the Agreement. The three together therefore form one possible device which would tie the Chinese to including in the Basic Law the points agreed in discussion with us.

3. The Agreement is a maximalist one, and the Chinese are sure to seek to cut much of the detail out of it. Indeed, there is a danger that they will reject the whole package out of hand if it is too full. It is very possible that the Chinese have a completely different kind of agreement in mind; one which simply commits us to the main principles as they see them, combined with an agreement by both sides to continue discussions on detail. There are, however, some indications that the Chinese may be prepared to accept an agreement linked to detailed annexes. We believe that the present form of Agreement stands a chance of being accepted by the Chinese as a basis for negotiation.

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4. We will need to fight hard for a detailed agreement that would help presentationally in Hong Kong. But we must be prepared for Chinese attempts to cut the existing draft radically. We need to be clear of our own fall-back position. Some, but by no means all, of the provisions in the Agreement are essential points for us. If forced to retreat we should have to consider transferring much of the detail from the Agreement (including Article 2(4)) to a new set of annexes attached to the Chinese statement. They would still form an integral part of the whole Agreement, because of the provisions of Article 2(2), but might be more palatable to the Chinese in this form. If there were a danger of not getting an agreement at all we should have to consider what points might safely be cut altogether, but we must maintain our essential points somewhere in the package. These include those provisions in Article 2(4) which provide specific assurance against Chinese interference, and the main points in the annexes relating to continuity of systems. The most crucial point of all would be the stipulation that these points would be included in the Basic Law. There would be no point in signing an agreement which did not include that provision.

5. The Ambassador and Governor advise that we should give the Chinese a text by 3 April in time for them to absorb it before I visit Peking in mid-April. This could risk the the Chinese simply rejecting the draft when I reached Peking. But the alternative, of presenting them with an outline of our ideas, either before or during my visit, risks their misunderstanding our proposals. On balance I would favour the Ambassador's proposal but we shall have to decide finally when arrangements for my visit are agreed.

6. EXCO are considering the text of the Agreement simultaneously with Ministers, on the basis that Ministers are not committed to it. We shall need to discuss the tactics for handling the Agreement and the timing of handing it to the Chinese with EXCO subsequently.

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7. In handing over the text to the Chinese we should make the following points:

- (a) We have not had any detailed indication of Chinese thinking on the form and content of an Agreement. We are therefore working in the dark, but have done our best to deal with all the points which we believe to be important to the Chinese side.
- (b) In the substance of the Agreement and its Annexes we have based ourselves on our discussions with the Chinese over the last four months, on the Chinese Twelve Point Plan and on the points in our working papers agreed with the Chinese.
- (c) The text represents our own first shot at a draft. We hope that it will not be too far from Chinese ideas. It is a basis for negotiation.
- (d) The work we have put into the draft demonstrates our sincerity in wishing to reach agreement quickly.
- (e) The draft Chinese statement is based on Yao Guang's statement of the Twelve Point Plan. We assume that this is the form of statement they had in mind.
- (f) We look forward to full and frank discussion of the texts.

8. I accordingly propose that at OD(K) on 26 March we should agree that the draft Agreement and Annexes, with any necessary amendments, should be discussed formally with EXCO and should then be handed to the Chinese by 3 April.

9. I am copying this minute and attachments to our colleagues on OD(K).

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Hong Kong



future Pt 12.

16 March 1984

DRAFT AGREEMENT

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China;

Recognising Hong Kong's historical position as part of China and its unique status as an international commercial and financial centre and free port, with its own characteristic society and way of life;

Mindful of the friendly relations existing between the United Kingdom and China;

Mindful also of their common aim of maintaining the future stability and prosperity of Hong Kong;

Have agreed as follows:

Article 1

(1) Hong Kong shall, with effect from 1 July 1997 become a Special Administrative Region of the People's Republic of China, to be known as "Hong Kong (China)", under the sovereignty of the People's Republic of China.

(2) The United Kingdom Government shall continue to administer Hong Kong until 30 June 1997 and shall, with effect from 1 July 1997, terminate all powers of administration which they exercise with respect to Hong Kong. All United Kingdom constitutional instruments relating to Hong Kong shall be repealed with effect from that date.

Article 2

(1) The constitution of Hong Kong (China) shall, with effect from 1 July 1997, be prescribed by a Basic Law to be enacted in accordance with Article 31 of the constitution of the People's Republic of

China adopted on 4 December 1982 to which it shall be appended.

(2) The Basic Law shall be the paramount law for Hong Kong (China). It shall be in accordance with the statement of the Government of the People's Republic of China issued in agreement with the United Kingdom Government and dated, and with the provisions of this agreement, and shall be so maintained until at least 1 July 2047.

(3) The Basic Law shall prescribe the systems to be instituted for Hong Kong (China) as a Special Administrative Region of the People's Republic of China. All rights and powers in relation to external defence and, subject to the provisions of para 4(vi) of this Article, the conduct of external affairs shall remain with the Central People's Government, but otherwise Hong Kong (China) shall enjoy autonomy within the People's Republic of China.

(4) Accordingly, the Basic Law shall, subject to the provisions of paragraph 3 of this Article include provision for the following principles:

- (i) The right and power of administration within the territory of Hong Kong (China) including responsibility for internal security and public order shall be vested through the Basic Law exclusively in the Chief Executive and executive authorities of Hong Kong (China). The exercise of administrative power by the executive authorities and by officials of the public service shall be liable to challenge or review by the courts in accordance with established legal procedures;
- (ii) The right and power of legislation for Hong Kong (China) shall be vested through the Basic Law exclusively in the legislative authorities of Hong Kong (China). Laws enacted by the legislature shall be reported to the Standing Committee of the National People's Congress for the record but, except as envisaged in sub-paragraph (X) of this paragraph, there shall be no right or power of disallowance or annulment outside or within Hong Kong (China).
- (iii) The right and power of final adjudication over all criminal and

civil disputes in Hong Kong (China) including the right to interpret its laws and the powers of punishment shall be vested through the Basic Law exclusively in the established courts of Hong Kong (China) whose judges shall function independently and without interference from the executive or legislature of Hong Kong (China). Hong Kong (China) shall have the right to recruit and employ judges from other common law jurisdictions.

- (iv) The laws of Hong Kong (China) on and after 1 July 1997 shall be the common law, rules of equity and ordinances, subordinate legislation and customary law and practices in force in Hong Kong immediately before 1 July 1997 save only for changes in nomenclature or references consequent upon the severance of constitutional links with the United Kingdom. Hong Kong (China) shall be subject to no other laws save for the Basic Law and for those enacted after 1 July 1997 by the legislative authorities of Hong Kong (China).
- (v) In pursuance of the common aim, the object and the intent of the Basic Law shall be to ensure that persons within Hong Kong (China) shall continue to enjoy, at least until 1 July 2047, their existing rights and freedoms under the law, their way of life and their social economic monetary fiscal and commercial systems all as described and amplified in the annexes to this agreement.
- (vi) The Chief Executive of Hong Kong (China) shall be authorised by the Basic Law in the name of Hong Kong (China) to conclude agreements governing trade, economic, shipping, air services, legal and cultural matters with foreign states and regional and international organisations.
- (vii) In consequence of the severance of constitutional links with the United Kingdom, the Basic Law shall make provision for the continuation of the essential structure and organs of government within Hong Kong (China) including the rights, duties, powers and functions of the Chief Executive of Hong Kong (China) its executive and legislative authorities and the election and appointment of its members, the establishment of the courts of Hong Kong (China), the Judicial Services Commission and the Public Services Commission all as described and amplified in the annexes to this agreement.
- (viii) Hong Kong (China) shall offer to all members of the public

service in employment on 1 July 1997 continued employment on terms and conditions of service no less favourable than those previously enjoyed. Hong Kong (China) shall take over responsibility for the payment of all pensions and similar allowances and associated benefits earned and due to members of the public service who have retired before 1 July 1997 and to their dependants. Hong Kong (China) shall also become responsible for payment to members of the public service who continue to serve beyond 30 June 1997 and their dependants of all earned emoluments, gratuities and all pensions and similar allowances and associated benefits which by that date, or may thereafter become, due to them.

- (ix) No taxes shall be levied in Hong Kong (China) save by the legislature of Hong Kong (China).
- (x) Any question or dispute arising between Hong Kong (China) and the National People's Congress or the Central People's Government as to the interpretation of the Basic Law or the limits of legislative competence or executive autonomy within Hong Kong (China) shall be decided by the Standing Committee of the National People's Congress after referring the matter for advice to a commission presided over by the Chairman of the Legal Affairs Commission of the National People's Congress sitting with two members of the Supreme People's Court of the People's Republic of China and two members of the Hong Kong Supreme Court.

Article 3

In order to secure their common aim the two Governments, shall, in a spirit of friendship, continue their discussions and shall cooperate upon the effective implementation of this agreement.

Article 4

The two Governments shall co-operate in promoting the acceptance by the international community of the autonomous status of Hong Kong (China), as defined in Articles 1 and 2 of this Agreement. In particular they shall endeavour to secure the retention by Hong Kong (China) of the benefits existing immediately prior to 1 July 1997 in

relation to the General Agreement on Tariffs and Trade, and other international agreements and arrangements.

Article 5

[All persons who, immediately prior to 1 July 1997 and as a result of their connection with Hong Kong, are British Dependent Territories citizens shall retain their existing rights under an appropriate form of British nationality, in addition to acquiring Hong Kong (China) citizenship.] [An additional sentence will be added on the acquisition of Hong Kong (China) citizenship by non BDTCs and possibly reference to an annex].

Article 6

The annexes to this agreement shall be treated as an integral part thereof.

Article 7

[A clause may need to be inserted here about representation of the UK and other countries in Hong Kong (China), subject to negotiation]

Article 8

(1) This Agreement shall be subject to ratification. Instruments of ratification shall be exchanged in Peking.

(2) This Agreement shall enter into force upon exchange of Instruments of ratification.

In witness whereof the undersigned, being duly authorised thereto by their respective governments, have signed this Agreement.

Done in duplicate at Peking this.....day of.....1984, in the English and Chinese languages, both texts being equally authoritative.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

For the Government of the People's Republic of China:

ANNEX 1

CONSTITUTIONAL ARRANGEMENTS AND GOVERNMENT STRUCTURES
(NOT YET AGREED WITH THE CHINESE).

1. The Hong Kong Special Administrative Region shall be established in accordance with Article 31 of the Constitution of the People's Republic of China. The region shall be known as Hong Kong (China). The basic systems of Hong Kong (China) shall be prescribed by the Basic Law and will remain unchanged for a period of at least 50 years after 1 July 1997.
2. Hong Kong (China) shall enjoy a high degree of autonomy. It shall have responsibility for its internal administration and external economic and cultural affairs. The Central People's Government shall be responsible for foreign policy and defence, but shall consult the government of Hong Kong (China) on such matters. The government of Hong Kong (China) may make its own laws which it shall report to the Standing Committee of the National People's Congress for the record. The Central People's Government shall not intervene so long as the laws of Hong Kong (China) remain within the limits of its authority as prescribed by the Basic Law and in accordance with the legal procedures.
3. The existing constitutional instruments, including the Letters Patent and the Royal Instructions, shall be replaced by suitable provisions in the Basic Law to be enacted by the National People's Congress or in Hong Kong (China) legislation. Continuing provisions shall be made for the separation of the executive, legislative and judicial powers.
4. The general structure of government existing in Hong Kong on 1 July 1997 shall remain essentially unchanged. The Government of Hong Kong (China) shall be composed of local inhabitants.
5. The Chief Executive and his Deputy shall be elected in accordance with procedures approved by the legislature. They shall be formally appointed by the Central People's Government. They may be removed from office prematurely only on grounds of misbehaviour or infirmity and by resolution of the Legislative Council.

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6. The Executive and the Legislature shall be selected by an elective process, apart from any ex-officio members. The Executive Council shall decide on all important matters of policy within the competence of Hong Kong (China). The Chief Executive shall preside at its meeting. The Legislature as the supreme organ of Hong Kong (China) shall make laws within the competence of Hong Kong (China). Proposals entailing the expenditure of public funds shall require its approval.

7. Regional Councils shall be concerned with the provision of local services. District Boards shall provide a forum for public consultation at a district level, and shall have certain local executive functions.

8. There shall be a central secretariat together with departments and agencies with executive responsibilities. They should be staffed by the public service who shall be appointed by the government of Hong Kong (China) according to the same procedures in force before 1 July 1997.

9. The Chief Officials of the government shall be appointed in accordance with the procedures in force immediately prior to 1 July 1997. These appointments shall be reported to the Central People's Government.

ANNEX 2

PUBLIC SERVICE

1. The government of Hong Kong (China) shall be composed of local inhabitants. [Chief officials shall be nominated by the government of Hong Kong (China) and appointed by the Central People's Government in accordance with the procedures in force immediately prior to 1 July 1997.]

2. The loyalty of all officers, regardless of origin shall be to the government of Hong Kong (China). Existing contractual responsibilities shall be transferred to the Government of Hong Kong (China).

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[3. The concept of a single unified service performing the whole range of local government functions shall be maintained.]

4. All members of the public service shall continue to be subject to the laws of Hong Kong (China) and their actions shall continue to be subject to challenge in the courts.

[5. Officers currently serving, both local and overseas, and those recruited in the future, subject to continuing good conduct and performance shall be able if they wish to complete a full career in Hong Kong on terms and conditions of service not less favourable than present terms].

[6. All vacancies in the public service which cannot be satisfactorily filled by a serving officer shall continue to be advertised publicly and to be filled on the basis of merit. the Government of Hong Kong (China) shall continue to be free to advertise vacancies outside Hong Kong, and to appoint suitable candidates from outside Hong Kong on appropriate terms and conditions of service, where it is unable to fill vacancies locally with suitably qualified candidates. All vacancies in ranks above the basic recruitment rank shall normally continue to be filled by the promotion of serving officers on the basis of qualifications, experience and merit.]

7. All members of the public service shall continue to be subject to codes of discipline laid down by the government of Hong Kong (China). Incorporating provisions comparable with those now provided for in existing regulations.

8. The government of Hong Kong (China) shall assume responsibility for paying all public service pensions and gratuities no less favourable than currently existing and in accordance with the law, including those of officers who retire prior to 1 July 1997, regardless of the recipient's place of residence.

9. On 1 July 1997 the words 'Royal' and 'Crown' shall be removed from the titles of those bodies and institutions in public service

that now carry them. Colonial regulations affecting the public service shall be replaced by laws enacted by the government of Hong Kong (China). The present requirement to refer certain questions to the Secretary of State for Foreign and Commonwealth Affairs in London shall cease.

[10. The post of Chief Secretary shall be retained within the public service and shall be responsible for its central administration and direction and for carrying out the recommendations of:

- (a) the Public Service Commission,
- (b) the standing commission on civil service salaries and conditions of service and,
- (c) the Standing Committee on Directorate Salaries and conditions of service.

The composition and functions of these bodies shall continue as immediately prior 1 July 1997, and any change in their status or duties shall only be effected by the legislature of Hong Kong (China)].

11. The members of the Public Service shall continue to be able to participate in training courses outside Hong Kong, and the existing arrangements whereby certain public service training courses allow public officers to become eligible to obtain qualifications recognised overseas shall be retained.

ANNEX 3: LEGAL SYSTEM

1. The legislature of Hong Kong (China) shall be autonomous. It shall make laws within the limit of authority prescribed in the Basic Law. The Central People's Government shall not annul Hong Kong (China) laws unless they are in conflict with the Basic Law, and shall not extend laws operating elsewhere in the People's Republic of China to the Region without the consent of the Government of Hong Kong (China).

2. All existing written and unwritten laws in force in Hong Kong, including common law and the rules of equity shall remain in force, subject to necessary amendments in terminology to reflect Hong Kong's change in status, and subject to the power of the legislature to add to, to amend, or repeal any laws on its own

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authority.

3. Hong Kong (China) shall continue to be able to delegate the power to make subordinate legislation.

[4. Hong Kong (China) may establish an independent Law Commission to consider changes in laws and other legal matters and to make recommendations].

[5. Any question or dispute arising between Hong Kong (China) and the National People's Congress or Central People's Government as to the interpretation of the Basic Law or the limits of legislative competence or executive autonomy within Hong Kong (China) shall be decided by the Standing Committee of the National People's Congress after referring the matter for advice to a commission presided over by the Chairman of the Legal Affairs Commission of the National People's Congress sitting with two members of the Supreme People's Court of the People's Republic of China and two members of the Hong Kong Supreme Court].

6. Appeals to the Privy Council shall cease. Final judgment shall rest with the final court of appeal sitting in Hong Kong (China). The judiciary shall continue to be independent. The present system of Hong Kong courts will continue, with the exception of institutional changes consequent on the acquisition of power of final judgement.

7. The principal judges shall be appointed by the Chief Executive of Hong Kong (China) on the recommendation of a Commission set up by the Government of Hong Kong (China) and comprising legal personnel and others. Appointment shall be with the concurrence of the legislature. A similar procedure shall be used for other members of the judiciary. Similar procedures shall be used for dismissal. Judicial personnel from other common law jurisdictions may be employed by Hong Kong (China) in appropriate cases and may be invited by Hong Kong (China) to sit on the final appeal court in a judicial capacity. The judiciary shall remain independent of the Executive and free from interference by administrative organs, public bodies and individuals.

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8. Courts in Hong Kong (China) shall continue to rely on Hong Kong judicial precedents and may refer to judgements in other common law jurisdictions.
9. The right of representation in court by lawyers of one's own choice shall be preserved.
10. The actions of the Executive shall continue to be subject to legal challenge in the courts. Administrative organs shall be required to abide by the laws of Hong Kong (China).
11. A prosecuting authority, composed of government lawyers, shall continue to control criminal prosecutions with no interference from the Executive.
12. Hong Kong (China) shall be able, in accordance with the Basic Law, to make laws which give effect to multilateral agreements.

ANNEX 4: RIGHTS OF INDIVIDUAL

1. There shall be no change in the lifestyle of the people of Hong Kong (China). Basic rights and freedoms enjoyed in Hong Kong shall continue to be respected in accordance with the ~~SAR~~ legislation of Hong Kong (China) within the provisions of the Basic Law, and the requirements of public interest and the rights of other individuals.
- [2. Hong Kong (China) shall be free to continue to apply the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights].
3. The following freedoms and rights shall be ensured:
 - (a) The Right to Life: Every person has the right to life, a right that is protected by the criminal law, which prevents any person being deprived of his life.
 - (b) Freedom from Torture: No person can be subjected to torture, or to inhumane or degrading treatment.
 - (c) Freedom from Slavery: No person can be held in slavery or servitude.

(d) Right to Liberty: Every person has the right to personal liberty and to freedom from arbitrary detention. This right is protected by the law of Habeas Corpus and the Common Law relating to false imprisonment.

(e) Right to Property: Every individual, company or other legal person, including an alien, has the right to own property or whatever description and whether the property is in Hong Kong or overseas. This right includes the right to buy, to sell, to use, to bequeath and to inherit property without interference. The right to use property carries with it the right to employ property for personal gain, for example by cultivating land and selling the produce, or by operating an enterprise or business and employing people in that enterprise or business. Every person has the right not to be deprived of property unless the expropriation is in accordance with the law of Hong Kong and is accordingly in the public interest, and accompanied by prompt, adequate and effective compensation.

(f) Right to Work: Every person has the right to use, for his own benefit and advantage his skills and abilities, whether in competition with others or not and the right to choose whether or not to work, or where to work. This right includes the right to strike or to withhold labour.

(g) Freedom of Expression: There is freedom for any person both to express and receive ideas and information (whether by speech, publication, film or other means) and a corresponding right to the secrecy of private communications. This right includes the freedom to hold opinions, the freedom of correspondence and the freedom of the press. The right is balanced by the right of reputation, which is protected by the law of Defamation.

(h) Rights of Assembly and Association: Every person has the right peacefully to assemble, to demonstrate and to form processions, and to associate with other persons and in particular, to form or belong to professional associations, trade unions and community associations. The right of association carries with it the freedom of those within an association to regulate their affairs and lawfully to pursue their common objectives.

(i) Freedom of Conscience and Religion: Every person has freedom of conscience including freedom of religion the right not to practise any religion and the right to practise and propagate a chosen

religion, including a religion practised or organised overseas.

(j) Freedom of Movement: Every person lawfully in Hong Kong has the right to move freely throughout Hong Kong in public areas, to reside in any part of Hong Kong and to leave Hong Kong. Persons lawfully in Hong Kong are not arbitrarily deprived of the right to leave or return to or enter Hong Kong.

(k) Right to Privacy. Every person has the right to the peaceful enjoyment of his own home free from all unlawful intrusion. This right extends to a person's other property, which may not be unlawfully seized or searched.

(l) Right to Education. Every person has the right to be educated and the right of access to knowledge, information and material from whatever source that will enable that person fully to develop his or her cultural life.

(m) Right to Protection of the Law: Every person has the right to the protection of the law, which involves the following general principles:

(i) a person is not punished for an act or omission which was not a crime at the time it was committed;

(ii) a person is presumed innocent of any crime with which he is charged until it is proved otherwise;

(iii) in criminal law, the burden of proof is on the prosecution;

(iv) the right of a fair trial includes the right to have an unbiased and independent judiciary, to know, in a language which he understands, the nature of the case against him, the opportunity of putting forward his own case, the opportunity of calling his own witnesses and of having an interpreter if he so wishes;

(v) in the case of serious criminal charges, the accused has the right to trial by jury;

(vi) a person even while in prison retains the right to human treatment and those of his rights and freedoms not inconsistent with imprisonment;

(vii) for the enforcement of his civil rights, a person is entitled to unimpeded access to the courts;

(viii) the right to legal representation, including confidential legal advice ;

(n) Social Rights: Social rights include the right of every person to favourable conditions of work (including safe and healthy working

conditions, paid holidays, sick leave and maternity leave for women), the right to marry and the right to raise a family and decide on its size.

ANNEX 5: ECONOMIC SYSTEM

1. Hong Kong's existing economic system shall continue.
2. The Government of Hong Kong (China) shall have authority to decide economic policy and to make economic policy decisions within the framework of the Basic Law.
3. Economic policies applied in other parts of China shall be extended to Hong Kong (China) only if Hong Kong (China) itself so wishes.
4. Hong Kong (China) shall be free to retain and develop its existing stable consistent and predictable legal, administrative and regulatory environment.
5. Individuals and institutions shall retain their existing freedom to control their labour and property and use both within the constraints of the law.
6. Every individual, company and other legal person irrespective of nationality shall have the right not be deprived of his or its property unless in accordance with the law of Hong Kong (China) in the public interest, and accompanied by prompt, adequate and effective compensation.

ANNEX 6: MONETARY SYSTEM

1. Hong Kong (China) shall have autonomy in monetary matters, exercising authority to control currency and finance in Hong Kong in accordance with the Basic Law. The Government of Hong Kong (China)

may when necessary revise and formulate regulations in accordance with legislative procedures. Monetary and financial systems and relevant laws and ordinances shall remain basically unchanged, as shall financial institutions.

2. The free flow of capital shall be maintained. The Hong Kong dollar shall remain freely convertible and there shall be no exchange controls.

3. Notes and coins bearing reference to the British Crown shall be progressively withdrawn and replaced with notes and coins of appropriate design.

4. The Government of Hong Kong (China) shall be vested with authority to issue Hong Kong dollars and may authorise designated banks to issue currency. Current note-issuing banks shall participate in issuing, provided the Government of Hong Kong (China) agree proportions of currency to be issued by each issuing bank to be specified through Hong Kong (China) legislation, and their issue proceeded in a 'sound fashion', and a stable value be firmly established.

5. The Exchange fund shall be retained under the authority of the Government of Hong Kong (China) who shall manage and control it solely for Hong Kong's purposes in accordance with the Basic law.

6. Hong Kong (China) may maintain and establish relations with international monetary organisations whose membership is not limited to states.

7. Hong Kong (China) may participate as a member of the Chinese delegation in organisations and conferences limited to states but may take statements in the name of Hong Kong (China).

8. Hong Kong (China) shall continue to appoint administrative

personnel of financial agencies in Hong Kong, including foreign experts. Commercial institutions shall continue to enjoy freedom to recruit and employ staff as they wish.

9. Policy in regard to banks, deposit taking institutions, markets and exchanges shall be enshrined in legislation and administrative practices based on existing systems shall continue. The Government of Hong Kong (China) shall remain free to establish new markets and exchanges or to modify existing arrangements.

[10. The Government of Hong Kong (China) may establish an Independent Monetary Commission to advise on monetary matters including the control of the Exchange Fund. The Commission may draw on experts from within and outside Hong Kong (China) and shall be appointed by the Government of Hong Kong (China).]

ANNEX 7: FINANCIAL SYSTEM

1. Hong Kong (China) shall have the right to make laws in the financial field.

2. Hong Kong (China) resources shall be at the disposal of the Government of Hong Kong (China) exclusively for local purposes.

3. HongKong (China) shall be financially independent and be responsible for drawing up its own budget and financial accounts report. It shall submit these to Central People's Government only for the record.

4. The existing arrangements of accounting, audit and supervision shall remain.

5. The Government of Hong Kong (China) may establish an independent financial commission to provide advice.

ANNEX 8: EXTERNAL ECONOMIC RELATIONS

1. Hong Kong (China) shall remain fully integrated into the international trading community and free market system by practice and through international arrangements. Existing systems and methods of management will be unchanged. Hong Kong (China) shall be able to maintain and develop economic relations with Britain and traditional trade partners. Hong Kong (China) shall remain a free port.
2. Hong Kong (China) shall continue to negotiate and enter into trade and other related agreements and provide for the applicability of such multilateral agreements to Hong Kong. Hong Kong (China) shall be a member of Chinese delegations at organisations and conferences limited to states, expressing views as Hong Kong (China). It shall be able to join on its own those organisations, and participate in those conferences, which are not limited to states.
3. Hong Kong (China) shall continue as a member of the Asian Development Bank, Asian Productivity Organisation and as an Associate member of the economic and social commission for Asia and the Pacific.
4. Hong Kong (China) shall have separate economic and commercial representation overseas as at present.
5. Hong Kong (China) shall remain in the General Arrangement on Tariffs and Trade as a separate tariff area with no diminution of its rights.
6. The SAR shall remain in the Multi Fibre Agreement as a separate tariff area with no diminution of its rights.
7. Arrangements shall be made for the maintenance of Hong Kong (China)'s status as a separate tariff area under diverse General Preference Schemes.

ANNEX 7: SHIPPING [Not yet agreed with the Chinese]

1. Hong Kong (China) shall remain a free port, and its existing economic and trading systems and methods of management shall remain unchanged.
2. Hong Kong shipowners and charterers, their managers and agents shall remain free under the Hong Kong law to operate ships world wide including parts of China, for the carriage of goods and passengers to and from all other ports, and to participate in the management of freight conferences. Private businesses shall continue to provide maritime services and legal services. Internationally recognised classification societies shall continue to be recognised and operate under Hong Kong law for the purpose of ships' surveys.
3. The Government of Hong Kong (China) shall continue to provide port facilities for landing or loading passengers, cargo, livestock, landing and marketing of fish, pleasure craft, shelter from typhoons and for the supply by private businesses of stores and bunkers and salvage, pilotage, towage and repair services.
4. Ships shall continue to enjoy access to the ports of Hong Kong in the course of trade or navigation in accordance with the law.
5. Container terminals shall continue to operate under private ownership on land leased through the Government of the Hong Kong (China). They shall continue to provide for the loading and discharge of containers to and from ships permitted by the operators to have access to these terminals.
6. The laws of Hong Kong regulating shipping and the use of the ports and waters of Hong Kong shall remain in force after 1997, including those laws that give effect to international maritime conventions binding upon Hong Kong. Any changes in these laws shall be with the approval of the Legislature of Hong Kong (China). The Governments of the United Kingdom and the People's Republic of China

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shall co-operate over steps to ensure the continued application to Hong Kong (China) of those international conventions binding upon Hong Kong prior to 1997 including the International Convention on Civil Liability for Oil Pollution Damage (1969) and the protocol to that convention (1976), the convention on Facilitation of International Maritime Traffic (1965), and the Convention relating to Intervention on the High Seas in cases of Oil Pollution Casualties (1969). Hong Kong (China) shall maintain its associate membership of the International Maritime Organisation as 'Hong Kong, China', and participate in future international maritime developments by attending overseas conferences and by negotiating and entering agreements in its own right.

7. Hong Kong (China) shall continue to maintain a shipping registrar under its own legislation.

8. The administration of Hong Kong (China) shall continue to have responsibility under the Law for the following:-

(a) administration of the ports and waters of Hong Kong, including pollution control and the safety of navigation by lighting, dredging, buoyage, and control of traffic.

(b) registration of ships and survey and certification of these ships.

(c) survey and certification of ships registered in other countries that are parties to international conventions binding upon Hong Kong (China).

(d) certification of the competence of ships' officers and crews.

(e) inspection of ships visiting Hong Kong to ensure compliance with the requirements of international conventions binding upon Hong Kong (China)

(f) enforcement of Hong Kong (China)'s shipping laws and regulations by prosecution of offenders before Hong Kong Courts and investigation of shipping casualties and

(g) ensuring the provision of adequate search and rescue services in and near the waters of Hong Kong.

ANNEX 10: CULTURE AND EDUCATION

1. The Government of Hong Kong (China) shall have responsibility

for culture, education and science. It will be able to carry on and develop existing external ties in these fields.

2. Education and scientific institutions shall retain the present degree of autonomy in administration, curriculum, language of instruction, religious observance, ethos and the recruitment and employment of staff. Institutions shall continue to be free to recruit staff from outside Hong Kong (China) and to use teaching materials provided abroad.

3. The allocation of finance for tertiary institutions shall continue to be administered through an independent body within Hong Kong (China). The members of this body shall continue to be drawn from experts within and outside the region, appointed by the Hong Kong Government and responsible solely to it.

4. The independent validation and accreditation of academic work and standards and public examinations shall continue. Arrangements relating to the recognition of educational, scientific, professional and technical qualifications gained abroad shall remain in force. Students in Hong Kong educational institutions shall be able to continue to obtain academic qualifications determined by external bodies. They shall continue to be free to pursue their education abroad.

5. Parents and students shall continue to have freedom of choice in the type of education pursued, and in the language of their education. Arrangements shall continue to be made, within and outside full-time educational institutions for tuition in foreign languages.

6. The current arrangements governing the activities of cultural institutes, and schools, established in Hong Kong by foreign governments and other organisations shall remain in force. Academic, technological and scientific contacts and exchanges with foreign countries at every level shall continue.

7. Cultural exchanges and contacts with all countries and territories shall continue unhindered. The people of Hong Kong shall continue to have access to television, radio, books, newspapers,

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periodicals, films, plays and other cultural manifestations from abroad. The legal framework relating to the media shall remain in force and shall continue to be the responsibility of the Hong Kong Government on its own authority.

8. Sporting and youth contacts and exchanges, with all countries and territories shall continue at the discretion of the government of Hong Kong (China). Hong Kong (China) shall continue to send its own teams and representatives to international and regional sporting competitions.

ANNEX 11: DEFENCE, SECURITY AND PUBLIC ORDER

1. National defence shall be the responsibility of the Central People's Government. The Government of Hong Kong (China) shall remain responsible for the keeping of public order in the region.

2. The Police of Hong Kong (China) shall be responsible for the maintenance of law and order. The local internal security force shall be available at all times to assist the police in these and other respects.

3. British forces shall be withdrawn.

[4. The Central People's Government shall not station People's Liberation Army forces in Hong Kong (China) in normal circumstances.]

ANNEX 12: LAND

1. The Land Authority which is to be established in Hong Kong before 1997, and in which the ownership of land will be vested, shall become the land authority of the government of Hong Kong (China) after 1 July 1997. That authority may at any time before or after that date grant leases of land for the duration of such terms of years as acting in accordance with the law at any time in force, it may decide.

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ANNEX 13: CIVIL AVIATION [NOT YET AGREED WITH THE CHINESE]

1. China's adherence to the Chicago, Warsaw and other international conventions relating to civil aviation matters shall extend to Hong Kong (China). This will be represented as part of the Chinese Delegation to the International Civil Aviation Organisation (ICAO) in such manner that enables it to express separately the particular views of Hong Kong, (China). Arrangements shall be made for the maintenance of existing rights enjoyed by airlines having their principal place of business in Hong Kong under the International Air Services Transit Agreement (IASTA).
2. Hong Kong (China) shall have the exclusive authority to negotiate and sign all bilateral air service agreements and associated arrangements in respect of routes and services between Hong Kong and foreign countries including the United Kingdom. The provisions of air service agreements and associated arrangements applying to Hong Kong immediately before 1 July 1997 shall remain in force (subject to the agreement of other parties) unless and until renegotiated. Designation under such agreements shall be the exclusive right of Hong Kong (China).
3. Existing Hong Kong legislation covering civil aviation shall remain in force. Hong Kong (China) shall continue to maintain an aircraft register under its own legislation. The government of Hong Kong (China) shall have the exclusive authority to approve and to refuse registrations and to enforce safety requirements concerning aircraft registered.
4. In accordance with its laws and procedures, Hong Kong (China) shall have the exclusive authority to license operations to, from and within Hong Kong by airlines having their principal place of business in Hong Kong.
5. Hong Kong (China) shall have the exclusive authority to issue the permissions governing the conditions under which airlines not having their principal place of business in Hong Kong may operate services to and from there. Such permissions, granted under the laws of Hong Kong (China), shall be available only where reciprocal traffic rights or other arrangements acceptable to Hong Kong (China)

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have been secured in negotiation with the other authorities concerned.

6. The appropriate authorities of Hong Kong (China) shall determine through negotiation with those of the Central People's Government, the conditions under which airlines having their principal place of business in Hong Kong (China) and airlines bases elsewhere in China may operate between Hong Kong (China) and other points in China.

7. Hong Kong (China) shall have the exclusive responsibility for the operation of all airports within its territory. Its duties shall include the provision of air traffic services within the Hong Kong China flight information regions and any other responsibilities allocated under the regional air navigation planning procedures of ICAO.

ANNEX 14: NATIONALITY, CITIZENSHIP, RIGHT OF ABODE, FREEDOM OF TRAVEL, IMMIGRATION AND EMIGRATION [Not yet agreed with Chinese]

1. All persons who immediately prior to 1 July 1997 and as a result of their connection with Hong Kong are British Dependent Territory Citizens shall retain their existing rights under an appropriate form of British nationality, in addition to acquiring Hong Kong (China) citizenship.

2. Existing rights of abode in Hong Kong including the existing freedom of protection from removal or deportation from Hong Kong shall remain unchanged.

3. Citizenship of Hong Kong (China) will be set up as a separate category of Chinese nationality prior to 1 July 1997. The following categories of resident would have the right to become citizens of Hong Kong (China);

- (i) all persons who immediately prior to 1 July 1997 were British Dependent Territory Citizens by virtue of their connection with Hong Kong;
- (ii) All Chinese residents and all persons in Hong Kong on 1 July 1997 who, by continuing to reside there for the qualifying period, will become Chinese residents;

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- (iii) all persons born in Hong Kong before 1 July 1997 who are not British Dependent Citizens;
 - (iv) all person born in Hong Kong or after 1 July 1997.
4. Acquisition of citizenship of Hong Kong (China) after 1 July 1997 by naturalisation or by other means shall be defined under the laws of Hong Kong (China).
5. The government of Hong Kong (China) shall on its own authority issue Hong Kong (China) travel documents in accordance with the policy followed immediately prior 1 July 1997. Consular Officers of the UK government shall issue British travel documents.
6. Hong Kong (China) travel documents shall be valid for all countries or territories and shall guarantee the holder's right of return to Hong Kong (China) within the period of validity of the document. The Government of Hong Kong (China) shall only withhold or withdraw travel documents in specific circumstances defined by the law of Hong Kong (China).
7. The Government of Hong Kong (China) shall be empowered to negotiate new visa abolition agreements for Holders of Hong Kong (China) travel documents. The government of the UK shall use its officers to assist in these negotiations. The Government of Hong Kong (China) shall determine the right of access to Hong Kong(China) where nationals from states not party to such of these abolition agreements. The government of the UK shall assist in persuading certain states, which immediately prior to 1 July 1997 allowed visa free entry to persons who are British Dependent Territory Citizens by virtue of their connection with Hong Kong, to continue to allow them visa free entry after that date.
8. Citizens of Hong Kong (China) travelling abroad shall be entitled to the range of consular services and the degree of consular protection consistent with their nationality status.
9. Subject to exemptions, which are both allowed by law and consistent with the international covenant on civil and political rights, all persons shall be free to leave the SAR in order to immigrate or for any other purpose. Holders of valid Hong Kong

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China documents or of British passports issued to persons who possess British nationality by virtue of their connection with Hong Kong shall have the right to enter and reenter Hong Kong (China) by virtue of their absolute right of abode in Hong Kong (China), and these travel documents shall state this right. The present arrangements for allowing travel between Hong Kong and Macau and the present arrangements for allowing travel between Hong Kong and other parts of China shall continue.

10. The existing arrangements for persons with no right of abode in Hong Kong to visit, reside in, leave Hong Kong (China) shall remain. Any changes to these arrangements shall be the sole responsibility of the Government of Hong Kong (China).

11. Persons who have no right of entry into Hong Kong (China) shall not be permitted to enter Hong Kong (China) without the permission of the immigration authorities in Hong Kong (China).

12. All illegal immigrants or overstayers shall be removed in accordance with the laws of Hong Kong (China).

13. Entry into Hong Kong (China) from other parts of the People's Republic of China shall continue on the same basis as at present. Any changes in these arrangements shall require agreement between the government of Hong Kong (China) and the People's Republic of China.

Hong Kong Department

March 1984

(Passages in square brackets indicate items not yet agreed by the Chinese.)

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DRAFT CHINESE ASSOCIATED STATEMENT

1. In association with the agreement signed today between the Government of the People's Republic of China and the Government of the United Kingdom of Great Britain and Northern Ireland, the Government of the People's Republic of China declares its intention to implement arrangements in Hong Kong after 1 July 1997 on the following basis.
2. China will resume the exercise of its sovereignty over Hong Kong from 1 July 1997.
3. After China resumes the exercise of its sovereignty the Hong Kong Special Administrative Region (SAR) directly under the authority of the Central People's Government will be established in accordance with Article 31 of the constitution of the People's Republic of China. The Hong Kong SAR will enjoy a high degree of autonomy.
4. The Hong Kong SAR will be vested with the power of legislation and independent judicial power including that of final judgement. The laws, decrees and regulations currently in force will remain basically unchanged.
5. The Government of the Hong Kong SAR will be composed of local inhabitants. The principal officials will be appointed by the Central People's Government on the basis of the results of elections or consultations held locally. Local British and other foreign nationals may be employed to serve as advisers in organs at various levels in the Hong Kong SAR.
6. The current social and economic systems in Hong Kong will remain unchanged. So will the lifestyle. Freedom of speech, of the press, of assembly, of association, of travel and change of domicile, of correspondence and of religious belief will be ensured. Private property, ownership of enterprises, the legitimate right of inheritance and foreign investments will be protected by law.
7. The Hong Kong SAR will remain a free port and a separate tariff area.

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8. It will maintain the status of an international financial centre and its markets for foreign exchange, gold, securities and futures will remain open. There will be free flow of capital. The Hong Kong dollar will circulate and be freely convertible as usual.

9. The Hong Kong SAR will have independent finances.

10. The Hong Kong SAR may establish reciprocal economic relations with Britain. British economic interests in the Hong Kong area will be taken care of.

11. Using the name 'Hong Kong (China)' the Hong Kong SAR may, on its own, maintain and develop economic and cultural relations and sign agreements with foreign countries and regions and the relevant international organisations. The government of the SAR may issue its own travel documents for entry into and exit from Hong Kong.

12. Public order in the Hong Kong SAR will be kept by the Government of the SAR.

13. The above stated policies for the Hong Kong SAR will be stipulated by the National People's Congress as the basic law of the Hong Kong SAR and will remain unchanged for 50 years.