



Foreign and Commonwealth Office

London SW1A 2AH

4 April, 1984

Dear John,

Hong Kong: Prime Minister's Meeting with EXCO Unofficials,

6 April 1984

I enclose a brief for the Prime Minister's use during her meeting with the Unofficials. This takes account of the decisions at the OD(K) meeting on 3 April and also of the descriptions of the Hong Kong mood which we have received from the Governor, both in telegrams and orally since his arrival.

The brief also mentions the letter from Sir S Y Chung and Mr R H Lobo to all Members of Parliament to which you referred in your letter of 2 April.

We propose to let the Prime Minister have an account tomorrow evening of the Foreign Secretary's discussions with the Unofficials during that day, together with any further briefing that may be necessary.

I am copying this to Henry Steel (Attorney General's Office).

Yours ever,

Peter Ricketts

(P F Ricketts)
Private Secretary

A J Coles Esq
10 Downing Street

PRIME MINISTER'S MEETING WITH HONG KONG EXCO UNOFFICIALS,
6 APRIL 1984

POINTS TO MAKE

Introduction

1. Understand concerns. Crucial point in negotiations. HMG will continue to work for best possible agreement for Hong Kong.

Negotiating Strategy

2. About to start discussion of agreement with Chinese. Aim must be to tie them down on points agreed during discussion and to reach binding agreement assuring autonomy for 50 years from 1997.

3. Understand importance of confidence in Hong Kong and effect announcement of agreement will make. We shall of course continue to keep in close touch with EXCO, enabling us to monitor together progress of negotiations and to decide whether a package which may be negotiable with the Chinese will also meet Hong Kong's interests.

Text of Agreement and Foreign and Commonwealth Secretary's Visit to Peking

4. Very important to put in our draft agreement in full, with annexes, before Sir G Howe's visit. Must not allow Chinese to pre-empt us. He will argue case for our draft strongly. Ministers will need to decide strategy in light of Chinese reaction.

Unveiling

5. Understand Hong Kong's wish for more information about talks. Sir G Howe intends to make a statement in Hong Kong this month, making clear that British administration will not be negotiable but that subject to conditionality we are working for a genuinely autonomous status for Hong Kong.

Key Points

6. Realise certain points particularly important to you. Sir G Howe will press our position on nationality, stationing of Chinese forces, Public Service and other points. Know Unofficials attach particular importance to nationality. Main aim must be to preserve essential rights for BDTCs.

Agenda Item 2 and Constitutional Development

7. We need to handle this carefully. Must prevent Chinese gaining a say in Hong Kong's administration before 1997. Applies particularly to question of constitutional development on which a step by step approach seems best. But we must also try to gain advantage for ourselves from the fact that contact with the Chinese will be necessary. This could give us an opportunity to influence the Basic Law.

Acceptability, Including Letter from Unofficials to Prime Minister

8. Have seen your letter of 26 March about the debate on 14 March in the Legislative Council. Entirely natural for LEGCO to debate this issue. Members seem to have spoken very responsibly. Agree that adequate time will be needed for people of Hong Kong as a whole to express views on an agreement.



BACKGROUND

The following papers are attached as background for the meeting:

- (i) the Foreign Secretary's minute of 2 April summarising the issues to be covered during the visit;
- (ii) the draft agreement, which has been discussed with EXCO;
- (iii) the draft paper on Agenda Item Two, also discussed with EXCO (Hong Kong telegram number 917, also attached);
- (iv) a note of points agreed so far with the Chinese in the talks;
- (v) the Governor's telegram number 885, giving his appraisal of the situation;
- (vi) the letter from Sir S Y Chung and Mr Lobo enclosed with your letter of 2 April.



PM/84/57

PRIME MINISTER


HKK 0261	
RECEIVED IN DEPT. OF INDUSTRY	
- 3 APR 1984	
DATE	TIME
INDUSTRY	

HKS
 CFB
 P/M LUCE
 P/S/PUS
 S/P CRADOCK
 Dr Wilson
 Mr Thompson FED
 Mr Burgess Legat/As
 Miss Neville-Jones
 Planning Staff

(87)

Hong Kong: Visit of EXCO Unofficials

1. The Hong Kong EXCO Unofficials, accompanied by the Governor, will again be visiting London from 4-6 April. The purpose is to hold discussions in advance of my visit to China and Hong Kong in mid-April. I shall see them on 5 April and they will call on you on the morning of Friday the 6th.
2. The Unofficials have made clear that they regard their talks with HMG on this occasion as crucial. The Governor has reported that they are deeply dissatisfied with the recent course of the talks in Peking. They were particularly depressed by the response which the Chinese gave us at the eleventh round on our proposals on nationality and by the indications we have received about the sort of agreement which the Chinese would be prepared to consider.
3. In a sense, every visit by EXCO to London has focussed on the same problem: how to reconcile the perceived requirements for confidence in Hong Kong with a realistic negotiating position in Peking. This time, however, the Governor believes that there is a point beyond which EXCO might withhold their support. They will certainly demand that Ministers make clear to them that we are prepared to face a break in the talks if that requirement cannot be obtained. They will argue that we have in practice agreed virtually nothing with the Chinese during our discussions of our working papers and, inconsistently, that HMG have made successive concessions throughout for no real return.
4. The Unofficials' attitude is understandable and has to be taken very seriously. They clearly fear heavy criticism if they are seen to be associated with an agreement which might be seen by the public as little more than a reformulation of the Chinese twelve points. Although opinion in EXCO is by no means unanimous, there is bound to be a reluctance to stand our against a call by



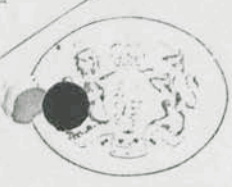
colleagues for a tough line in defence of Hong Kong's 'interests'. Although at some stage we might have to decide to overrule EXCO, we must make every effort to keep them with us, because their support will be a key factor in obtaining acceptance of any agreement in Hong Kong.

5. On the other hand, I believe that EXCO's views are in many ways based on misconceptions. In the first place they are likely to argue that, when we have exercised flexibility in negotiation with the Chinese, this has produced no real benefit and that we have only made gains where we have stood firm. In fact the main breaks in the talks and the main progress on detail have been achieved not by refusing to move at all on our side but by a readiness to examine on a conditional basis whether satisfactory arrangements could be devised for Hong Kong on the basis of the Chinese proposals. This was the theme of your message to the Chinese Premier last October, to which EXCO agreed. I believe also that EXCO are wrong in asserting that we have not made progress on important points with the Chinese. The discussion of our working papers has in fact produced very extensive agreement on substance, though not yet to the same extent in form. The main outstanding points are those on which we always expected that the Chinese would be difficult: nationality, constitutional arrangements, and stationing of Chinese troops. We shall have to consider carefully how we press our case on the Chinese on these very important points, but this should no disguise the fact that on other questions, notably the law and the financial and economic systems, as well as freedoms and human rights, the Chinese have responded to our working papers and our arguments with a considerable expansion of their proposals.

6. It is clear that in our continuing negotiations with the Chinese there will be some points on which we must place more weight and for which we must argue harder and longer than others. There will also be points that we regard as essential to a tolerable agreement. These will include a binding commitment by the Chinese to respect certain essential elements of the autonomy of Hong Kong for at least fifty years and a considerable measure

of detail about the systems and freedoms that will be continued. We must make clear to EXCO that we do have such sticking points. But we can only express such concepts to the Unofficials in very general terms. It would not be wise to spell out in detail and in advance what our individual requirements are.

7. This is necessary because I believe that EXCO's application of the principle of a sticking point differs from ours. Because they want to be seen, even more strongly than we need to be, as the defenders of Hong Kong's interests, they are likely to demand that we put in strong initial bids to the Chinese from which we would be committed not to retreat. This would apply both to specific issues and to the general content of an agreement. Experience has shown that we could not sensibly conduct the negotiation on those lines and hope to get a result which would be in Hong Kong's best interests. As you know, I believe that the 'maximalist' draft agreement which we discussed on 26 March stands no chance of eventual acceptance by the Chinese. We shall be discussing tactics further with EXCO this week and at the Governor's request are delaying handing over the draft Agreeing in Peking until after that. We shall need to present the maximalist draft to the Chinese and argue for it. But it is not the case that every part of that draft is essential to Hong Kong's future autonomy or for confidence. I believe that there should be ways of framing an agreement so as to meet those requirements and also gain Chinese acceptance. But we cannot discover whether that is so unless we have flexibility in our negotiation position. We shall hog-tie ourselves if we lay down immutable and specific requirements now. It is far better to negotiate flexibly and to rely on the fact that everything in an eventual package will be ad referendum. We are still operating on the terms we laid down last October. That means that there will come a time when we shall have to recognise that we have completed our explorations of what can be built on the Chinese proposals and to decide in consultation with EXCO whether the total package is acceptable. That point has not come yet and EXCO's proposals for putting in very high bids and sticking to these at all costs have the effect of preventing us completing this exploration. When we




do eventually reach the point of judging whether the total package is acceptable, we shall need to take the consequences of break-down very much into account. I do not believe that we can regard EXCO's concept of a relatively harmless stand-off as a realistic option. A breakdown in the talks would mean confrontation, in which a unilateral Chinese statement in a few months would inevitably be the most striking feature.

8. We need to adopt a similar approach to the question of the timetable for talks and the procedures for signature and ratification of an agreement. On 26 March we agreed that we would need some flexibility on this and in particular might have to indicate to the Chinese that, if they were prepared to agree to a detailed package which clearly set out the lines of the eventual basic law, we might be able to consider expediting reatification on our side. I hope that during EXCO's visit we can convince them of the sense of such a tactic. It is likely to be one of our strongest cards in getting an agreement that will meet their interests.

9. I am sure that we must talk frankly to EXCO on these lines. We must again reassure them that we are seeking the best interests of Hong Kong. We need to remind them of the real risk of confrontation with the Chinese, while acknowledging that there may come a point at which those risks will have to be run. But we must also make clear that there is still much to play for. The Chinese are bound to take a tough line at this key phase in the negotiations, as we approach discussion of an agreement. But they are also indicating in informal contacts and in secret material that they realise that Hong Kong will require assurance. Their understanding of what will be necessary for that is probably inadequate. We need to use the negotiation in order to explain the requirements. But we cannot do that on the basis of a rigid position.

10. At the same time, if I am to go to Peking with EXCO's confidence, and particularly if I am to make a statement in Hong Kong which will set out the public positions more openly, I shall



have to be, and am, ready to argue strongly on points which matter to Hong Kong. The Governor has made clear that nationality is such a point. In the last round of talks the Chinese rejected our proposal for a separate category of citizenship for Hong Kong under Chinese nationality and continuation of rights for Hong Kong BDTs under another title. Their point was that they could not agree with us on arrangements which contravened the Chinese principle that Hong Kong Chinese were, and would remain, simply Chinese nationals. At the same time they appeared to accept that we could, on our own, make provision for some of the BDTs' present rights to continue; and that outside Hong Kong such people could use a British passport as a travel document. They added to this, however, the important rider that such a British national status could not be transmitted to a succeeding generation.

11. EXCO have argued strongly, with the Governor's support, that we should not adjust our position to meet that of the Chinese and that we should continue to press our proposals on nationality, despite the Chinese reaction. I am under no illusion that the Chinese would accept these. However, I have told the Governor I am prepared to argue for them again when I go to Peking and to explain to the Chinese the great significance of this issue for Hong Kong in judging the acceptability of any agreement. I would thus demonstrate to EXCO that we are prepared to press on important issues. But I should also make clear to the Unofficials that it would not be in their interests to treat every aspect of this question as one for which we should necessarily die in a ditch.

12. Finally, the Governor advises that the Unofficials may press us on what measures HMG would take to help Hong Kong people, particularly BDTs if an acceptable agreement is unobtainable. They probably have in mind financial assistance to those who wish to leave Hong Kong and may well couple this with the question of entry into the UK. My own view is that we could not give a blanket assurance of any sort; we should



tell EXCO that we could only consider any cases in the light of circumstances as they arose. We should emphasise that public statements on this would not help confidence but would cast doubt on the effectiveness of the negotiations while they were in progress.

13. I am sending copies of this minute to OD(K) colleagues, and believe that it would be helpful if we could discuss these questions with them at the meeting arranged for 3 April, before the EXCO Unofficials arrive in London. I am also sending a copy to Sir Robert Armstrong.

GEOFFREY HOWE

Foreign and Commonwealth Office

2 April, 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 based upon the common law and the rights and freedoms of individuals protected by law;

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 paragraph 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 Hong Kong (China) 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) or from outside 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 provide continuity of employment to all members of the public service in employment on 30 June 1997 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
Great Britain and Northern Ireland

For the Government of
The People's Republic
of China

Hong Kong Department
April 1984

FUTURE OF HONG KONG: AGENDA ITEM TWO

1. The Chinese have told us that they wish to start discussing agenda item two (arrangements prior to 1997) in April. We have said that we will try to meet this deadline. We should decide what line to take on this item.

THE CHINESE OBJECTIVES

2. The Chinese are the demandeurs on agenda item two. They wish to have a say in what happens in Hong Kong up to 1997. They have indicated that they wish to establish some form of institutional machinery in Hong Kong before 1997 to give the impression that they have acquired the right to be consulted on all aspects of Hong Kong's internal affairs. The areas that probably interest them most are:

- (a) constitutional developments between now and 1997:
- (b) internal security and:
- (c) localization of the civil service, police and judiciary.

OUR OBJECTIVES

3. We will continue to be the administering power for Hong Kong until 1997. We must not to allow undue Chinese influence in that period, to avoid reducing confidence in the territory. Some measure of Chinese pressure is inevitable. But we must not allow them a veto over developments in Hong Kong up to 1997.

4. However there are certain matters affecting the pre-1997 period which we should discuss with the Chinese. These include:

- (a) Land Tenure. We must make clear to the public that leases for land in the New Territories will be issued on the same terms as those in the ceded areas. It would be helpful to have an understanding on this recorded in the agreement.
- (b) Hong Kong's possible future participation in international treaties, at present applying to the Territory. This will require discussion between China and the UK over a long period between now and 1997.
- (c) Future GATT rights for Hong Kong. A mention of this will be needed in the agreement, but continuing discussion will be necessary between the UK and China and with other GATT members

in order to ensure a continuing status for Hong Kong. (The same considerations may apply to other international economic bodies).

- (d) Shipping and Air Services. In both cases we shall need to develop arrangements for Hong Kong to control these services autonomously.
- (e) Financial. There may be some scope for discussion with the Chinese on such matters as issue of notes, coins and postage stamps bearing "colonial" emblems. They may wish to discuss the possibility of the Bank of China becoming a note-issuing bank.
- (f) Internal Security Force. If the Chinese continue to decline to react to our proposal for the creation of an internal security force in Hong Kong under Agenda Item One, and insist that this matter should be discussed during the transitional period, we shall have to raise it under Item Two. Without the Chinese side's at least tacit agreement to the force's creation, it will be very difficult to proceed with it. We must resist however any Chinese bid for involvement in the planning of such a force. Its recruitment and formation is a matter for the Hong Kong Government.

5. At the tenth round of talks the Chinese argued that our proposals for constitutional development up to 1997 would have to be discussed with them to ensure that they did not conflict with the provisions of the Basic Law. They said that this should be discussed under Agenda Item Two. This may provide us with an opening to influence the drafting of the Basic Law. We must exploit it without allowing the Chinese an opening for interference.

FUTURE ARRANGEMENTS

- 6. Possible ways of securing our objectives would be:
 - (a) Continuing talks through diplomatic channels. These will be necessary in any case on some matters. They would have the advantage that they would not provide an institutionalised forum in which the Chinese could interfere in Hong Kong before 1997. But equally they would not offer much scope for our own involvement in the Basic Law.
 - (b) Machinery such as a joint commission, for the discussion of co-operation between September 1984 and July 1997. The terms

of reference of this body could be made wide enough to allow us to influence the drafting of the Chinese Basic Law, and to resolve the outstanding transitional problems in the fields of international treaties, land tenure aviation and shipping. The commission would probably not need to be in permanent session and might be served by sub-committees dealing with particular subjects.

7. We would have to be careful to ensure that a commission did not allow the Chinese an undue role before 1997. In particular there is the problem of whether it should be based in Peking or Hong Kong. If the body were in Peking we should be dealing with cadres who know little about Hong Kong, and are unexposed to the realities of life there. But against this a commission working in Hong Kong would certainly detract from the authority of the Hong Kong Government, and complicate our job as the administering power up to 1997.

LINE TO TAKE WITH THE CHINESE

- 8(a) We should agree to discuss agenda item two with the Chinese in April, provided that we maintain the right to refer back to unresolved questions from agenda item one.
- (b) On constitutional arrangements up to 1997 we should say to the Chinese that we propose to move to a system of indirect elections. We would not be likely to make a decision on whether to move to direct elections until the 1990's. We should make it clear that we are simply informing ^{them} our intentions, and not consulting them or giving them the right to veto changes. We should however say that we will consult them before moving to direct elections. We should adopt a similar line on localisation of the civil service.
- (c) On the internal security force we should seek Chinese agreement to the creation of such a force, but resist any suggestion that we will consult them on its recruitment or formation.
- (d) On other questions covered in paragraph four we should seek Chinese acceptance of guidelines for handling these matters, and the inclusion of statements on them in the agreement.
- (e) We should suggest referring remaining questions to some form of consultative machinery. This should be based in Peking and working groups should be established where both sides agree that it is necessary. It should if possible include the

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participation of Hong Kong representatives.

- (f) We should agree terms of reference for this machinery with the Chinese, which are wide enough to allow us to influence the drafting of the Basic Law, but avoid giving the Chinese a veto on developments in Hong Kong prior to 1997.

Hong Kong Department

20 March 1984

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FM HONG KONG 031020Z APR 84
TO IMMEDIATE FCO
TELEGRAM NUMBER 917 OF 3 APRIL
INFO IMMEDIATE PEKING

YOUR TELNOS 586, 587 AND 597: FUTURE OF HONG KONG: ITEM 2.

1. I HAD A PRELIMINARY DISCUSSION OF THE DRAFT PAPER ON AGENDA ITEM 2 IN YOUR 2ND TEL UNDER REF WITH EXCO THIS MORNING. IN DOING SO I MADE IT CLEAR THAT THE DRAFT WAS A WORKING PAPER AND THAT THE PRIME MINISTER WISHED TO CONSIDER IT FURTHER.

2. SIR S.Y. CHUNG'S INITIAL REACTION WAS THAT IT WOULD BE PREMATURE TO GET ON TO ITEM 2 BEFORE WE HAD COMPLETED DISCUSSION OF ITEM 1. I EXPLAINED THAT WE HAD ALREADY INDICATED WILLINGNESS TO BEGIN DISCUSSION OF ITEM 2 ON THE BASIS THAT WE WOULD WISH TO RETURN TO POINTS OUTSTANDING FROM ITEM 1: THAT THE CHINESE HAD ACCEPTED THAT WE WOULD WISH TO DO THIS: AND THAT THEY HAD TOLD US THAT THEY INTENDED TO OUTLINE THEIR IDEAS ON ITEM 2 AT THE NEXT ROUND. WE WOULD BE OBLIGED TO LISTEN. I THEN TOOK THE COUNCIL CAREFULLY THROUGH THE DRAFT PAPER, EMPHASISING THAT WHATEVER THE FORM OF THE EVENTUAL AGREEMENT, THERE WERE MATTERS AFFECTING THE PRE-1997 PERIOD WHICH WOULD NEED TO BE DISCUSSED WITH THE CHINESE AND SOME WHICH WE OURSELVES WOULD WISH TO RAISE. THE DRAFT PAPER SOUGHT TO IDENTIFY THESE QUESTIONS AND WENT ON TO CONSIDER HOW FUTURE CONSULTATION ON THEM MIGHT BE HANDLED, AS WELL AS THE LINE WHICH WE MIGHT TAKE WITH THE CHINESE AT THE TALKS.

3. IN FURTHER DISCUSSION MEMBERS CONCENTRATED ON THE LINE TO TAKE WITH THE CHINESE (PARA 8 OF THE DRAFT). THE MAIN POINTS WERE:

(A) SOME MEMBERS ARGUED THAT IT WOULD NOT BE POSSIBLE TO DECIDE WHAT COURSE WE WISHED TO TAKE REGARDING CONSTITUTIONAL DEVELOPMENT BEFORE 1997 UNTIL THE CHINESE HAD GIVEN A MUCH CLEARER INDICATION OF THEIR POSITION REGARDING ARRANGEMENTS POST-1997. CONCERN WAS ALSO EXPRESSED THAT IF WE WERE TO OFFER TO CONSULT THE CHINESE BEFORE MOVING TO DIRECT ELECTIONS THEY WOULD SEEK A RIGHT OF CONSULTATION ON (NEXT WORD UNDERLINED) ANY CONSTITUTIONAL CHANGES. I EXPLAINED THAT THE FORMULA IN PARA 8(B) HAD BEEN VERY CAREFULLY CONSTRUCTED. SINCE THE CHINESE WOULD BE IN A POSITION TO FRUSTRATE ANY MOVE TO DIRECT ELECTIONS IN THE 1990'S IT WOULD CLEARLY MAKE SENSE TO CONSULT THEM BEFORE EMBARKING ON SUCH A MOVE. BUT THERE WAS NO INTENTION TO CONSULT THEM ABOUT ANY PLANS FOR INDIRECT ELECTIONS: THEY WOULD SIMPLY BE INFORMED. THE POINT MADE BY MEMBERS COULD HOWEVER BE MET BY ADDING AT THE BEGINNING OF PARA 8(B) A REFERENCE TO CHINESE RECOGNITION THAT HMG WOULD BE RESPONSIBLE FOR THE ADMINISTRATION OF HONG KONG UNTIL 1997.

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(B) MEMBERS HAD STRONG RESERVATIONS ABOUT THE ESTABLISHMENT OF ANY FORM OF INSTITUTIONALISED MACHINERY FOR CONSULTATION. THEY BELIEVED THAT THIS WOULD PROVIDE FAR TOO MUCH SCOPE FOR CHINESE INTERFERENCE. THEY ACCEPTED THAT THERE WOULD BE A NEED FOR CONSULTATION ON INDIVIDUAL SUBJECTS, BUT THEY BELIEVED THAT THIS COULD BE MET BY DEALING WITH SUCH QUESTIONS ON A CASE BY CASE BASIS IN THE COURSE OF NORMAL INTER-GOVERNMENTAL BUSINESS, WITH THE TIMING, LEVEL AND PLACE OF DISCUSSION DETERMINED BY THE SUBJECT AND THE CIRCUMSTANCES.

(C) SOME MEMBERS BELIEVED THAT NOT ALL THE MATTERS LISTED IN PARA 4 WOULD REQUIRE DISCUSSION WITH THE CHINESE IN THE PERIOD BEFORE 1997. MR SANDBERG IN PARTICULAR SAW NO NEED FOR ANY DISCUSSION OF NOTES, COINS AND POSTAGE STAMPS WHILE BRITAIN REMAINED RESPONSIBLE FOR THE ADMINISTRATION OF HONG KONG. OTHERS SAW THE ADVANTAGES OF MAKING ADJUSTMENTS IN SUCH AREAS BEFORE 1997 SO AS TO MINIMISE THE IMPACT OF CHANGE IN 1997.

4. MEMBERS ALSO HAD A NUMBER OF DETAILED POINTS ON THE DRAFT, LISTED BELOW:-

(I) THEY QUESTIONED THE INCLUSION OF THE REFERENCE TO LOCALISATION AT THE END OF PARA 8(B) AND SUGGESTED ITS OMISSION. THEY REGARD LOCALISATION AS A QUESTION FOR HMG AND THE HKG AND NOT SOMETHING ON WHICH THERE WOULD BE A NEED TO CONSULT THE CHINESE.

(II) THEY THOUGHT THE FORMULATION IN PARA 8(C) WAS WRONG. THE FIRST REQUIREMENT WAS TO GET THE CHINESE AGREEMENT TO THE CREATION OF AN INTERNAL SECURITY FORCE. ITS RECRUITMENT AND FORMATION WOULD THEREAFTER BE MATTERS FOR HMG AND HKG.

(III) MEMBERS DID NOT UNDERSTAND PARA 8(D) AS DRAFTED AND SUGGESTED THAT IT SHOULD BE OMITTED.

5. I SAID THAT I WOULD REFLECT THESE VIEWS TO LONDON. THERE WOULD BE AN OPPORTUNITY TO TAKE THE DISCUSSION FURTHER IN THE MEETING WHICH HAD BEEN ARRANGED WITH MR LUCE. THERE WILL THEN BE A NEED TO PRODUCE A REVISED VERSION OF THE LINE TO BE TAKEN WITH THE CHINESE (PARA 8 OF THE PAPER).

YOUDE

FUTURE OF HONG KONG

LIMITED

ED/HKD

ED/FED

ED/PLANNING STAFF

ED/PUSD

D/ED/PUSD

RES.B. (MR WALKER)

LEGAL ADVISER (MR FREELAND).

PS

PS/LADY YOUNG

PS/MR LUCE

PS/PUS

SIR J BULLARD

SIR W HARDING

MR WILSON

MR WRIGET

SIR C RECKELL

COPIES TO:

BUCKINGHAM PALACE

PS/LORD PRESIDENT OF THE COUNCIL

PS/HOME SECRETARY

PS/CHANCELLOR OF THE EXCHEQUER

PS/LORD PRIVY SEAL

PS/SECRETARY FOR TRADE & INDUSTRY

COPIES TO: (VIA ADR)

MR ROBERTS NEWS D

MR BURROWS LEGAL ADVS

MR COLES NO 10 DOWNING ST.

MR MARTIN ASSESSMENT STAFF CABINET OFFICE

MR GOODALL CABINET OFFICE

MR BRENNAN CABINET OFFICE

PS/S OF S FOR DEFENCE D

PS/ATTORNEY GENERAL

SIR P CRADOCK RM K195

SIR P CRADOCK NO 10 DOWNING STREET

SECRET-2-

PS
PS/PDS
PS/MR LUCE
MR WILSON
HD/PCD
HD/YED

COPIES TO:
MR COLES, NO. 10 DOWNING ST
MR ROBERTS, NEWS DEPT
SIR PERCY CRADOCK

GRS 700
~~SECRET~~
DESKBY 020900Z FCO
DESKBY 020900Z PEKING
FM HONG KONG 020740Z APR 84
TO IMMEDIATE FCO
TELEGRAM NUMBER 885 OF 2 APRIL
INFO IMMEDIATE PEKING

ADVANCE COPY

DBY 020900Z

IMMEDIATE

MY TELND 864: FUTURE OF HONG KONG

1. AS A CONTRIBUTION TO THE PREPARATIONS FOR THE VISIT BY EXCO UNOFFICIALS AND THE SECRETARY OF STATE'S VISIT TO PEKING, MINISTERS MAY WISH TO HAVE MY APPRAISAL OF THE SITUATION AS FAR AS HONG KONG IS CONCERNED. IN MY VIEW THE HONG KONG DIMENSION IS NOT BEING GIVEN SUFFICIENT WEIGHT IN THE CONSIDERATION OF OUR STRATEGY.

2. OUR EXCHANGES WITH THE CHINESE HAVE BEEN USEFUL IN ROUNDING OUT THE CHINESE PLAN. THERE ARE NEVERTHELESS SOME LARGE ISSUES STILL TO BE RESOLVED, IN PARTICULAR CONSTITUTIONAL ARRANGEMENTS AFTER 1997, NATIONALITY AND INTERNAL SECURITY; AND SOME LESSER POINTS WHICH WILL BE IMPORTANT TO MAINTAINING MORALE AND RETAINING THE SERVICE OF OFFICERS IN; THE PUBLIC SERVICE, THE POLICE, AND THE JUDICIARY - SUCH AS SECURITY OF TENURE, THE POSITION OF OVERSEAS (AND OTHER NON-CHINESE) OFFICERS, PROCEDURES FOR THE APPOINTMENT AND DISMISSAL OF JUDGES, AND THE ARRANGEMENTS FOR ADMINISTERING THE PUBLIC SERVICE GENERALLY. WE SHOULD NOT LET THE CHINESE BELIEVE THAT WHAT THEY HAVE SO FAR SAID ON THESE POINTS WILL BE A SATISFACTORY BASIS FOR FUTURE ARRANGEMENTS. WE SHALL NEED TO CONTINUE TO PRESS THEM (AND AT THE SAME TIME TO MAKE OUR OWN DISPOSITIONS EG ON SUCH MATTERS AS PENSIONS). WE MUST ALSO KEEP OUR HANDS AS FREE AS WE CAN AS REGARDS THE ADMINISTRATION OF THIS TERRITORY UP TO 1997, WHILE TAKING DUE ACCOUNT OF THE NEED TO MATCH PRE-1997 ARRANGEMENTS WITH THOSE POST-1997.

3. ASSUMING THAT THE OUTSTANDING ISSUES CAN BE RESOLVED SATISFACTORILY, THE CRUCIAL QUESTION WILL BE THE WILLINGNESS OF THE CHINESE TO COMMIT THEMSELVES TO DETAILED POST-1997 ARRANGEMENTS IN A FORM WHICH WILL CARRY CONVICTION IN HONG KONG. TO CARRY SUCH CONVICTION THERE WILL NEED TO BE CLEAR AND EXPLICIT UNDERTAKINGS. A CLEVERLY FUDGED DIPLOMATIC DOCUMENT INCLUDING, FOR THE CHINESE PART, NO MORE THAN A GENERALLY WORDED STATEMENT OF INTERNAL POLICY, WILL NOT BE ENOUGH. IF PEOPLE HERE ARE TO OVERCOME THEIR SCEPTICISM BASED ON EVENTS IN CHINA SINCE 1949 AND TO BE BROUGHT TO BELIEVE THAT THE FUTURE SAR WILL BE GENUINELY AUTONOMOUS; THAT THE LEGAL SYSTEM WILL SURVIVE; AND THAT THE CAPITALIST ECONOMY WILL BE PRESERVED THE CHINESE WILL NEED TO GIVE UNDERTAKINGS IN A FORM RECOGNISABLE TO THE INTERNATIONAL COMMUNITY AND TO THOSE WHO MATTER IN HONG KONG (THE INVESTORS AND PROFESSIONALS) AS BINDING COMMITMENTS. WE SHOULD NOT LET THE CHINESE (OR OURSELVES) HARBOUR THE ILLUSION THAT LESS WILL DO.

4. AS I SEE IT, THEREFORE, THE DRAFT AGREEMENT SHOULD NOT BE PRESENTED TO THE CHINESE IN A WAY WHICH GIVES THEM THE IMPRESSION THAT IT IS NO MORE THAN A STARTING POINT FOR NEGOTIATION. IT SHOULD BE PRESENTED, BOTH AS REGARDS FORM AND CONTENT, AS THE KIND OF AGREEMENT WHICH IN OUR CONSIDERED JUDGEMENT WILL BE ESSENTIAL IF THE RESULTS OF OUR DISCUSSIONS ARE TO HAVE ANY HOPE OF CREDIBILITY IN HONG KONG AND INTERNATIONALLY.

5. WE CAN USE WITH THEM THE FOLLOWING ARGUMENTS:

(A) THE DRAFT MEETS THEIR ESSENTIAL REQUIREMENTS. IT ACCEPTS THAT SOVEREIGNTY WILL BE TRANSFERRED, AND BRITISH ADMINISTRATION WILL END IN 1997, AND IT INCORPORATES THE MAIN POINTS OF THE CHINESE PLAN. SUBJECT TO THE RESOLUTION OF THE QUESTIONS STILL UNDER DISCUSSION, THE POINTS INCLUDED IN THE DRAFT HAVE BEEN COVERED IN THE TALKS. THERE IS THEREFORE NOTHING IN THE SUBSTANCE OF THE ARRANGEMENTS WHICH THE DRAFT DESCRIBES TO WHICH THEY SHOULD OBJECT.

(B) THE DRAFT POSTULATES A PROFOUND CHANGE IN HONG KONG, WHATEVER THE CHINESE VIEW OF THE WISHES OF HONG KONG'S CHINESE INHABITANTS. IT WILL REQUIRE WILLING COOPERATION BETWEEN THE UK AND CHINA IF HONG KONG IS TO SURVIVE THAT CHANGE. WE ARE WILLING TO EXTEND THAT COOPERATION. BUT SUCCESS WILL DEPEND ON THE CREDIBILITY OF THE ARRANGEMENTS IN HONG KONG AND INTERNATIONALLY. NEITHER GOVERNMENT CAN DECREE THAT CREDIBILITY. IT IS NOT IN OUR GIFT: IT WILL HAVE TO BE WON.

(C) THE FORM AND CONTENT OF THE AGREEMENT MUST THEREFORE:

(1) SATISFY THOSE WHOSE CONTINUED PRESENCE IS ESSENTIAL TO HONG KONG'S PROSPERITY (THE INVESTORS AND PROFESSIONALS) THAT THERE IS A BINDING COMMITMENT TO MAINTAIN THE HONG KONG SYSTEMS UNCHANGED. THEY WILL NOT RISK THEIR ASSETS OR THEIR OWN FUTURES WITHOUT SUCH COMMITMENTS.

(II) SATISFY PARLIAMENT THAT THE AGREED ARRANGEMENTS WILL BE SUFFICIENT TO MAINTAIN THE STABILITY AND PROSPERITY OF HONG KONG, AND THAT IT WOULD BE RIGHT FOR THEM TO AUTHORIZE THE TRANSFER OF SOVEREIGNTY IN 1997.

(III) PROVIDE A CLEARLY ESTABLISHED BASIS FOR THE COOPERATION WHICH THE PRIME MINISTER SAID IN HER MESSAGE WE WOULD OFFER, PROVIDING SHE WAS SATISFIED IN THE ARRANGEMENTS TO BE OFFERED.

TRANSFER OF SOVEREIGNTY IN 1997.

(iii) PROVIDE A CLEARLY ESTABLISHED BASIS FOR THE COOPERATION WHICH THE PRIME MINISTER SAID IN HER MESSAGE WE WOULD OFFER, PROVIDING SHE WAS SATISFIED ON THE ARRANGEMENTS TO REPLACE BRITISH ADMINISTRATION.

6. IF WE PRESENT THE DRAFT AGREEMENT IN THIS WAY THE CHINESE WILL NO DOUBT PROTEST STRONGLY AND THREATEN THE UNILATERAL ANNOUNCEMENT OF THEIR PLAN. IN CONSEQUENCE WE MAY WELL FACE A FEW ROUGH MONTHS AND SOME DIFFICULT MEETINGS IN PEKING. BUT IT IS ESSENTIAL THAT WE SHOULD NOT PRETEND TO THEM (OR TO OURSELVES) THAT WE CAN GET ACCEPTANCE OF THE NEW ARRANGEMENTS ON THE BASIS OF SWEET WORDS FROM THE CHINESE ALONE OR THAT HONG KONG WILL QUIETLY ACCEPT WHATEVER PEKING AND LONDON DECIDE. MOREOVER A UNILATERAL ANNOUNCEMENT CARRIES HEAVY RISKS FOR THE CHINESE AS WELL AS FOR US SINCE THEY MUST KNOW THAT IT WOULD CARRY NO CONVICTION IN HONG KONG ON ITS OWN. THERE IS NO GUARANTEE THAT ANY AGREEMENT WILL DO THE TRICK. BUT WITH THE KIND OF AGREEMENT SUCH AS WE ARE NOW PLANNING TO PRESENT WE HAVE A CHANCE AND WE SHOULD URGE THE CHINESE STRONGLY TO TAKE IT. I TRUST THAT THE SECRETARY OF STATE WILL BE READY TO BRING THIS HOME TO THEM IN CLEAR TERMS.

7. I DO NOT UNDERESTIMATE THE RISKS EVIDENCE OF DIFFICULT MEETINGS IN PEKING WILL WORRY THE MARKETS HERE. IF BY THE LATE SUMMER THERE IS THE PROSPECT OF NO AGREEMENT WITH THE CHINESE WE SHALL BE FACED WITH THE GRAVE DECISIONS. BUT THERE WILL BE EQUALLY SERIOUS RISKS IN COMMITTING OURSELVES TO THE CHINESE ON AN AGREEMENT WHICH IN FORM AND CONTENT WILL NOT CARRY CONVICTION IN HONG KONG. WE SHOULD STILL BE RESPONSIBLE FOR THE ADMINISTRATION OF THE TERRITORY BUT IN CONDITIONS OF RAPIDLY DECLINING CONFIDENCE, AND POSSIBLY OF COLLAPSE. THE CHINESE WOULD LAY THE BLAME ON HMG. IN SHORT WE SHOULD HAVE THE WORST OF BOTH WORLDS.

8. WITH A POSITION SUCH AS I HAVE OUTLINED IN PARAS 4 AND 5 ABOVE THERE IS A PROSPECT OF HOLDING EXCO. ANY SUGGESTION THAT THE SECRETARY OF STATE WILL GO TO PEKING IN THE EXPECTATION OF BEING BARGAINED DOWN WILL RUN A STRONG RISK OF LOSING THEIR SUPPORT. THAT LOSS WILL BE A POOR START WHEN WE COME TO TEST THE ACCEPTIBILITY OF ANY ARRANGEMENT IN HONG KONG.

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FUTURE OF HONG KONG: POINTS ACHIEVED DURING TALKS

1. Legal System

- (a) Common law and rule of equity to remain in force.
- (b) Judges from other common law jurisdictions to sit on Final Appeal Court.
- (c) Judges to be appointed and dismissed on recommendation of an independent Commission and approval of legislature.
- (d) Both Chinese and English to be used in courts.

2. Monetary System

- (a) SAR could belong to international monetary organisations if membership not limited to states. If so limited, SAR could participate as part of Chinese delegation and make statements in own name.
- (b) SAR to control Exchange Fund.
- (c) Personnel of financial agencies appointed by SAR could include foreign experts.

3. Rights of Individuals in Hong Kong

- (a) SAR could apply principles and spirit of the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights in Hong Kong legislation.

4. Public Service

- (a) SAR would assume responsibility for paying all Public Service pensions.

5. External Economic Relations

- (a) Hong Kong's separate commercial representation abroad to continue.
- (b) SAR to retain separate status in GATT and RFA.
- (c) Hong Kong's status under various general preference schemes to remain.

6. Civil Aviation

- (a) Current system of management, laws and regulations to remain.
- (b) Airlines currently operating in Hong Kong to continue.
- (c) SAR to deal with routings, issue of licences, etc.

7. Shipping

- (a) Existing laws and systems of management to remain.
- (b) Shipping firms to continue to operate.
- (c) SAR could participate in agreement not limited to sovereign states.

Hong Kong Department

4 April 1984

Executive Council
Swire House, 1
9-25 Chater Road
Hong Kong
5-243967

Tel:

Date: 26th March 1984

Your Ref:

Our Ref: UT 5542

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

R31

Dear Prime Minister,

The Future of Hong Kong

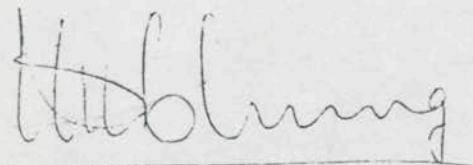
As you are aware HMG and the Chinese Government have been engaged in negotiations over Hong Kong's future since the Prime Minister's visit to China in September 1982. Hong Kong may be small in size, but it is a major economic force in the world, and the outcome of the negotiations will not only affect the lives of the 5.3 million people who live here, but may also have a significant impact on the world economy.

So far, there have been 11 rounds of negotiations, spread over the past 18 months, and they have been conducted in the strictest confidence. On 14th March the Hong Kong Legislative Council held a debate on a Motion that any proposals for the future of Hong Kong should be debated in that Council before any final agreement is reached.

The attached Hansard, from page 22 to 78, reports the debate in full. Twenty-two Unofficial Members participated and the Chief Secretary spoke on behalf of the Official Members. The Motion was carried unanimously. For your convenience, some of the key points expressed in the course of the debate are summarised in the paper appended to this letter.

If you would like further information or clarification of any point please do not hesitate to get in touch.

Yours sincerely,



S.Y. CHUNG
Senior Unofficial Member
of the Executive Council,
Hong Kong



R.H. Lobo
Senior Unofficial Member
of the Legislative Council,
Hong Kong

Some key points expressed in the course of the debate are summarised below:-

1. Hong Kong people must be told without further delay the direction in which the talks are heading, and should debate and discuss their views on the future freely. How can proposals which affect the destiny of Hong Kong people be made without their participation and contribution? Public opinion must be informed in order to be effective. Some Hong Kong people fear they may be presented with a fait accompli.
2. Given that HMG has undertaken to reach an agreement which will be acceptable to the people of Hong Kong, as well as to the Governments of China and Britain; how is acceptability to Hong Kong people to be tested? The views of Hong Kong people must be obtained before any agreement is set in concrete. Adequate time is needed for debate. Any appearance of rushing an agreement through would psychologically damage the credibility of the British Government even if the agreement itself was quite reasonable.
3. Hong Kong people are being asked to believe that under a Chinese administration their way of life and institutions would not change. But the systems of Hong Kong and China are fundamentally different. China's recent history has not been stable and is not reassuring. Furthermore, there is no known precedent for one country to operate successfully two totally opposite systems at the same time and no one knows whether it will work. This is one of the many major fears of Hong Kong people.
4. The great majority of Hong Kong people wish to maintain their existing life-style, social, legal and economic systems. Personal freedom is the right Hong Kong people value most highly. The acceptability of any proposed settlement lies in whether people believe that its terms will be respected and will endure. Faith cannot be created by orders; trust cannot be induced by the exercise of power; and no settlement which fails to engender trust can possibly preserve Hong Kong's stability and prosperity.
5. Of Hong Kong's present population of 5.3 million people, some 60% are British by birth or naturalisation. Since the passing of the British

Nationality Act in 1981, they have the status of British Dependent Territories Citizens. They do not have a right of abode in England, but they are British nationals and are entitled to British protection. Whatever happens after 1997 the British Government must retain responsibility for these people. Should they find life in Hong Kong after 1997 intolerable they should be able to leave Hong Kong and settle abroad with assistance from the British Government.

6. The Legislative Council of Hong Kong is an important forum for public debate and must play a part in reflecting opinion in Hong Kong, in advance of any proposed agreement being put to the U.K. Parliament. No representative status is claimed for the Council, but the Unofficial Members are drawn from a wide spectrum of local society. Outside the Council they work on over 300 committees and boards in many fields of public service activity, and their business and social contacts touch on all sectors of the community. Moreover, since the talks commenced, they have received individually and through the UMELCO Office many representations on the future.
7. The Chief Secretary acknowledged the important role of the Legislative Council in reflecting the views of Hong Kong people and could not see any objection to the Council having the opportunity to debate any settlement proposed for Hong Kong's future before any final agreement is reached. It would be inconceivable in his view that Parliament would not wish to know, when the time comes for endorsing the agreement, what views had been expressed in the Legislative Council.