

ERE GOES

~~SECRET~~

Prime Minister's sec.

1) Sir Craig Rickards

17/4

2) Return to me pl. 17/iv

A. J. Cole 17/4

No 10 DST

ADVANCE COPY

IMMEDIATE

DW F F 030/16

LIM NR 816/16

OO FCO

OO HONG KONG

GRS 5000

SECRET

FM PEKING 161600Z APR 84
TO IMMEDIATE FCO TELNO 759 OF 16 APR 84
AND TO IMMEDIATE HONG KONG

FUTURE OF HONG KONG: SECRETARY OF STATE'S DISCUSSIONS WITH WU XUEQIAN ON 16 APRIL.

SUMMARY

1. IN THE MORNING SESSION, THE SECRETARY OF STATE MADE A GENERAL STATEMENT. HE SAID THAT THE BRITISH DRAFT AGREEMENT MET ESSENTIAL CHINESE REQUIREMENTS. HE EXPLAINED PARLIAMENTARY CONSTRAINTS, ESPECIALLY WITH RELATION TO THE TIMETABLE. HE EXPRESSED CONCERN AT CHINESE IDEAS ON ARRANGEMENTS BEFORE 1997.

2. WU SAID THAT AFTER 12 ROUNDS THE VIEWS OF THE TWO SIDES ON A NUMBER OF ISSUES WERE BASICALLY IDENTICAL. HE WELCOMED OUR DESIRE TO PRESS FORWARD TO AN AGREEMENT. BUT MUTUAL TRUST NEEDED TO BE FURTHER ENHANCED.

3. IN THE AFTERNOON WU SAID THAT OUR DRAFT, AS A WHOLE, WAS UNACCEPTABLE. HE LISTED CHINESE OBJECTIONS WHICH WERE SIMILAR TO THOSE PUT FORWARD ON 13 APRIL BY ZHOU NAN (MY TELNO 739). ON THE TIMETABLE, WU HOPED FOR AGREEMENT BY MAY OR JUNE, FOLLOWED BY DEBATE IN PARLIAMENT AND SIGNATURE IN SEPTMBER. ON ARRANGMENTS BEFORE 1997, HE STRESSED THAT THE HONG KONG GOVERNMENT WOULD REMAIN FULLY RESPONSIBLE FOR HONG KONG'S ADMINISTRATION UNTIL 1997. A SINO-BRITISH JOINT GROUP WAS NONETHELESS NECESSARY TO IMPLEMENT THE AGREEMENT. IT WOULD BE A LIAISON BODY, NOT AN ORGAN OF POWER. WITHOUT IT, QUESTIONS LIKE LAND LEASES WOULD BE HARD TO SOLVE.

4. THE SECRETARY OF STATE SAID THAT THE CHINESE DRAFT WAS AS UNACCEPTABLE TO US AS OUR WAS TO THEM. IT ENVISAGED LEGAL OBLIGATIONS ON OUR SIDE BUT NONE ON THEIRS. IT WAS UNCLEAR WHICH PRINCIPLES DISCUSSED IN THE TALKS WOULD BE INCLUDED IN IT. A CLEAR AND PRECISE DEFINITION OF POST-1997 ARRANGEMENTS IN THE AGREEMENT WAS ESSENTIAL FOR CONFIDENCE. ON THE TIMETABLE, WE WISHED TO MOVE AS QUICKLY AS POSSIBLE. BUT SUFFICIENT DETAIL WOULD BE ESSENTIAL FOR PARLIAMENT. BOTH SIDES BELIEVED THEIR DRAFT TO TBE THE BEST. BOTH SHOULD REMAIN ON THE TABLE. ON ARRANGEMENTS BEFORE 1997, CONTACT BETWEEN REPRESENTATIVES OF THE TWO SIDES COULD BE MAINTANED IN THE PERIOD AFTER CONCLUSION OF AN AGREEMENT TO DEAL WITH VARIOUS ISSUES AS THEY AROSE.

5. WU SAID A GAP EXISTED BETWEEN THE TWO SIDES BUT THAT MATTERS COULD NOW BE LEFT TO THE REPRESENTATIVES OF THE TWO SIDES AT THEIR FUTURE DISCUSSIONS. THE EXCHANGE OF VIEWS HAD INCREASED MUTUAL UNDERSTANDING.

6. THE SECRETARY OF STATE PRESSED OUR CASE ON THREE OUTSTANDING ISSUES: NATIONALITY, CONSTITUTIONAL DEVELOPMENT, AND THE PUBLIC SERVICE. WU DID NOT MOVE. ALL THREE ISSUES WERE RETURNED TO REPRESENTATIVES OF THE TWO SIDES.

7. THE SECRETARY OF STATE OPENED DISCUSSION WITH A GENERAL STATEMENT. HE RECALLED THAT THE PRIME MINISTER'S MESSAGES OF 10 MARCH AND 14 OCTOBER 1983 WERE THE BASIS ON WHICH WE WERE NEGOTIATING. HE NOTED THE DETAILED GROUND THAT HAD BEEN COVERED IN THE NEGOTIATIONS AND EMPHASISED OUR SINCERITY IN SEEKING TO REACH AGREEMENT. IF THE NECESSARY ADVANCES COULD BE MADE ON THE IMPORTANT POINTS STILL OUTSTANDING THEN AGREEMENT WAS WITHIN THE GRASP OF THE TWO SIDES.

8. HE MOVED ON TO THE NATURE OF THE EVENTUAL AGREEMENT. IN OUR VIEW, THE BRITISH DRAFT AGREEMENT UNEQUIVOCALLY MET CHINESE REQUIREMENTS OF PRINCIPLE. IT TOOK AS ITS BASIS THE CHINESE PLAN FOR HONG KONG AND COVERED THE AREAS DISCUSSED BETWEEN THE TWO DELEGATIONS AT THE TALKS. IT MADE CLEAR THAT HONG KONG WOULD BE ADMINISTERED UNDER THE CHINESE CONSTITUTION AND STATED THE PRINCIPLES WHICH WOULD GUIDE THAT ADMINISTRATION. WE HAD BEEN SURPRISED AND DISAPPOINTED AT THE INITIAL CHINESE REACTION TO IT, BUT WE WERE CONVINCED THAT, TOGETHER WITH ITS ANNEXES, IT PROVIDED THE RIGHT BASIS FOR MAKING CLEAR HONG KONG'S FUTURE IN SUCH A WAY AS TO COMMAND CONFIDENCE IN HONG KONG AND ASSURE PROSPERITY AND STABILITY.

9. HE CONTINUED BY EXPLAINING THE PARLIAMENTARY CONSTRAINTS. HE EMPHASISED THAT HE WAS OFFERING ADVICE AS A PARLIAMENTARIAN HIMSELF ON A PRACTICAL QUESTION. THE COMMON INTEREST OF THE TWO SIDES LAY IN REACHING AN AGREEMENT WHICH WOULD COMMAND CONFIDENCE. THE CHINESE SIDE SHOULD LET HMG JUDGE HOW THEY COULD BEST PLAY THEIR PART ACCORDING TO BRITISH POLITICAL REQUIREMENTS. THE BRITISH SIDE ENTIRELY UNDERSTOOD THE CHINESE WISH TO AVOID DELAY BUT BELIEVED THAT THE BRITISH TIMETABLE COULD MEET CHINESE WISHES TO MAKE AN ANNOUNCEMENT BY SEPTEMBER AND WOULD ALSO ALLOW FOR SIGNATURE OF AN AGREEMENT WELL BEFORE THE END OF THE YEAR.

10. THE SECRETARY OF STATE CONCLUDED BY IDENTIFYING THREE KEY ISSUES FROM AGENDA ITEM 1 WHICH HE HOPED TO DISCUSS FURTHER: NATIONALITY, CONSTITUTIONAL ARRANGEMENTS, AND THE PUBLIC SERVICE. HE ADDED THAT WE WERE CONCERNED AT THE IDEAS BEING PUT FORWARD BY THE CHINESE SIDE UNDER AGENDA ITEM 2 AND SUGGESTED THAT THAT SUBJECT MIGHT ALSO BE DISCUSSED AT THE AFTERNOON SESSION.

11. WU CONFINED HIMSELF IN HIS RESPONSE AT THE MORNING SESSION TO SOME GENERAL REMARKS. HE WELCOMED THE DETERMINATION OF THE BRITISH GOVERNMENT TO SOLVE THE QUESTION OF TRANSFER OF SOVEREIGNTY TO CHINA THROUGH CONSULTATIONS. AFTER 12 ROUNDS OF TALKS THE VIEWS OF THE TWO SIDES ON A NUMBER OF ISSUES WERE BASICALLY IDENTICAL, WHILE ON OTHER ISSUES DIFFERENCES WERE MERELY OF TERMINOLOGY. HE SAID THAT THERE WERE MANY COMMON POINTS ON THE LEGAL SYSTEM, THE MONETARY AND ECONOMIC SYSTEMS, EXTERNAL ECONOMIC RELATIONS, SHIPPING, CIVIL AVIATION, GOVERNMENT STRUCTURES, THE PUBLIC SERVICE, CULTURE AND EDUCATION, AND RIGHTS OF INDIVIDUALS, ALTHOUGH SOME FURTHER DISCUSSION WAS STILL NEEDED. FURTHER DISCUSSION AND STUDY WAS NEEDED ON NATIONALITY AND CHINESE IDEAS FOR THE TRANSITION PERIOD.

12. WU WENT ON TO TALK ABOUT MUTUAL CO-OPERATION AND TRUST. THESE EXISTED ALREADY IN THE TALKS AND IT WAS BECAUSE OF THEM THAT PROGRESS HAD BEEN MADE. BUT IT WAS IMPORTANT TO ENHANCE THEM, ESPECIALLY TRUST. WU EMPHASISED THE CORRECT LINE CHINA HAD TAKEN SINCE THE THIRD PLENUM OF THE 11TH CENTRAL COMMITTEE IN DECEMBER 1978. GUIDED BY THIS LINE AND TAKING ACCOUNT OF THE HISTORY AND REALITIES OF HONG KONG, THE CHINESE GOVERNMENT HAD WORKED OUT A POLICY FOR HONG KONG: THE TWELVE GUIDELINES. IT HAD BEEN FORMULATED AFTER MUCH CAREFUL CONSIDERATION. THE POLICY WAS MAGNANIMOUS AND REASONABLE. IT WAS BECAUSE SOME PEOPLE IN HONG KONG AND ELSEWHERE HAD BEEN APPREHENSIVE ABOUT CHINESE POLICIES THAT CHINESE LEADERS HAD DECIDED TO STATE PUBLICLY THAT POLICIES TOWARDS HONG KONG WOULD REMAIN UNCHANGED FOR 50 YEARS. HE HOPED THESE FACTS WOULD ENABLE THE PRIME MINISTER AND OTHER BRITISH MINISTERS TO ENHANCE THEIR SENSE OF TRUST IN CHINESE POLICIES. THE CHINESE GOVERNMENT MEANT WHAT IT SAID AND WOULD MATCH WORDS WITH ACTION. CHINA WOULD BE VERY FRANK IN TELLING BRITAIN WHICH POINTS WERE UNACCEPTABLE, BUT OTHER POINTS ON WHICH AGREEMENT WAS REACHED WOULD BE STRICTLY HONOURED. HENCE THE IMPORTANCE OF MUTUAL TRUST BEFORE AGREEMENT WAS REACHED. IF TRUST WAS NOT ABSOLUTE THEN AN AGREEMENT, NO MATTER HOW DETAILED, MIGHT ONE DAY BECOME A 'SCRAP OF PAPER'. THE CHINESE SIDE WOULD SEE TO IT THAT THE EVENTUAL AGREEMENT WOULD REFLECT ALL POINTS OF AGREEMENT REACHED IN THE TALKS. WU CONCLUDED THAT THERE SHOULD NEVERTHELESS BE FLEXIBILITY IN SOME AREAS. HE THOUGHT THAT THE ANNEXES WHICH WE HAD PASSED TO THE CHINESE SIDE WERE TOO MANY. THE CHINESE SIDE DID NOT REJECT DISCUSSION OF ANNEXES, BUT THE POINT WAS TO ESTABLISH MUTUAL TRUST ON MAJOR MATTERS AND MATTERS OF PRINCIPLE. ONCE THAT HAD BEEN DONE IT WOULD NOT BE DIFFICULT TO DISCUSS OTHER MATTERS.

13. IN THE AFTERNOON SESSION WU SPOKE FIRST. HE SAID HE HAD LISTENED WITH CARE TO THE SECRETARY OF STATE'S EXPLANATION OF THE BRITISH DRAFT AGREEMENT. HE AGREED THAT NOW WAS THE TIME FOR THE TWO SIDES TO STUDY THE QUESTION OF AN AGREEMENT. REACHING AN EARLY AGREEMENT WAS A SHARED DESIRE AND WAS ALSO NECESSARY TO MAINTAIN HONG KONG'S STABILITY AND PROSPERITY. THE CHINESE SIDE WERE READY TO WORK TOGETHER TOWARDS THIS GOAL.

14. WU SAID THAT THE BRITISH DRAFT AGREEMENT TOUCHED ON THE QUESTION OF TRANSFER OF SOVEREIGNTY TO CHINA IN 1997. SOME OF ITS ARTICLES INCLUDED SOME OF THE CHINESE VIEWS. BUT THE DRAFT AS A WHOLE WAS UNACCEPTABLE. IT COULD NOT SERVE AS A BASIS FOR DISCUSSION BECAUSE IT WAS AMBIGUOUS ON THE QUESTION OF TRANSFER OF SOVEREIGNTY. THIS MUST BE DEALT WITH SQUARELY AND EXPLICITLY.

(B) THE 12 GUIDELINES, CHINA'S BASIC POLICIES FOR THE SETTLEMENT OF THE HONG KONG QUESTION, WERE AN INTERNAL AFFAIR AND NOT TO BE TREATED AS SOMETHING FOR APPROVAL BY ANOTHER COUNTRY OR TAKEN AS THE RESULT OF NEGOTIATION.

(C) THE CONTENT AND FORM OF THE DRAFT GAVE THE IMPRESSION THAT THE BRITISH SIDE WAS SEEKING TO REPLACE THE BASIC LAW WITH THE AGREEMENT OR THAT ENACTMENT OF THE BASIC LAW WAS WORK TO BE DONE BY THE TWO SIDES. THE CHINESE SIDE HAD REPEATEDLY SAID THAT THE BASIC LAW WOULD TAKE THE 12 GUIDELINES AS ITS BASIS AND THAT THE AGREEMENT WOULD BE REFLECTED IN IT. BUT IT WAS AN INTERNAL AFFAIR. OUR DRAFT ATTEMPTED TO DEFINE ITS DETAILS. THIS WAS IMPERMISSIBLE.

(D) THERE WERE ALSO REFERENCES IN THE DRAFT TO DISCUSSIONS ON THE IMPLEMENTATION OF THE AGREEMENT, BUT NO TERM WAS SET TO THESE. IF WE MEANT THEM TO CONTINUE BEYOND 1997, WOULD THIS NOT GIVE THE IMPRESSION OF A CONDOMINIUM ?

(E) WU ADDED THAT THE DRAFT ALSO REFERRED TO ACCEPTANCE BY THE INTERNATIONAL COMMUNITY OF HONG KONG'S AUTONOMOUS STATUS. IF THE BRITISH SIDE WERE SEEKING TO INTERNATIONALISE THE ISSUE THIS WAS A DANGEROUS INTENTION.

15. WU SAID THAT A NUMBER OF POINTS IN THE ANNEXES HAD BEEN CRITICISED BY THE CHINESE SIDE IN THE TALKS. THEY WERE NOW PRESENTED IN A DIFFERENT FORM. HE WONDERED IF WE WERE SEEKING TO RE-RAISE THESE ISSUES. IF SO OUR SINCERITY IN SEEKING AN EARLY AGREEMENT MIGHT BE CALLED INTO QUESTION.

16. WU SAID THE CHINESE VIEWS ON THE FORM AND CONTENT OF A DRAFT AGREEMENT WERE CLEAR CUT AND REASONABLE:

(A) THE RESTORATION OF HONG KONG TO CHINA MUST BE DEALT WITH SQUARELY SEMICOLON

(B) IT WAS FOR THE CHINESE GOVERNMENT TO DECLARE ITS 12 GUIDELINES WHICH SHOULD NOT BE SUBJECT TO BILATERAL AGREEMENT SEMICLN

(C) THE AGREEMENT SHOULD MAINLY COVER MAJOR ISSUES OF PRINCIPLE. SPECIFIC ISSUES WHICH WERE ISSUES OF PRINCIPLE TO A CERTAIN EXTENT COULD BE DEALT WITH IN ANNEXES. THE SUGGESTED EXCHANGE OF NOTES SHOULD DEAL WITH THESE SPECIFIC ISSUES OF PRINCIPLE AND THE SUGGESTED PROTOCOL WITH ARRANGEMENTS FOR THE TRANSITIONAL PERIOD.

WU SAID IT WAS HARD TO EXPLAIN WHY THE SECRETARY OF STATE HAD NOT MENTIONED THE CHINESE DRAFT THIS MORNING IF HE HAD SEEN IT. THIS DRAFT WAS REASONABLE AND FEASIBLE. IT SHOULD BE THE BASIS FOR DISCUSSION OF AN AGREEMENT.

17. ON THE TIMETABLE, WU SAID THAT THE FOUNDATIONS FOR CONCLUSION OF AN AGREEMENT HAD BEEN LAID. THERE WAS NO NEED TO DELAY. IT WAS ENTIRELY POSSIBLE TO CONCLUDE DISCUSSION OF AN AGREEMENT IN MAY OR JUNE. THERE WOULD THEN BE AMPLE TIME FOR PARLIAMENT TO COMPLETE THE NECESSARY CONSTITUTIONAL PROCEDURES FOR SIGNATURE TO TAKE PLACE IN SEPTEMBER. SIGNATURE AND RATIFICATION SHOULD NOT BE PROLONGED. THIS WOULD BE UNHELPFUL TO STABILITY AND PROSPERITY IN HONG KONG AND TO BRITISH INTERESTS.

18. ON ITEM 2, WU DISAGREED THAT THE PROPOSED SINO-BRITISH JOINT GROUP COULD GIVE THE IMPRESSION OF CONDOMINIUM IN HONG KONG. IT HAD BEEN MADE CLEAR THAT THE JOINT GROUP'S TASK WOULD BE TO COORDINATE THE IMPLEMENTATION OF THE AGREEMENT. IT WOULD BE A LIAISON BODY. IT HAD ALSO BEEN MADE CLEAR THAT BRITAIN RETAINED FULL RESPONSIBILITY FOR THE ADMINISTRATION OF HONG KONG IN THE TRANSITIONAL PERIOD. THE JOINT GROUP WOULD NOT INTERFERE IN HONG KONG'S INTERNAL AFFAIRS. THERE WAS THUS NO QUESTION OF CONDOMINIUM IN THIS PERIOD.

19. THE CHINESE PLAN FOR THE TRANSITIONAL PERIOD WAS INSEPARABLE FROM THEIR POST-1997 POLICIES. IT WAS DIFFICULT TO THINK THAT CHINA COULD LEAVE EVERYTHING INTACT IN 1997 WITHOUT UNDERSTANDING OF THE CHANGES TO BE MADE IN THE TRANSITIONAL PERIOD. CERTAIN MATTERS, EG LEASES, MUST BE SOLVED DURING THIS PERIOD. PROVIDED THE BRITISH SIDE CONFIRMED THE PREMISE OF CHINESE SOVEREIGNTY, WITH CHINESE APPROVAL HKG COULD GRANT LEASES BEYOND 1997. THE AMOUNT OF LAND FOR SUCH LEASES WAS A QUESTION WHICH COULD BE STUDIED BY THE SPECIAL LAND SUB-GROUP OF THE JOINT GROUP. THE USE OF THE CONSTRUCTION AND DEVELOPMENT FUND SHOULD ALSO HAVE THE APPROVAL OF THE CHINESE SIDE. THUS WITHOUT THIS JOINT GROUP QUESTIONS SUCH AS LEASES WOULD BE DIFFICULT TO SOLVE. THE ESTABLISHMENT OF A JOINT GROUP WOULD NOT ADVERSELY AFFECT CONFIDENCE: IT HAD BEEN PROPOSED FOR THE OPPOSITE REASON. HE SAID THAT SOME PEOPLE WERE ANXIOUS THAT THE BRITISH WOULD ADMINISTER HONG KONG ON A SHORT-SIGHTED BASIS BEFORE 1997 AND THE CHINESE SIDE WAS AFRAID THAT BRITAIN WOULD LEAVE HONG KONG IN A MESS IN 1997. THE CHINESE REQUESTS WERE NOT UNDULY EXCESSIVE. HE HOPED FOR A POSITIVE RESPONSE. HE AGREED THAT THE HONG KONG QUESTION WAS COMPLEX. IT WAS FOR THIS REASON THAT A JOINT GROUP MUST BE ESTABLISHED. IF NOT CHINA WOULD HAVE LITTLE KNOWLEDGE OF HONG KONG IN 1997.

20. THE SECRETARY OF STATE WELCOMED THE FACT THAT BOTH SIDES AGREED TO PRESS FORWARD TO DISCUSSION OF THE DRAFT AGREEMENT. ALTHOUGH HE HAD NOT MENTIONED THE CHINESE DRAFT HE HAD SEEN THE DOCUMENT. JUST AS THE CHINESE SIDE REGARDED THE BRITISH DRAFT AS UNACCEPTABLE SO THE BRITISH SIDE REGARDED THE CHINESE DRAFT AS UNACCEPTABLE.

THE REASONS FOR THIS VIEW WERE:

(A) THE CHINESE DRAFT APPEARED TO VISUALISE LEGAL OBLIGATIONS ONLY ON THE BRITISH SIDE. HMG BELIEVED THAT POST-1997 ARRANGEMENTS SHOULD BE THE SUBJECT NOT JUST OF A DECLARATION BUT OF A BILATERAL AGREEMENT SEMICL

(B) IT WAS UNCLEAR WHICH PRINCIPLES DISCUSSED IN THE TALKS WOULD BE INCLUDED IN THE CHINESE DRAFT. THE BRITISH SIDE BELIEVED THAT ITS DRAFT MET THE MAIN CHINESE REQUIREMENT. IT INDICATED OUR SINCERITY. THE CHINESE SIDE'S DISSATISFACTION WAS PERHAPS BASED ON MISUNDERSTANDINGS. CERTAINLY ARTICLE 1 MADE EXPLICITLY CLEAR THAT CHINA WOULD REGAIN SOVEREIGNTY AND THE RIGHT OF ADMINISTRATION OVER HONG KONG IN 1997. THERE WAS NO INTENTION TO LITIGATE CHINESE SOVEREIGNTY. ALTHOUGH THE ARTICLE DID SEEK TO DEFINE THE DEGREE OF AUTONOMY WHICH THE SAR WOULD ENJOY, THIS WOULD BE WITHIN THE FRAMEWORK OF CHINESE SOVEREIGNTY.

21. PROVISION FOR POST-1997 ARRANGMENTS FOR THE SAR SHOULD BE MADE IN THE AGREEMENT BECAUSE

(A) IT WOULD BE EQUITABLE TO HAVE SOME MATCHING PROVISION TO HONG KONG'S OBLIGATION TO TRANSFER SOVEREIGNTY SEMICENTRALLY

(B) IT WOULD HELP FULFIL THE PRACTICAL PURPOSE OF SUSTAINING THE CONFIDENCE OF THE HONG KONG PEOPLE AND OVERSEAS INVESTMENTS.

FOR THIS THE ARRANGEMENTS MUST BE SET OUT WITH SUFFICIENT CONVICTON AND CLARITY. IT WAS UNDERSTOOD THAT THE BASIC LAW WOULD BE AN INTERNAL CHINESE AFFAIR, BUT ALL INTERNATIONAL AGREEMENTS REPRESENTED A CONSTRUCTIVE EXERCISE OF A COUNTRY'S SOVEREIGNTY. IN THAT SENSE, THE BRITISH SIDE ASKED THE CHINESE SIDE TO EXERCISE THEIR SOVEREIGNTY BY AGREEING TO MAKE PROVISION FOR POST -1997 ARRANGMENTS IN THE AGREEMENT.

22. THE SECRETARY OF STATE SAID THAT HE ACCEPTED WHAT WU HAD EARLIER SAID ABOUT TRUST. THE BRITISH SIDE WAS NEGOTIATING SINCERELY. WE RECOGNISED THAT THE 12 GUIDELINES WERE A CLEAR ILLUSTRATION OF CHINA'S GOOD FAITH. HOWEVER IT WAS CUSTOMARY AT THE CONCLUSION OF NEGOTIATIONS ON ANY IMPORTANT SUBJECT, FOR AN AGREEMENT TO BE SIGNED. HONG KONG WAS UNIQUE. ALL THE MORE NECESSITY FOR A DETAILED AGREEMENT. DETAILS WERE NECESSARY AS MANY THIRD PARTIES WOULD BE AFFECTED BY THE AGREEMENTS' TERMS AND WOULD BE ANXIOUS TO KNOW THEM EXACTLY. THE DETAILS IN OUR ANNEXES REPRESENTED THE DISTILLATION OF HONG KONG'S COMPLEX SYSTEMS.

23. ON THE LINK BETWEEN THE AGREEMENT AND THE BASIC LAW, THE SECRETARY OF STATE SAID THAT THE CHINESE SIDE HAD REPEATEDLY MADE CLEAR THAT THE AGREEMENT WOULD BE REFLECTED IN THE BASIC LAW. THIS MUST BE CLEARLY SPELT OUT IN THE AGREEMENT. THE INDIVIDUAL POINTS OF AGREEMENT BETWEEN THE TWO SIDES SHOULD ALSO BE REFLECTED IN THE AGREEMENT. THE CHINESE SHDE HAD SAID THAT DRAFTING OF THE BASIC LAW WOULD TAKE SOME TIME. THE BRITHS SIDE BELIEVED THAT BEFORE THIS PROCESS WAS COMPLETED, IT WAS NECESSARY FOR PEOPLE TO HAVE CLEAR AND PRECISE ASSURANCES ABOUT THEIR FUTURE. AGREEMENT SHOULD THEREFORE SET OUT THOSE ISSUES ON WHICH THE TWO SIDES HAD AGREED . IF THE BASIC LAW WAS TO REFLECT THE AGREEMENT, THE AGREEMENT ITSELF MUST CONTAIN SUBSTANTIAL DESCRIPTION OF THE SYSTEMS ON WHICH THE TWO SIDES HAD AGREED.

24. ON OTHER POINTS, THE SECRETARY OF STATE SAID THAT

(A) ARTICLE 3 HAD NOT BEEN PROPOSED TO CREATE A CONDOMINIUM BUT TO OFFER OUR COOPERATION OVER THE IMPLEMENTATION OF THE AGREEMENT.

(B) ARTICLE 4 WAS NOT INTENDED TO INTERNARUQNALISE THE ISSUE OR TO ESTABLISH INTERNATIONAL GUARANTEES. IT WAS COMMON GROUND THAT HONG KONG'S PROSPERITY SHOULH BEIMAINED. THAT DEPENDED ON HONG KONG'S ABILITY TO CONTINUE TO BENEFIT FROM EXISTING INTERNATINAL AGREEMENTS.

(C) WE HAD TRIED TO CONFINE THE DRAFT TO POINTS AGREED IN THE TALKS. THE DRAFT AND ANNEXES WERE BASED UPON THE WORKING PAPERS AND DISCUSSION OF THEM.

25. ON THE TIMETABLE, THE SECRETARY OF STATE SAID THAT BOTH SIDES WISHED TO MOVE QUICKLY. BUT IF THE AGREEMENT WAS TO BE COMMENDED TO PARLIAMENT, IT WOULD NNEED TO BE SUFFICIENTLY DETAILED. HE WAS NOT PERUSADED THAT IT WOULD BE POSSIBLE TO COMPLETE WORK BY MAY OR JUNE ALTHOUGH THE BRITISH INTENDED TO MOVE AS QUICKLY AS POSSIBLE. IT WAS NECESSARY TO GET MATTERS RIGHT, BOTH BETWEEN THE TWO SIDES AND FOR PARLAIMENT. IT WAS VITAL THAT PARLIAMENT SHOULD NOT BE GIVEN THE IMPRESSION THAT IT WAS BEING RUSHED. THIS COULD UNDO ALL OUR EFFORTS.

26. ON THE DRAFT AGREEMENTS, THE SECRETARY OF STATE SAID THAT BOTH SIDES BELIVED THEIR DRAFT TO BE THE BEST APPROACH. HE SUGGESTED THAT THE REPRESENTATIVES OF BOTH SIDES SHOULD HAVE MORE TIME TO STUDY THEM AND THAT BOTH SHOULD REMAIN ON THE TABLE FOR FURTHER DISCUSSION.

27 ON ITEM 2, THE SECRETARY OF STATE SAID THAT BOTH SIDES AGREED ON THE IMPORTANCE OF GETTING PRE-1997 ARRANGEMENTS RIGHT. BOTH APPROACHED THIS ISSUED ON AN AGREED BASIS:

- (A) HKG AUTHORITY BEFORE 1997 SHOULD REMAIN CLEAR SEMICLN
- (B) THE HANDOVER SHOULD BE SMOOTH SEMICLN
- (C) THERE SHOULD BE THE GREATEST POSSIBLE CONTINUITY OF EXISTING SYSTEMS.

HE NOTED THE CHINESE POINTS ON THE NEED FOR A HIGH DEGREE OF AUTONOMY FOR THE SAR AND THAT OFFICIALS FROM THE MAINLAND WOULD NOT BE SENT TO ADMINISTER HONG KONG.

28. HE ACCEPTED THAT THERE WERE MANY QUESTIONS REQUIRING CONSULTATION BEFORE 1997. LAND WAS ONE EXAMPLE ANOTHER WAS THE NEED TO DISCUSS THE PRESERVATION OF HONG KONG'S EXISTING RIGHTS UNDER INTERNATIONAL AGREEMENTS. HE COULD ASSURE THE CHINESE SIDE THAT THERE WAS NO QUESTION OF HMG OR HKG HAVING A NEGATIVE ATTITUDE : IT HAD A JOINT INTEREST IN HONG KONG'S CONTINUING SUCCESS. THIS WOULD BE A GREAT EXAMPLE TO THE REST OF THE WORLD. HOWEVER THE CHINESE PROPOSAL FOR A JOINT GROUP CAUSED DIFFICULTIES. ALTHOUGH THE JOINT GROUP WOULD NOT BE AN ORGAN O F POWER, HE WAS CONCERNED THAT IT WOULD GIVE THE IMPRESSION THAT CHINA WAS PROPOSING, OR PREPARING, TO SEND PEOPLE TO ADMINISTER HONG KONG OR THAT A CONDOMINIUM WAS BEING ESTABLISHED. THIS WOULD DAMAGE CONFIDENCE. HE WAS ALSO CONCERNED AT THE CHINESE SUGGESTION FOR STEP BY STEP REFORM OF THE LEGISLATIVE, JUDICIAL AND ADMINISTRATIVE ARRANGEMENTS TO BRING THEM INTO LINE WITH THE BASIC LAW. WE ACCEPTED THAT THERE WOULD BE A NEED FOR SOME CHANGES, BUT BOTH SIDES ATTACHED GREAT IMPORTANCE TO THE CONTINUITY OF SYSTEMS. THIS CHINESE SUGGESTION COULD IMPLY MAJOR CHANGES. THE BRITISH SIDE THUS CONSIDERED IT BEST TO AVOID ESTABLISHING FORMAL MACHINERY AT THIS STAGE. CLOSE CONTACT THROUGH REPRESENTATIVES OF THE TWO SIDES COULD BE MAINTAINED IN THE PERIOD AFTER THE AGREEMENT TO DEAL WITH VARIOUS ISSUES AS THEY AROSE.

29. AFTER A RECESS, WU SAID THAT HE AND THE SECRETARY OF STATE HAD NOW EXCHANGED VIEWS ON THE AGREEMENT IN A FRANK, FRIENDLY AND COMPREHENSIVE WAY. IN THE MORNING THE SECRETARY OF STATE HAD EXPLAINED THE BRITISH DRAFT. IN THE AFTERNOON WU HAD COMMENTED ON IT AND THE SECRETARY OF STATE HAD FURTHER EXPLAINED IT. THE BRITISH AND THE CHINESE SIDES HAD BOTH PUT FORWARD DRAFTS OF AN AGREEMENT. IT SEEMED THAT THERE EXISTED A GAP BETWEEN THE TWO SIDES IN THEIR UNDERSTANDING OF EACH OTHER'S DRAFTS. THERE HAD NEVERTHELESS BEEN A FULL AND DETAILED EXCHANGE OF VIEWS BETWEEN THE TWO FOREIGN MINISTERS AND MATTERS COULD NOW BE LEFT TO THE REPRESENTATIVES OF THE TWO SIDES AT THEIR FUTURE DISCUSSIONS. DESPITE THE DISTANCE BETWEEN THE TWO SIDES THE DAY'S EXCHANGE OF VIEWS HAD HELPED INCREASE MUTUAL UNDERSTANDING.

30. THE SECRETARY OF STATE SAID THAT HE WISHED TO RAISE THREE OUTSTANDING ISSUES: NATIONALITY, CONSTITUTIONAL DEVELOPMENT, AND THE PUBLIC SERVICE. ON NATIONALITY HE SAID THAT IT MIGHT BE HELPFUL TO EXPLAIN THE PROPOSALS IN THE BRITISH WORKING PAPER. THE POSITION WAS THAT A LARGE NUMBER OF PERSONS IN HONG KONG POSSESSED BRITISH NATIONALITY. AT PRESENT THEY WERE DESCRIBED AS BDTCS. IT WOULD OBVIOUSLY BE INAPPROPRIATE TO CONTINUE USE OF THAT TITLE AFTER 1997. BUT IT WAS POLITICALLY IMPOSSIBLE FOR HMG TO DEPRIVE BDTCS OF THE RIGHTS THEY NOW ENJOYED AS BRITISH NATIONALS UNDER BRITISH LAW. WE THEREFORE PROPOSED TO CREATE A NEW CATEGORY OF BRITISH NATIONALITY TO ALLOW INDIVIDUALS TO RETAIN THEIR EXISTING RIGHTS UNDER ANOTHER NAME WHICH WOULD HAVE NO COLONIAL CONNOTATIONS. IT WAS IMPORTANT TO EMPHASISE THAT THIS WOULD ONLY BE A TRANSITIONAL ARRANGMENT. IN GENERAL BRITISH NATIONALITY WAS TRANSMISSIBLE FOR ONE GENERATION ONLY. THE SECRETARY OF STATE SAID THAT HE UNDERSTOOD THAT THE CHINESE HAD IN MIND THE IDEA OF SEPARATE TRAVEL DOCUMENTS FOR RESIDENTS OF HONG KONG. IT WOULD BE HELPFUL IF THIS COULD REFLECT A SEPARATE CITIZENSHIP FOR THE SAR UNDER CHINESE NATIONALITY, TO WHICH ALL HONG KONG PEOPLE WOULD IN PRINCIPLE BELONG. THIS WOULD PROVIDE A POWERFUL SYMBOL OF AUTONOMY AND CONTINUITY BUT WOULD BE CONSISTENT WITH CHINESE SOVEREIGNTY. HE UNDERSTOOD THAT CHINA WOULD REGARD FORMER BDTCS AS HAVING CHINESE NATIONALITY. SUCH PEOPLE WOULD THUS HOLD DUAL NATIONALITY. THEIR RIGHT OF ABODE IN THE SAR SHOULD BE SPECIFIED IN THE AGREEMENT. THESE PEOPLE COULD THEN, AS THEY CHOSE, ENTER OR LEAVE THE SAR EITHER ON BRITISH OR ON SAR TRAVEL DOCUMENTS. WE REALISED THAT CHINESE NATIONALITY LAW DID NOT RECOGNISE DUAL NATIONALITY, BUT WOULD IT NOT BE POSSIBLE TO FIND A PRACTICAL WAY TO PROVIDE FOR THE SPECIAL CASE OF HONG KONG ALONG THE LINES WHICH WE HAD SUGGESTED ?

31. WU SAID THAT HE BELIEVED THERE TO BE SOME 3 MILLION BDTCS OUT OF A TOTAL POPULATION IN HONG KONG OF OVER 5 MILLION. IF THIS 3 MILLION WERE TO ENJOY CONSULAR PROTECTION, THE FUTURE BRITISH CONSULATE-GENERAL IN HONG KONG WOULD HAVE TO BE AS LARGE AS THE FUTURE SAR GOVERNMENT. HE HOPED THE BRITISH SIDE COULD RECONSIDER THIS QUESTION. CHINA DID NOT RECOGNISE DUAL NATIONALITY. THERE WERE SEVERAL MILLION PEOPLE OF CHINESE RACE IN SOUTH EAST ASIA AND ELSEWHERE BUT CHINA ONLY RECOGNISED THEM AS OVERSEAS CHINESE OR NATIONALS OF THEIR COUNTRY OF ABODE, NOT AS POSSESSING DUAL NATIONALITY. EVEN SO SOME SE ASIAN GOVERNMENTS CONTINUED TO HARBOUR ANXIETIES. THE REASONS FOR ACQUISITION OF BDTC STATUS VARIED FROM PERSON TO PERSON. IT SHOULD BE POSSIBLE TO DEVISE A WAY TO SOLVE THIS QUESTION. CONSULAR PROTECTION FOR 3 MILLION OUT OF HONG KONG'S POPULATION OF 5 MILLION WOULD BE ABSURD. THE SECRETARY OF STATE SAID THIS WAS A DIFFICULT QUESTION. WE MUST BOTH SEEK ANSWERS TO IT.

32. TURNING TO CONSTITUTIONAL ARRANGEMENTS THE SECRETARY OF STATE SAID THAT IF CONFIDENCE WERE TO BE MAINTAINED IT WOULD BE ESSENTIAL THAT THE BASIC PRINCIPLES OF GOVERNMENT STRUCTURE AFTER 1997 SHOULD BE DESCRIBED WITH CLARITY AND PRECISION IN THE AGREEMENT. THOSE WHO WOULD SCRUTINISE THE DOCUMENT AFTER IT WAS PUBLISHED, AND NOTABLY PARLIAMENT, WOULD BE SATISFIED WITH NO LESS. OUR DRAFT EMBODIED THE CONCEPT OF CONTINUITY OF GOVERNMENT STRUCTURE, A PRINCIPLE OF THE HIGHEST IMPORTANCE FOR THE BRITISH SIDE BUT ONE WHICH NATURALLY DID NOT PRECLUDE NECESSARY CHANGES CONSEQUENT UPON THE RETURN OF SOVEREIGNTY TO CHINA. WE HOPED

THAT THE CHINESE SIDE COULD PROVIDE A CLEAR EXPRESSION OF THE AUTONOMY WHICH THE LEGISLATURE AND EXECUTIVE OF THE FUTURE SAR WOULD ENJOY. THERE WAS NO QUESTION OF TREATING THE SAR AS AN INDEPENDENT POLITICAL ENTITY. WE HAD IN MIND A HIGH DEGREE OF DEVOLVED AUTONOMY UNDER THE CENTRAL PEOPLE'S GOVERNMENT AND A SPECIFIC INDICATION OF WHAT THIS WOULD MEAN IN PRACTICE. WE ACCEPTED THAT THERE WOULD BE LIMITS TO THIS AUTONOMY AND HAD SOUGHT TO DEFINE THEM IN OUR DRAFT IN A WAY WHOLLY CONSISTENT WITH CHINESE SOVEREIGNTY.

33. WU SAID THAT THERE WERE CLEAR PROVISIONS IN THE CHINESE 12 GUIDELINES ON THE RELATIONSHIP BETWEEN THE CENTRAL PEOPLE'S GOVERNMENT AND THE GOVERNMENT OF THE SAR AND ON THE FUNCTIONS OF THE EXECUTIVE, LEGISLATURE AND JUDICIARY. THE COMPOSITION, FUNCTIONS, PROCEDURES AND DUTIES OF THE GOVERNMENT STRUCTURE OF THE FUTURE SAR WOULD BE DEFINED IN THE BASIC LAW. AT PRESENT IT WAS IMPOSSIBLE TO DEFINE THEM. ALL THAT COULD BE SAID FOR CERTAIN WAS THAT THERE WOULD BE AN ADMINISTRATIVE SYSTEM WITH A CHIEF EXECUTIVE AND OTHER GOVERNMENT DEPARTMENTS, AS WELL AS AN INDEPENDENT JUDICIARY AND A LEGISLATURE. THE TWELVE GUIDELINES DID NOT SUGGEST THAT THERE WOULD BE NO CHANGE TO THE STRUCTURES, FUNCTIONS AND PROCEDURES OF GOVERNMENT AFTER 1997. IT WAS UNDERSTANDABLE THAT THERE SHOULD BE SOME, HOWEVER ALL CHANGE IN THE TRANSITIONAL PERIOD SHOULD SERVE THE INTERESTS OF THE STABILITY AND PROSPERITY OF HONG KONG AND FACILITATE THE SMOOTH TRANSFER OF GOVERNMENT IN 1997. THAT WAS WHY THE CHINESE SIDE HAD SUGGESTED THAT THE TWO SIDES SHOULD COOPERATE ON HOW TO MAKE CHANGES COMPATIBLE WITH THE PRINCIPLES LISTED ABOVE. THE SECRETARY OF STATE SAID THAT HE ACCEPTED THAT SOME CHANGES WOULD BE NECESSARY WHEN SOVEREIGNTY PASSED TO CHINA AND THAT THE FINAL POSITION WOULD HAVE TO BE DEFINED IN THE BASIC LAW. THE PROBLEM WAS HOW TO FIND A BRIDGE TO ASSURE CONFIDENCE IN THE INTERIM BEFORE THE PUBLICATION OF THE BASIC LAW, AND HOW TO ENSURE A HIGH DEGREE OF CONTINUITY. AS WE SAW IT, THE AGREEMENT COULD PROVIDE THE BASIS OF THE BRIDGE. WU SAID THAT HE THOUGHT THE QUESTION COULD BE SOLVED IN THE LIGHT OF THE 12 GUIDELINES WHICH WOULD BE REFLECTED IN THE BASIC LAW. THE SECRETARY OF STATE SAID THAT THERE NEEDED TO BE SUFFICIENT DETAIL ON THIS QUESTION IN THE AGREEMENT. THE MATTER NEEDED TO BE STUDIED FURTHER. IT WAS AN IMPORTANT POINT. WU SAID THAT IT SHOULD BE LEFT TO THE REPRESENTATIVES OF THE TWO SIDES FOR FURTHER DISCUSSIONS.

34. THE SECRETARY OF STATE SAID THAT IN ORDER TO MAINTAIN AN EFFECTIVE PUBLIC SERVICE AND CONFIDENCE IN IT UP TO AND BEYOND 1997, CONTINUITY OF EMPLOYMENT OF INDIVIDUALS WAS IMPORTANT. THE HONG KONG CIVIL SERVICE WAS COSMOPOLITAN. BRITISH AND OTHER FOREIGN NATIONALS SHOULD BE ABLE TO COMPLETE FULL CAREERS AFTER 1997 AND TO SERVE AT EVERY LEVEL OF THE SAR GOVERNMENT. THEY WOULD OF COURSE OWE LOYALTY ONLY TO THAT GOVERNMENT. THERE WAS NO QUESTION OF RESERVING SPECIFIC POSTS FOR CERTAIN INDIVIDUALS. BUT IT WAS IMPORTANT THAT THEY SHOULD NOT BE EXCLUDED FROM ANY POST SIMPLY BECAUSE OF THEIR RACE. IF NO SATISFACTORY PROVISION FOR CONTINUITY WERE MADE IN THE AGREEMENT MANY PEOPLE WOULD LEAVE. WE ATTACHED IMPORTANCE TO THE POINT THAT ALL PUBLIC SERVANTS, WHATEVER THEIR RACE, SHOULD BE ABLE TO COMPLETE A FULL CAREER.

35. WU SAID THAT CHINA DID NOT PRACTICE RACIAL DISCRIMINATION. BRITISH AND OTHER FOREIGN NATIONALS MIGHT BE EMPLOYED IN THE CAPACITY OF INDIVIDUALS UP TO DEPUTY SECRETARY LEVEL, BUT THE CHIEFS OF PRINCIPLE DEPARTMENTS AND THE COMMISSIONER OF POLICE SHOULD BE CHINESE NATIONALS WITH PERMANENT HONG KONG ID CARDS, NOMINATED BY THE SAR GOVERNMENT AND APPROVED BY THE CENTRAL PEOPLE'S GOVERNMENT. THE CHIEF EXECUTIVE WOULD BE NOMINATED ON THE BASIS OF CONSULTATIONS OR ELECTIONS HELD LOCALLY AND APPROVED BY THE CENTRAL PEOPLE'S GOVERNMENT. OTHER OFFICIALS BELOW THE RANK OF SECRETARY COULD REMAIN IN SERVICE. BRITISH AND OTHER FOREIGN NATIONALS WITH PERMANENT ID CARDS COULD BE EMPLOYED TO SERVE AS ADVISERS OR AS OFFICERS UP TO THE RANK OF DEPUTY SECRETARY IN CERTAIN DEPARTMENTS. THESE QUESTIONS HAD ALREADY BEEN DISCUSSED AT THE TALKS. AS FOR THE TERMS OF SERVICE AND RETIREMENT, INCLUDING PENSIONS, THE OLD PRACTICES WOULD CONTINUE. THE SECRETARY OF STATE SAID THAT THIS QUESTION SHOULD BE LEFT TO REPRESENTATIVES OF THE TWO SIDES TO DISCUSS FURTHER. WU SAID THAT SO LONG AS THERE WAS COOPERATION AND TRUST BETWEEN THE TWO SIDES, THE QUESTION SHOULD NOT BE HARD TO SOLVE.

36. WU SAID THAT THROUGH THE FRIENDLY AND FRANK DISCUSSIONS HELD IN THE COURSE OF THE DAY MUTUAL UNDERSTANDING HAD BEEN ENHANCED.

37. FOR JOINT PRESS COMMUNIQUES ON THE MORNING AND AFTERNOON SESSIONS SEE MIFT.

38. FOR COMMENT SEE MY SECOND IFT.

EVANS

NNNN