

HONG KONG SINO BRITISH JOINT DECLARATION



Miscellaneous No. 20 (1984)

A Draft Agreement

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the
Government of the People's Republic of China
on the Future of Hong Kong

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
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**A DRAFT AGREEMENT
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA
ON THE FUTURE OF HONG KONG**

INTRODUCTION

1. On 26 September 1984 representatives of the Governments of the United Kingdom and of the People's Republic of China initialled the draft text of an agreement on the future of Hong Kong. The agreement, contained in the second part of this White Paper, consists of a Joint Declaration and three Annexes. There is an associated Exchange of Memoranda. These documents are the outcome of two years of negotiations between the two Governments, undertaken with the common aim of maintaining the stability and prosperity of Hong Kong.

2. The purpose of this White Paper is to explain the background to the last two years' negotiations and their course, and to present the documents in their proper context. The text of this White Paper is also being published in Hong Kong by the Hong Kong Government, and the people of Hong Kong are being invited to comment on the overall acceptability of the arrangements which it describes. Thereafter the matter will be debated in Parliament.

History

3. During the nineteenth century Britain concluded three Treaties with the then Chinese Government relating to Hong Kong: the Treaty of Nanking¹, signed in 1842 and ratified in 1843 under which Hong Kong Island was ceded in perpetuity; the Convention of Peking² in 1860 under which the southern part of the Kowloon Peninsula and Stonecutters Island were ceded in perpetuity; and the Convention of 1898³ under which the New Territories (comprising 92 per cent of the total land area of the territory) were leased to Britain for 99 years from 1 July 1898. It was the fact that the New Territories are subject to a lease with a fixed expiry date which lay behind the decision by Her Majesty's Government to seek to enter negotiations with the Government of the People's Republic of China (referred to hereafter as "The Chinese Government") on Hong Kong's future.

4. The Chinese Government has consistently taken the view that the whole of Hong Kong is Chinese territory. Its position for many years was that the question of Hong Kong came into the category of unequal treaties left over from history; that it should be settled peacefully through negotiations when conditions were ripe; and that pending a settlement the status quo should be maintained. The Chinese Government made its view of Hong Kong's status clear in a letter to the Chairman of the United Nations Special Committee on the Situation with regard to the Implementation of the

¹ British State Papers Vol. 30 p. 389.

² British State Papers Vol. 50 p. 10.

³ British State Papers Vol. 90 p. 17.

Declaration on the Granting of Independence to Colonial Countries and Peoples in March 1972. This maintained that the settlement of the question of Hong Kong was a matter of China's sovereign right and that consequently Hong Kong should not be included in the list of colonial territories covered by the Declaration on the Granting of Independence to Colonial Countries and Peoples.

The Background to the Negotiations

5. In the late 1970s, as the period before the termination of the New Territories lease continued to shorten, concern about the future of Hong Kong began to be expressed both in the territory itself and among foreign investors. In particular there was increasing realisation of the problem posed by individual land leases granted in the New Territories, all of which are set to expire three days before the expiry of the New Territories lease in 1997. It was clear that the steadily shortening span of these leases and the inability of the Hong Kong Government to grant new ones extending beyond 1997 would be likely to deter investment and damage confidence.

6. Her Majesty's Government had by this time, following a detailed examination of the problem conducted in consultation with the then Governor, concluded that confidence would begin to erode quickly in the early to mid-1980s if nothing was done to alleviate the uncertainty caused by the 1997 deadline. Accordingly, when the Governor of Hong Kong visited Peking in March 1979 at the invitation of the Chinese Minister of Foreign Trade, an attempt was made, on the initiative of Her Majesty's Government, to solve the specific question of land leases expiring in 1997. These discussions did not result in measures to solve the problem.

7. In the course of the next two years there was increasing awareness of the need to remove the uncertainty which the 1997 deadline generated. The importance of the issue was publicly stressed by the senior Unofficial Member of the Executive Council in May 1982. In January 1982 Sir (then Mr.) Humphrey Atkins, Lord Privy Seal, visited Peking and was given significant indications of Chinese policy towards Hong Kong by Chinese leaders, which confirmed the view of Her Majesty's Government that negotiations should be opened with the Chinese Government.

The Prime Minister's Visit to China

8. Against this background Her Majesty's Government decided that the Prime Minister's visit to China in September 1982 would provide an opportunity to open discussions with the Chinese Government on the future of Hong Kong. It was evident that the Chinese Government had reached the same conclusion, and substantive discussions took place during the visit. Following a meeting between the Prime Minister and Chairman Deng Xiaoping on 24 September 1982 the following joint statement was issued:

"Today the leaders of both countries held far-reaching talks in a friendly atmosphere on the future of Hong Kong. Both leaders made clear their respective positions on this subject.

They agreed to enter talks through diplomatic channels following the visit with the common aim of maintaining the stability and prosperity of Hong Kong."

The Course of the Negotiations

9. The Prime Minister's visit was followed by the first phase of negotiations conducted by Her Majesty's Ambassador in Peking and the Chinese Foreign Ministry. These consisted of exchanges between the two sides on the basis on which the negotiations would be conducted, and on the agenda. On 1 July 1983 it was announced that the second phase of the talks would begin in Peking on 12 July. The pattern of negotiation in the second phase, which was continued until the end of the negotiations, was for formal rounds of talks to be held between delegations led by Her Majesty's Ambassador in Peking and a Vice or Assistant Minister of the Chinese Foreign Ministry, supplemented as necessary by informal contacts between the two delegations. The Governor of Hong Kong took part in every round of formal talks as a member of the British delegation.

10. In the course of the negotiations Her Majesty's Government explained in detail the systems which prevail in Hong Kong and the importance for these systems of the British administrative rôle and link. Following extensive discussion, however, it became clear that the continuation of British administration after 1997 would not be acceptable to China in any form. After full consultation with the Governor and the Executive Council of Hong Kong, Her Majesty's Government therefore proposed that the two sides discuss on a conditional basis what effective measures other than continued British administration might be devised to maintain the stability and prosperity of Hong Kong and explore further the Chinese ideas about the future which had at that stage been explained to them, in order to see whether on this basis arrangements which would ensure lasting stability and prosperity for Hong Kong could be constructed. The Chinese Government was told that, if this process was successful, Her Majesty's Government would consider recommending to Parliament a bilateral agreement enshrining the arrangements. Her Majesty's Government also undertook in this event to assist in the implementation of such arrangements. Following this, Her Majesty's Government sought to explore with the Chinese Government the implications of the Chinese Government's concept of Hong Kong as a Special Administrative Region of the People's Republic of China. In response, the Chinese side further elaborated its policies and ideas.

11. In April 1984 the two sides completed initial discussion of these matters. There were a number of outstanding unresolved points, but it was by then clear that an acceptable basis for an agreement might be possible. At the invitation of the Chinese Government the Secretary of State for Foreign and Commonwealth Affairs visited Peking from 15 to 18 April. During his meetings with Chinese leaders the two sides reviewed the course of the talks on the future of Hong Kong, and further progress was made. In Hong Kong on 20 April Sir Geoffrey Howe made a statement on the approach of Her Majesty's Government to the negotiations. He said that

it would not be realistic to think of an agreement that provided for continued British administration in Hong Kong after 1997: for that reason Her Majesty's Government had been examining with the Chinese Government how it might be possible to arrive at arrangements that would secure for Hong Kong, after 1997, a high degree of autonomy under Chinese sovereignty, and that would preserve the way of life in Hong Kong, together with the essentials of the present systems. He made it clear that Her Majesty's Government were working for a framework of arrangements that would provide for the maintenance of Hong Kong's flourishing and dynamic society, and an agreement in which such arrangements would be formally set out.

12. After Sir Geoffrey Howe's visit in April 1984 negotiations continued. A working group was established on 21 June 1984 to meet full-time in Peking and consider documents tabled by both sides. From 27 to 31 July 1984 the Secretary of State for Foreign and Commonwealth Affairs again visited Peking. The visit was devoted almost entirely to the future of Hong Kong. Sir Geoffrey Howe announced in Hong Kong on 1 August that very substantial progress had been made towards agreement on the form and content of documents which would set out arrangements for Hong Kong's future with clarity and precision, in legally binding form.

13. Sir Geoffrey also announced on the same occasion that the two sides had agreed to establish a Sino-British Joint Liaison Group which would come into being when the agreement came into force and continue until the year 2000. It would meet in Peking, London and Hong Kong. It was agreed that the Group would not be an organ of power. Its functions would be: liaison, consultation on the implementation of the agreement, and exchange of information. It was agreed that it would play no part in the administration of Hong Kong. Her Majesty's Government would continue to be responsible for the administration of Hong Kong up to 30 June 1997.

14. Following Sir Geoffrey Howe's visit the negotiations continued on the remaining unresolved issues and three further rounds of plenary talks took place. A further *ad hoc* working group was established in Peking on 24 August. By 18 September negotiators on both sides had approved the English and Chinese texts of the documents that make up the agreement and the associated Exchange of Memoranda. These were submitted to British Ministers and Chinese leaders for final approval. The texts were initialled by the two delegation leaders on 26 September.

Consultation with the People of Hong Kong

15. From the beginning of the negotiations Her Majesty's Government have been conscious that the negotiations concerned the interests and future of the five and a half million people of Hong Kong. It has been the consistent position of Her Majesty's Government that any agreement with the Chinese Government on the future of the territory should be acceptable to the people of Hong Kong as well as to the British Parliament and the Chinese Government.

16. The negotiations had to be conducted on a basis of confidentiality. This was crucial to their success, but the maintenance of confidentiality also caused much concern and anxiety among the people of Hong Kong who were understandably anxious to know what was being negotiated for their future. All members of the Executive Council, as the Governor's closest advisers, were kept fully informed on the negotiations and consulted on a continuing basis throughout the period. The Unofficial Members of the Executive and Legislative Councils (UMELCO) provided invaluable advice to the Governor and to Ministers on the course of the negotiations and on the attitude of the people of Hong Kong.

17. At a number of crucial points in the negotiations the Governor and Unofficial Members of the Executive Council visited London for consultations with the Prime Minister and other Ministers. British Ministers also paid a series of visits to Hong Kong, to consult the Governor, the Executive Council and the Unofficial Members of the Executive and Legislative Councils and to keep in touch with opinion in the territory. The Secretary of State for Foreign and Commonwealth Affairs was able to describe the approach of Her Majesty's Government to the negotiations in his statement in Hong Kong on 20 April 1984, and to fill in more details of what might eventually be included in an agreement in a further statement in the territory on 1 August 1984. In the course of the negotiations, and in particular since the statement of 20 April, numerous individuals and groups in Hong Kong have made specific proposals on what should be included in an eventual agreement. The Legislative Council of Hong Kong has debated aspects of the future of the territory on a number of occasions. Her Majesty's Government have paid close attention to these expressions of opinion which the Hong Kong Government have relayed to Ministers, and to views about the future expressed through a variety of channels—by and through UMELCO, through the press, through individual communications addressed to Her Majesty's Government or the Hong Kong Government. In this way Her Majesty's Government have sought to take into account the views of the people of Hong Kong to the maximum extent possible during the negotiations.

18. In the same way the maintenance of confidentiality has made the task of consulting Parliament on the negotiations more difficult. Despite this there were debates on Hong Kong in October and November 1983 and in May 1984, and part of the Foreign Affairs Debate in March 1984 was also devoted to Hong Kong. Members of Parliament have kept in close touch with the people of Hong Kong, both through visits to the territory and through meetings with Hong Kong delegations visiting the United Kingdom.

Introduction to the Agreement

19. The full text of the draft agreement is included in the second part of this White Paper. It consists of a Joint Declaration and three Annexes. Each part of the agreement has the same status. The whole makes up a formal international agreement, legally binding in all its parts. An international agreement of this kind is the highest form of commitment between two sovereign states.

20. The Joint Declaration consists in part of linked declarations by Her Majesty's Government and the Chinese Government. In paragraph 1 the

Chinese Government declares that it will resume the exercise of sovereignty over Hong Kong on 1 July 1997. In paragraph 2 Her Majesty's Government declare that they will restore Hong Kong to the Chinese Government from that date. In paragraph 3 the Chinese Government sets out its policies towards Hong Kong after 30 June 1997. In paragraph 4 the two Governments jointly declare that Her Majesty's Government will remain responsible for the administration of Hong Kong up to 30 June 1997. Paragraphs 5 and 6 deal with the Joint Liaison Group and land. Paragraph 7 constitutes the important link between the declarations by the two parties; it has the effect of making the Joint Declaration and the Annexes to it legally binding in their entirety on the two Governments. Paragraph 8 provides for the agreement to enter into force on ratification. Ratification will take place before 30 June 1985.

21. The agreement sets out clearly the relationship between the provisions which it contains and the future Basic Law of the Hong Kong Special Administrative Region, to be promulgated by the National People's Congress of the People's Republic of China. Paragraph 3(12) of the Joint Declaration provides that the basic policies in the Joint Declaration and the elaboration of them in Annex I will be stipulated in the Basic Law. They will remain unchanged for 50 years.

22. Annex I contains an elaboration of Chinese policies for the Hong Kong Special Administration Region. The Annex deals in detail with the way Hong Kong will work after 1 July 1997, and describes the extent of the autonomy and continuity which will prevail then. The subjects dealt with in the various sections of this Annex are:

- (i) constitutional arrangements and government structure;
- (ii) the laws;
- (iii) the judicial system;
- (iv) the public service;
- (v) the financial system;
- (vi) the economic system and external economic relations;
- (vii) the monetary system;
- (viii) shipping;
- (ix) civil aviation;
- (x) culture and education;
- (xi) external relations;
- (xii) defence, security and public order;
- (xiii) rights and freedoms;
- (xiv) right of abode, travel documents and immigration.

23. Annex II sets out the provisions concerning the establishment of a Sino-British Joint Liaison Group. The Joint Liaison Group will be established on the entry into force of the agreement and will meet in Peking, London and Hong Kong. From 1 July 1988 it will be based in Hong Kong, although it will also continue to meet in Peking and London. It will continue its work until 1 January 2000. The Annex includes terms of reference which clearly

indicate that the Group will be a forum for liaison only and not an organ of power. It will neither play a part in the administration of Hong Kong nor have any supervisory rôle.

24. Annex III deals with land leases. It covers leases that have already been issued by the Hong Kong Government, leases to be issued between the entry into force of the agreement and 1997, certain financial arrangements, and arrangements for the establishment of a joint Land Commission.

25. Associated with the agreement is a separate Exchange of Memoranda on the status of persons after 30 June 1997 who at present are British Dependent Territories citizens, and related issues. The Memoranda will be formally exchanged in Peking on the same day as the signature of the Joint Declaration.

26. The last part of this White Paper contains further explanatory notes on the text of the Annexes to the Joint Declaration and the Exchange of Memoranda.

Views of Her Majesty's Government on the Agreement

27. As recorded in paragraph 10 above, Her Majesty's Government have sought to see whether on the basis of proposals put forward by the Chinese Government arrangements could be constructed which would ensure lasting stability and prosperity for Hong Kong. They have negotiated energetically and they believe successfully to secure an agreement which meets the needs and wishes of the people of Hong Kong. The negotiations have been hard and long. Taking the agreement as a whole Her Majesty's Government are confident that it does provide a framework in which the stability and prosperity of Hong Kong can be maintained after 1997 as a Special Administrative Region of the People's Republic of China.

28. The text of the agreement has been initialled by both sides. This represents a certification by the negotiators that it represents accurately the outcome of the negotiations. However, as is normal with international agreements negotiated between nations there is no realistic possibility of amending the text. The agreement must be taken as a whole.

29. Her Majesty's Government have a duty to make clear beyond any possibility of misunderstanding the alternative to acceptance of the agreement set out in this White Paper. In their view, there is no possibility of an amended agreement. The alternative to acceptance of the present agreement is to have no agreement. In this case the Chinese Government has made it plain that negotiations could not be reopened and that it would publish its own plan for Hong Kong. There is no guarantee that such a unilateral plan would include all the elements included in the draft agreement, nor would it have the same status as a legally binding agreement between the two countries. Whether or not there is an agreement between Her Majesty's Government and the Chinese Government the New Territories will revert to China on 1 July 1997 under the terms of the 1898 Convention. The remainder of Hong Kong (Hong Kong Island, Kowloon and Stonecutters Island) would not be viable alone. Hong Kong, including the New Territories, has since 1898 become an integral whole and Her Majesty's Government are satisfied that there is no possibility of dividing the New

Territories which revert to China on 1 July 1997 from the remainder. The choice is therefore between reversion of Hong Kong to China under agreed, legally binding international arrangements or reversion to China without such arrangements. This is not a choice which Her Majesty's Government have sought to impose on the people of Hong Kong. It is a choice imposed by the facts of Hong Kong's history.

30. Her Majesty's Government believe that the agreement is a good one. They strongly commend it to the people of Hong Kong and to Parliament. It provides a framework in which Hong Kong as a Special Administrative Region of the People's Republic of China will be able to preserve its unique economic system and way of life after 1 July 1997. The Agreement preserves Hong Kong's familiar legal system and the body of laws in force in Hong Kong, including the common law. The agreement gives Hong Kong a high degree of autonomy in which it will be able to administer itself and pass its own legislation. It will enable Hong Kong to continue to decide on its own economic, financial and trade policies, and to participate in international organisations and trade agreements such as the General Agreement on Tariffs and Trade (GATT). **Her Majesty's Government are confident that the agreement provides the necessary assurances about Hong Kong's future which will allow the territory to continue to flourish, and to maintain its unique rôle in the world as a major trading and financial centre.**

The Agreement and the People of Hong Kong

31. Her Majesty's Government have consistently stated that an agreement on the future of Hong Kong must be acceptable to the people of Hong Kong as well as to Parliament. In his statement on 20 April 1984 in Hong Kong the Secretary of State for Foreign and Commonwealth Affairs stated that the people of Hong Kong would need to have time to express their views on the agreement, before it was debated by Parliament. The people of Hong Kong will now have this opportunity.

32. The text of this White Paper is also being published in Hong Kong by the Hong Kong Government and will be circulated through a wide variety of channels in the territory. An Assessment Office has been set up in Hong Kong under the charge of a senior official of the Hong Kong Government, directly responsible to the Governor. This office will provide Her Majesty's Government and Parliament with an analysis and assessment of opinion in Hong Kong on the draft agreement. Two monitors, Sir Patrick Nairne and Mr Justice Simon Li, have been appointed by Her Majesty's Government to observe the work of the Assessment Office and to report independently to the Secretary of State for Foreign and Commonwealth Affairs on whether they are satisfied that the Assessment Office has properly, accurately and impartially discharged its duties. In the light of these two reports Her Majesty's Government will decide what recommendation to make to Parliament.

33. The people of Hong Kong are now invited to comment on the overall acceptability of the draft agreement on Hong Kong negotiated between Her Majesty's Government and the Chinese Government, against the background set out in this White Paper.

**JOINT DECLARATION
OF THE GOVERNMENT OF THE UNITED KINGDOM OF
GREAT BRITAIN AND NORTHERN IRELAND
AND
THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA
ON THE QUESTION OF HONG KONG**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China have reviewed with satisfaction the friendly relations existing between the two Governments and peoples in recent years and agreed that a proper negotiated settlement of the question of Hong Kong, which is left over from the past, is conducive to the maintenance of the prosperity and stability of Hong Kong and to the further strengthening and development of the relations between the two countries on a new basis. To this end, they have, after talks between the delegations of the two Governments, agreed to declare as follows:

1. The Government of the People's Republic of China declares that to recover the Hong Kong area (including Hong Kong Island, Kowloon and the New Territories, hereinafter referred to as Hong Kong) is the common aspiration of the entire Chinese people, and that it has decided to resume the exercise of sovereignty over Hong Kong with effect from 1 July 1997.

2. The Government of the United Kingdom declares that it will restore Hong Kong to the People's Republic of China with effect from 1 July 1997.

3. The Government of the People's Republic of China declares that the basic policies of the People's Republic of China regarding Hong Kong are as follows:

(1) Upholding national unity and territorial integrity and taking account of the history of Hong Kong and its realities, the People's Republic of China has decided to establish, in accordance with the provisions of Article 31 of the Constitution of the People's Republic of China, a Hong Kong Special Administrative Region upon resuming the exercise of sovereignty over Hong Kong.

(2) The Hong Kong Special Administrative Region will be directly under the authority of the Central People's Government of the People's Republic of China. The Hong Kong Special Administrative Region will enjoy a high degree of autonomy, except in foreign and defence affairs which are the responsibilities of the Central People's Government.

(3) The Hong Kong Special Administrative Region will be vested with executive, legislative, and independent judicial power, including that of final adjudication. The laws currently in force in Hong Kong will remain basically unchanged.

(4) The Government of the Hong Kong Special Administrative Region will be composed of local inhabitants. The chief executive will be appointed by the Central People's Government on the basis of the results of elections or consultations to be held locally. Principal

officials will be nominated by the chief executive of the Hong Kong Special Administrative Region for appointment by the Central People's Government. Chinese and foreign nationals previously working in the public and police services in the government departments of Hong Kong may remain in employment. British and other foreign nationals may also be employed to serve as advisers or hold certain public posts in government departments of the Hong Kong Special Administrative Region.

(5) The current social and economic systems in Hong Kong will remain unchanged, and so will the life-style. Rights and freedoms, including those of the person, of speech, of the press, of assembly, of association, of travel, of movement, of correspondence, of strike, of choice of occupation, of academic research and of religious belief will be ensured by law in the Hong Kong Special Administrative Region. Private property, ownership of enterprises, legitimate right of inheritance and foreign investment will be protected by law.

(6) The Hong Kong Special Administrative Region will retain the status of a free port and a separate customs territory.

(7) The Hong Kong Special Administrative Region will retain the status of an international financial centre, and its markets for foreign exchange, gold, securities and futures will continue. There will be free flow of capital. The Hong Kong dollar will continue to circulate and remain freely convertible.

(8) The Hong Kong Special Administrative Region will have independent finances. The Central People's Government will not levy taxes on the Hong Kong Special Administrative Region.

(9) The Hong Kong Special Administrative Region may establish mutually beneficial economic relations with the United Kingdom and other countries, whose economic interests in Hong Kong will be given due regard.

(10) Using the name of "Hong Kong, China", the Hong Kong Special Administrative Region may on its own maintain and develop economic and cultural relations and conclude relevant agreements with states, regions and relevant international organisations.

The Government of the Hong Kong Special Administrative Region may on its own issue travel documents for entry into and exit from Hong Kong.

(11) The maintenance of public order in the Hong Kong Special Administrative Region will be the responsibility of the Government of the Hong Kong Special Administrative Region.

(12) The above-stated basic policies of the People's Republic of China regarding Hong Kong and the elaboration of them in Annex I to this Joint Declaration will be stipulated, in a Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, by the National People's Congress of the People's Republic of China, and they will remain unchanged for 50 years.

4. The Government of the United Kingdom and the Government of the People's Republic of China declare that, during the transitional period between the date of the entry into force of this Joint Declaration and 30 June 1997, the Government of the United Kingdom will be responsible for the administration of Hong Kong with the object of maintaining and preserving its economic prosperity and social stability; and that the Government of the People's Republic of China will give its cooperation in this connection.

5. The Government of the United Kingdom and the Government of the People's Republic of China declare that, in order to ensure a smooth transfer of government in 1997, and with a view to the effective implementation of this Joint Declaration, a Sino-British Joint Liaison Group will be set up when this Joint Declaration enters into force; and that it will be established and will function in accordance with the provisions of Annex II to this Joint Declaration.

6. The Government of the United Kingdom and the Government of the People's Republic of China declare that land leases in Hong Kong and other related matters will be dealt with in accordance with the provisions of Annex III to this Joint Declaration.

7. The Government of the United Kingdom and the Government of the People's Republic of China agree to implement the preceding declarations and the Annexes to this Joint Declaration.

8. This Joint Declaration is subject to ratification and shall enter into force on the date of the exchange of instruments of ratification, which shall take place in Beijing before 30 June 1985. This Joint Declaration and its Annexes shall be equally binding.

Done in duplicate at Beijing on 1984 in the English and Chinese languages, both texts being equally authentic.

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

For the
Government of the
People's Republic of
China

ANNEX I

**ELABORATION BY THE GOVERNMENT OF
THE PEOPLE'S REPUBLIC OF CHINA
OF ITS BASIC POLICIES REGARDING HONG KONG**

The Government of the People's Republic of China elaborates the basic policies of the People's Republic of China regarding Hong Kong as set out in paragraph 3 of the Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong as follows:

I

The Constitution of the People's Republic of China stipulates in Article 31 that "the state may establish special administrative regions when necessary. The systems to be instituted in special administrative regions shall be prescribed by laws enacted by the National People's Congress in the light of the specific conditions". In accordance with this Article, the People's Republic of China shall, upon the resumption of the exercise of sovereignty over Hong Kong on 1 July 1997, establish the Hong Kong Special Administrative Region of the People's Republic of China. The National People's Congress of the People's Republic of China shall enact and promulgate a Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (hereinafter referred to as the Basic Law) in accordance with the Constitution of the People's Republic of China, stipulating that after the establishment of the Hong Kong Special Administrative Region the socialist system and socialist policies shall not be practised in the Hong Kong Special Administrative Region and that Hong Kong's previous capitalist system and life-style shall remain unchanged for 50 years.

The Hong Kong Special Administrative Region shall be directly under the authority of the Central People's Government of the People's Republic of China and shall enjoy a high degree of autonomy. Except for foreign and defence affairs which are the responsibilities of the Central People's Government, the Hong Kong Special Administrative Region shall be vested with executive, legislative and independent judicial power, including that of final adjudication. The Central People's Government shall authorise the Hong Kong Special Administrative Region to conduct on its own those external affairs specified in Section XI of this Annex.

The government and legislature of the Hong Kong Special Administrative Region shall be composed of local inhabitants. The chief executive of the Hong Kong Special Administrative Region shall be selected by election or through consultations held locally and be appointed by the Central People's Government. Principal officials (equivalent to Secretaries) shall be nominated by the chief executive of the Hong Kong Special Administrative Region and appointed by the Central People's Government. The legislature of the Hong Kong Special Administrative Region shall be constituted by elections. The executive authorities shall abide by the law and shall be accountable to the legislature.

In addition to Chinese, English may also be used in organs of government and in the courts in the Hong Kong Special Administrative Region.

Apart from displaying the national flag and national emblem of the People's Republic of China, the Hong Kong Special Administrative Region may use a regional flag and emblem of its own.

II

After the establishment of the Hong Kong Special Administrative Region, the laws previously in force in Hong Kong (*i.e.* the common law, rules of equity, ordinances, subordinate legislation and customary law) shall be maintained, save for any that contravene the Basic Law and subject to any amendment by the Hong Kong Special Administrative Region legislature.

The legislative power of the Hong Kong Special Administrative Region shall be vested in the legislature of the Hong Kong Special Administrative Region. The legislature may on its own authority enact laws in accordance with the provisions of the Basic Law and legal procedures, and report them to the Standing Committee of the National People's Congress for the record. Laws enacted by the legislature which are in accordance with the Basic Law and legal procedures shall be regarded as valid.

The laws of the Hong Kong Special Administrative Region shall be the Basic Law, and the laws previously in force in Hong Kong and laws enacted by the Hong Kong Special Administrative Region legislature as above.

III

After the establishment of the Hong Kong Special Administrative Region, the judicial system previously practised in Hong Kong shall be maintained except for those changes consequent upon the vesting in the courts of the Hong Kong Special Administrative Region of the power of final adjudication.

Judicial power in the Hong Kong Special Administrative Region shall be vested in the courts of the Hong Kong Special Administrative Region. The courts shall exercise judicial power independently and free from any interference. Members of the judiciary shall be immune from legal action in respect of their judicial functions. The courts shall decide cases in accordance with the laws of the Hong Kong Special Administrative Region and may refer to precedents in other common law jurisdictions.

Judges of the Hong Kong Special Administrative Region courts shall be appointed by the chief executive of the Hong Kong Special Administrative Region acting in accordance with the recommendation of an independent commission composed of local judges, persons from the legal profession and other eminent persons. Judges shall be chosen by reference to their judicial qualities and may be recruited from other common law jurisdictions. A judge may only be removed for inability to discharge the functions of his office, or for misbehaviour, by the chief executive of the Hong Kong Special Administrative Region acting in accordance with the

recommendation of a tribunal appointed by the chief judge of the court of final appeal, consisting of not fewer than three local judges. Additionally, the appointment or removal of principal judges (*i.e.* those of the highest rank) shall be made by the chief executive with the endorsement of the Hong Special Administrative Region legislature and reported to the Standing Committee of the National People's Congress for the record. The system of appointment and removal of judicial officers other than judges shall be maintained.

The power of final judgment of the Hong Kong Special Administrative Region shall be vested in the court of final appeal in the Hong Kong Special Administrative Region, which may as required invite judges from other common law jurisdictions to sit on the court of final appeal.

A prosecuting authority of the Hong Kong Special Administrative Region shall control criminal prosecutions free from any interference.

On the basis of the system previously operating in Hong Kong, the Hong Kong Special Administrative Region Government shall on its own make provision for local lawyers and lawyers from outside the Hong Kong Special Administrative Region to work and practise in the Hong Kong Special Administrative Region.

The Central People's Government shall assist or authorise the Hong Kong Special Administrative Region Government to make appropriate arrangements for reciprocal juridical assistance with foreign states.

IV

After the establishment of the Hong Kong Special Administrative Region, public servants previously serving in Hong Kong in all government departments, including the police department, and members of the judiciary may all remain in employment and continue their service with pay, allowances, benefits and conditions of service no less favourable than before. The Hong Kong Special Administrative Region Government shall pay to such persons who retire or complete their contracts, as well as to those who have retired before 1 July 1997, or to their dependants, all pensions, gratuities, allowances and benefits due to them on terms no less favourable than before, and irrespective of their nationality or place of residence.

The Hong Kong Special Administrative Region Government may employ British and other foreign nationals previously serving in the public service in Hong Kong, and may recruit British and other foreign nationals holding permanent identity cards of the Hong Kong Special Administrative Region to serve as public servants at all levels, except as heads of major government departments (corresponding to branches or departments at Secretary level) including the police department, and as deputy heads of some of those departments. The Hong Kong Special Administrative Region Government may also employ British and other foreign nationals as advisers to government departments and, when there is a need, may recruit qualified candidates from outside the Hong Kong Special Administrative Region to professional and technical posts in government departments. The above

shall be employed only in their individual capacities and, like other public servants, shall be responsible to the Hong Kong Special Administrative Region Government.

The appointment and promotion of public servants shall be on the basis of qualifications, experience and ability. Hong Kong's previous system of recruitment, employment, assessment, discipline, training and management for the public service (including special bodies for appointment, pay and conditions of service) shall, save for any provisions providing privileged treatment for foreign nationals, be maintained.

V

The Hong Kong Special Administrative Region shall deal on its own with financial matters, including disposing of its financial resources and drawing up its budgets and its final accounts. The Hong Kong Special Administrative Region shall report its budgets and final accounts to the Central People's Government for the record.

The Central People's Government shall not levy taxes on the Hong Kong Special Administrative Region. The Hong Kong Special Administrative Region shall use its financial revenues exclusively for its own purposes and they shall not be handed over to the Central People's Government. The systems by which taxation and public expenditure must be approved by the legislature, and by which there is accountability to the legislature for all public expenditure, and the system for auditing public accounts shall be maintained.

VI

The Hong Kong Special Administrative Region shall maintain the capitalist economic and trade systems previously practised in Hong Kong. The Hong Kong Special Administrative Region Government shall decide its economic and trade policies on its own. Rights concerning the ownership of property, including those relating to acquisition, use, disposal, inheritance and compensation for lawful deprivation (corresponding to the real value of the property concerned, freely convertible and paid without undue delay) shall continue to be protected by law.

The Hong Kong Special Administrative Region shall retain the status of a free port and continue a free trade policy, including the free movement of goods and capital. The Hong Kong Special Administrative Region may on its own maintain and develop economic and trade relations with all states and regions.

The Hong Kong Special Administrative Region shall be a separate customs territory. It may participate in relevant international organisations and international trade agreements (including preferential trade arrangements), such as the General Agreement on Tariffs and Trade and arrangements regarding international trade in textiles. Export quotas, tariff preferences and other similar arrangements obtained by the Hong Kong Special Administrative Region shall be enjoyed exclusively by the Hong Kong Special Administrative

Region. The Hong Kong Special Administrative Region shall have authority to issue its own certificates of origin for products manufactured locally, in accordance with prevailing rules of origin.

The Hong Kong Special Administrative Region may, as necessary, establish official and semi-official economic and trade missions in foreign countries, reporting the establishment of such missions to the Central People's Government for the record.

VII

The Hong Kong Special Administrative Region shall retain the status of an international financial centre. The monetary and financial systems previously practised in Hong Kong, including the systems of regulation and supervision of deposit taking institutions and financial markets, shall be maintained.

The Hong Kong Special Administrative Region Government may decide its monetary and financial policies on its own. It shall safeguard the free operation of financial business and the free flow of capital within, into and out of the Hong Kong Special Administrative Region. No exchange control policy shall be applied in the Hong Kong Special Administrative Region. Markets for foreign exchange, gold, securities and futures shall continue.

The Hong Kong dollar, as the local legal tender, shall continue to circulate and remain freely convertible. The authority to issue Hong Kong currency shall be vested in the Hong Kong Special Administrative Region Government. The Hong Kong Special Administrative Region Government may authorise designated banks to issue or to continue to issue Hong Kong currency under statutory authority, after satisfying itself that any issue of currency will be soundly based and that the arrangements for such issue are consistent with the object of maintaining the stability of the currency. Hong Kong currency bearing references inappropriate to the status of Hong Kong as a Special Administrative Region of the People's Republic of China shall be progressively replaced and withdrawn from circulation.

The Exchange Fund shall be managed and controlled by the Hong Kong Special Administrative Region Government, primarily for regulating the exchange value of the Hong Kong dollar.

VIII

The Hong Kong Special Administrative Region shall maintain Hong Kong's previous systems of shipping management and shipping regulation, including the system for regulating conditions of seamen. The specific functions and responsibilities of the Hong Kong Special Administrative Region Government in the field of shipping shall be defined by the Hong Kong Special Administrative Region Government on its own. Private shipping businesses and shipping-related businesses and private container terminals in Hong Kong may continue to operate freely.

The Hong Kong Special Administrative Region shall be authorised by the Central People's Government to continue to maintain a shipping register and issue related certificates under its own legislation in the name of "Hong Kong, China".

With the exception of foreign warships, access for which requires the permission of the Central People's Government, ships shall enjoy access to the ports of the Hong Kong Special Administrative Region in accordance with the laws of the Hong Kong Special Administrative Region.

IX

The Hong Kong Special Administrative Region shall maintain the status of Hong Kong as a centre of international and regional aviation. Airlines incorporated and having their principal place of business in Hong Kong and civil aviation related businesses may continue to operate. The Hong Kong Special Administrative Region shall continue the previous system of civil aviation management in Hong Kong, and keep its own aircraft register in accordance with provisions laid down by the Central People's Government concerning nationality marks and registration marks of aircraft. The Hong Kong Special Administrative Region shall be responsible on its own for matters of routine business and technical management of civil aviation, including the management of airports, the provision of air traffic services within the flight information region of the Hong Kong Special Administrative Region, and the discharge of other responsibilities allocated under the regional air navigation procedures of the International Civil Aviation Organisation.

The Central People's Government shall, in consultation with the Hong Kong Special Administrative Region Government, make arrangements providing for air services between the Hong Kong Special Administrative Region and other parts of the People's Republic of China for airlines incorporated and having their principal place of business in the Hong Kong Special Administrative Region and other airlines of the People's Republic of China. All air service agreements providing for air services between other parts of the People's Republic of China and other states and regions with stops at the Hong Kong Special Administrative Region and air services between the Hong Kong Special Administrative Region and other states and regions with stops at other parts of the People's Republic of China shall be concluded by the Central People's Government. For this purpose, the Central People's Government shall take account of the special conditions and economic interests of the Hong Kong Special Administrative Region and consult the Hong Kong Special Administrative Region Government. Representatives of the Hong Kong Special Administrative Region Government may participate as members of delegations of the Government of the People's Republic of China in air service consultations with foreign governments concerning arrangements for such services.

Acting under specific authorisations from the Central People's Government, the Hong Kong Special Administrative Region Government may:

- renew or amend Air Service Agreements and arrangements previously in force; in principle, all such Agreements and arrangements may be renewed or amended with the rights contained in such previous Agreements and arrangements being as far as possible maintained;

- negotiate and conclude new Air Service Agreements providing routes for airlines incorporated and having their principal place of business in the Hong Kong Special Administrative Region and rights for overflights and technical stops; and
- negotiate and conclude provisional arrangements where no Air Service Agreement with a foreign state or other region is in force.

All scheduled air services to, from or through the Hong Kong Special Administrative Region which do not operate to, from or through the mainland of China shall be regulated by Air Service Agreements or provisional arrangements referred to in this paragraph.

The Central People's Government shall give the Hong Kong Special Administrative Region Government the authority to:

- negotiate and conclude with other authorities all arrangements concerning the implementation of the above Air Service Agreements and provisional arrangements;
- issue licences to airlines incorporated and having their principal place of business in the Hong Kong Special Administrative Region;
- designate such airlines under the above Air Service Agreements and provisional arrangements; and
- issue permits to foreign airlines for services other than those to, from or through the mainland of China.

X

The Hong Kong Special Administrative Region shall maintain the educational system previously practised in Hong Kong. The Hong Kong Special Administrative Region Government shall on its own decide policies in the fields of culture, education, science and technology, including policies regarding the educational system and its administration, the language of instruction, the allocation of funds, the examination system, the system of academic awards and the recognition of educational and technological qualifications. Institutions of all kinds, including those run by religious and community organisations, may retain their autonomy. They may continue to recruit staff and use teaching materials from outside the Hong Kong Special Administrative Region. Students shall enjoy freedom of choice of education and freedom to pursue their education outside the Hong Kong Special Administrative Region.

XI

Subject to the principle that foreign affairs are the responsibility of the Central People's Government, representatives of the Hong Kong Special Administrative Region Government may participate, as members of delegations of the Government of the People's Republic of China, in negotiations at the diplomatic level directly affecting the Hong Kong Special Administrative Region conducted by the Central People's Government. The Hong Kong Special Administrative Region may on its own, using the name

"Hong Kong, China", maintain and develop relations and conclude and implement agreements with states, regions and relevant international organisations in the appropriate fields, including the economic, trade, financial and monetary, shipping, communications, touristic, cultural and sporting fields. Representatives of the Hong Kong Special Administrative Region Government may participate, as members of delegations of the Government of the People's Republic of China, in international organisations or conferences in appropriate fields limited to states and affecting the Hong Kong Special Administrative Region, or may attend in such other capacity as may be permitted by the Central People's Government and the organisation or conference concerned, and may express their views in the name of "Hong Kong, China". The Hong Kong Special Administrative Region may, using the name "Hong Kong, China", participate in international organisations and conferences not limited to states.

The application to the Hong Kong Special Administrative Region of international agreements to which the People's Republic of China is or becomes a party shall be decided by the Central People's Government, in accordance with the circumstances and needs of the Hong Kong Special Administrative Region, and after seeking the views of the Hong Kong Special Administrative Region Government. International agreements to which the People's Republic of China is not a party but which are implemented in Hong Kong may remain implemented in the Hong Kong Special Administrative Region. The Central People's Government shall, as necessary, authorise and assist the Hong Kong Special Administrative Region Government to make appropriate arrangements for the application to the Hong Kong Special Administrative Region of other relevant international agreements. The Central People's Government shall take the necessary steps to ensure that the Hong Kong Special Administrative Region shall continue to retain its status in an appropriate capacity in those international organisations of which the People's Republic of China is a member and in which Hong Kong participates in one capacity or another. The Central People's Government shall, where necessary, facilitate the continued participation of the Hong Kong Special Administrative Region in an appropriate capacity in those international organisations in which Hong Kong is a participant in one capacity or another, but of which the People's Republic of China is not a member.

Foreign consular and other official or semi-official missions may be established in the Hong Kong Special Administrative Region with the approval of the Central People's Government. Consular and other official missions established in Hong Kong by states which have established formal diplomatic relations with the People's Republic of China may be maintained. According to the circumstances of each case, consular and other official missions of states having no formal diplomatic relations with the People's Republic of China may either be maintained or changed to semi-official missions. States not recognised by the People's Republic of China can only establish non-governmental institutions.

The United Kingdom may establish a Consulate-General in the Hong Kong Special Administrative Region.

XII

The maintenance of public order in the Hong Kong Special Administrative Region shall be the responsibility of the Hong Kong Special Administrative Region Government. Military forces sent by the Central People's Government to be stationed in the Hong Kong Special Administrative Region for the purpose of defence shall not interfere in the internal affairs of the Hong Kong Special Administrative Region. Expenditure for these military forces shall be borne by the Central People's Government.

XIII

The Hong Kong Special Administrative Region Government shall protect the rights and freedoms of inhabitants and other persons in the Hong Kong Special Administrative Region according to law. The Hong Kong Special Administrative Region Government shall maintain the rights and freedoms as provided for by the laws previously in force in Hong Kong, including freedom of the person, of speech, of the press, of assembly, of association, to form and join trade unions, of correspondence, of travel, of movement, of strike, of demonstration, of choice of occupation, of academic research, of belief, inviolability of the home, the freedom to marry and the right to raise a family freely.

Every person shall have the right to confidential legal advice, access to the courts, representation in the courts by lawyers of his choice, and to obtain judicial remedies. Every person shall have the right to challenge the actions of the executive in the courts.

Religious organisations and believers may maintain their relations with religious organisations and believers elsewhere, and schools, hospitals and welfare institutions run by religious organisations may be continued. The relationship between religious organisations in the Hong Kong Special Administrative Region and those in other parts of the People's Republic of China shall be based on the principles of non-subordination, non-interference and mutual respect.

The provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights as applied to Hong Kong shall remain in force.

XIV

The following categories of persons shall have the right of abode in the Hong Kong Special Administrative Region, and, in accordance with the law of the Hong Kong Special Administrative Region, be qualified to obtain permanent identity cards issued by the Hong Kong Special Administrative Region Government, which state their right of abode:

- all Chinese nationals who were born or who have ordinarily resided in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region for a continuous period of 7 years or more, and persons of Chinese nationality born outside Hong Kong of such Chinese nationals;

- all other persons who have ordinarily resided in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region for a continuous period of 7 years or more and who have taken Hong Kong as their place of permanent residence before or after the establishment of the Hong Kong Special Administrative Region, and persons under 21 years of age who were born of such persons in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region;
- any other persons who had the right of abode only in Hong Kong before the establishment of the Hong Kong Special Administrative Region.

The Central People's Government shall authorise the Hong Kong Special Administrative Region Government to issue, in accordance with the law, passports of the Hong Kong Special Administrative Region of the People's Republic of China to all Chinese nationals who hold permanent identity cards of the Hong Kong Special Administrative Region, and travel documents of the Hong Kong Special Administrative Region of the People's Republic of China to all other persons lawfully residing in the Hong Kong Special Administrative Region. The above passports and documents shall be valid for all states and regions and shall record the holder's right to return to the Hong Kong Special Administrative Region.

For the purpose of travelling to and from the Hong Kong Special Administrative Region, residents of the Hong Kong Special Administrative Region may use travel documents issued by the Hong Kong Special Administrative Region Government, or by other competent authorities of the People's Republic of China, or of other states. Holders of permanent identity cards of the Hong Kong Special Administrative Region may have this fact stated in their travel documents as evidence that the holders have the right of abode in the Hong Kong Special Administrative Region.

Entry into the Hong Kong Special Administrative Region of persons from other parts of China shall continue to be regulated in accordance with the present practice.

The Hong Kong Special Administrative Region Government may apply immigration controls on entry, stay in and departure from the Hong Kong Special Administrative Region by persons from foreign states and regions.

Unless restrained by law, holders of valid travel documents shall be free to leave the Hong Kong Special Administrative Region without special authorisation.

The Central People's Government shall assist or authorise the Hong Kong Special Administrative Region Government to conclude visa abolition agreements with states or regions.

ANNEX II

SINO-BRITISH JOINT LIAISON GROUP

1. In furtherance of their common aim and in order to ensure a smooth transfer of government in 1997, the Government of the United Kingdom and the Government of the People's Republic of China have agreed to continue their discussions in a friendly spirit and to develop the cooperative relationship which already exists between the two Governments over Hong Kong with a view to the effective implementation of the Joint Declaration.

2. In order to meet the requirements for liaison, consultation and the exchange of information, the two Governments have agreed to set up a Joint Liaison Group.

3. The functions of the Joint Liaison Group shall be:

- (a) to conduct consultations on the implementation of the Joint Declaration;
- (b) to discuss matters relating to the smooth transfer of government in 1997;
- (c) to exchange information and conduct consultations on such subjects as may be agreed by the two sides.

Matters on which there is disagreement in the Joint Liaison Group shall be referred to the two Governments for solution through consultations.

4. Matters for consideration during the first half of the period between the establishment of the Joint Liaison Group and 1 July 1997 shall include:

- (a) action to be taken by the two Governments to enable the Hong Kong Special Administrative Region to maintain its economic relations as a separate customs territory, and in particular to ensure the maintenance of Hong Kong's participation in the General Agreement on Tariffs and Trade, the Multifibre Arrangement and other international arrangements; and
- (b) action to be taken by the two Governments to ensure the continued application of international rights and obligations affecting Hong Kong.

5. The two Governments have agreed that in the second half of the period between the establishment of the Joint Liaison Group and 1 July 1997 there will be need for closer cooperation, which will therefore be intensified during that period. Matters for consideration during this second period shall include:

- (a) procedures to be adopted for the smooth transition in 1997;
- (b) action to assist the Hong Kong Special Administrative Region to maintain and develop economic and cultural relations and conclude agreements on these matters with states, regions and relevant international organizations.

6. The Joint Liaison Group shall be an organ for liaison and not an organ of power. It shall play no part in the administration of Hong Kong or the Hong Kong Special Administrative Region. Nor shall it have any

supervisory role over that administration. The members and supporting staff of the Joint Liaison Group shall only conduct activities within the scope of the functions of the Joint Liaison Group.

7. Each side shall designate a senior representative, who shall be of Ambassadorial rank, and four other members of the group. Each side may send up to 20 supporting staff.

8. The Joint Liaison Group shall be established on the entry into force of the Joint Declaration. From 1 July 1988 the Joint Liaison Group shall have its principal base in Hong Kong. The Joint Liaison Group shall continue its work until 1 January 2000.

9. The Joint Liaison Group shall meet in Beijing, London and Hong Kong. It shall meet at least once in each of the three locations in each year. The venue for each meeting shall be agreed between the two sides.

10. Members of the Joint Liaison Group shall enjoy diplomatic privileges and immunities as appropriate when in the three locations. Proceedings of the Joint Liaison Group shall remain confidential unless otherwise agreed between the two sides.

11. The Joint Liaison Group may by agreement between the two sides decide to set up specialist sub-groups to deal with particular subjects requiring expert assistance.

12. Meetings of the Joint Liaison Group and sub-groups may be attended by experts other than the members of the Joint Liaison Group. Each side shall determine the composition of its delegation to particular meetings of the Joint Liaison Group or sub-group in accordance with the subjects to be discussed and the venue chosen.

13. The working procedures of the Joint Liaison Group shall be discussed and decided upon by the two sides within the guidelines laid down in this Annex.

ANNEX III

LAND LEASES

The Government of the United Kingdom and the Government of the People's Republic of China have agreed that, with effect from the entry into force of the Joint Declaration, land leases in Hong Kong and other related matters shall be dealt with in accordance with the following provisions:

1. All leases of land granted or decided upon before the entry into force of the Joint Declaration and those granted thereafter in accordance with paragraph 2 or 3 of this Annex, and which extend beyond 30 June 1997, and all rights in relation to such leases shall continue to be recognised and protected under the law of the Hong Kong Special Administrative Region.

2. All leases of land granted by the British Hong Kong Government not containing a right of renewal that expire before 30 June 1997, except short term tenancies and leases for special purposes, may be extended if the lessee so wishes for a period expiring not later than 30 June 2047 without payment of an additional premium. An annual rent shall be charged from the date of extension equivalent to 3 per cent of the rateable value of the property at that date, adjusted in step with any changes in the rateable value thereafter. In the case of old schedule lots, village lots, small houses and similar rural holdings, where the property was on 30 June 1984 held by, or, in the case of small houses granted after that date, the property is granted to, a person descended through the male line from a person who was in 1898 a resident of an established village in Hong Kong, the rent shall remain unchanged so long as the property is held by that person or by one of his lawful successors in the male line. Where leases of land not having a right of renewal expire after 30 June 1997, they shall be dealt with in accordance with the relevant land laws and policies of the Hong Kong Special Administrative Region.

3. From the entry into force of the Joint Declaration until 30 June 1997, new leases of land may be granted by the British Hong Kong Government for terms expiring not later than 30 June 2047. Such leases shall be granted at a premium and nominal rental until 30 June 1997, after which date they shall not require payment of an additional premium but an annual rent equivalent to 3 per cent of the rateable value of the property at that date, adjusted in step with changes in the rateable value thereafter, shall be charged.

4. The total amount of new land to be granted under paragraph 3 of this Annex shall be limited to 50 hectares a year (excluding land to be granted to the Hong Kong Housing Authority for public rental housing) from the entry into force of the Joint Declaration until 30 June 1997.

5. Modifications of the conditions specified in leases granted by the British Hong Kong Government may continue to be granted before 1 July 1997 at a premium equivalent to the difference between the value of the land under the previous conditions and its value under the modified conditions.

6. From the entry into force of the Joint Declaration until 30 June 1997, premium income obtained by the British Hong Kong Government from land transactions shall, after deduction of the average cost of land production, be shared equally between the British Hong Kong Government and the future Hong Kong Special Administrative Region Government. All the income obtained by the British Hong Kong Government, including the amount of the above mentioned deduction, shall be put into the Capital Works Reserve Fund for the financing of land development and public works in Hong Kong. The Hong Kong Special Administrative Region Government's share of the premium income shall be deposited in banks incorporated in Hong Kong and shall not be drawn on except for the financing of land development and public works in Hong Kong in accordance with the provisions of paragraph 7(d) of this Annex.

7. A Land Commission shall be established in Hong Kong immediately upon the entry into force of the Joint Declaration. The Land Commission shall be composed of an equal number of officials designated respectively by the Government of the United Kingdom and the Government of the People's Republic of China together with necessary supporting staff. The officials of the two sides shall be responsible to their respective governments. The Land Commission shall be dissolved on 30 June 1997.

The terms of reference of the Land Commission shall be :

- (a) to conduct consultations on the implementation of this Annex;
- (b) to monitor observance of the limit specified in paragraph 4 of this Annex, the amount of land granted to the Hong Kong Housing Authority for public rental housing, and the division and use of premium income referred to in paragraph 6 of this Annex;
- (c) to consider and decide on proposals from the British Hong Kong Government for increasing the limit referred to in paragraph 4 of this Annex;
- (d) to examine proposals for drawing on the Hong Kong Special Administrative Region Government's share of premium income referred to in paragraph 6 of this Annex and to make recommendations to the Chinese side for decision.

Matters on which there is disagreement in the Land Commission shall be referred to the Government of the United Kingdom and the Government of the People's Republic of China for decision.

8. Specific details regarding the establishment of the Land Commission shall be finalised separately by the two sides through consultations.

EXCHANGE OF MEMORANDA**(a) UNITED KINGDOM MEMORANDUM****MEMORANDUM**

In connection with the Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the question of Hong Kong to be signed this day, the Government of the United Kingdom declares that, subject to the completion of the necessary amendments to the relevant United Kingdom legislation:

- (a) All persons who on 30 June 1997 are, by virtue of a connection with Hong Kong, British Dependent Territories citizens (BDTCs) under the law in force in the United Kingdom will cease to be BDTCs with effect from 1 July 1997, but will be eligible to retain an appropriate status which, without conferring the right of abode in the United Kingdom, will entitle them to continue to use passports issued by the Government of the United Kingdom. This status will be acquired by such persons only if they hold or are included in such a British passport issued before 1 July 1997, except that eligible persons born on or after 1 January 1997 but before 1 July 1997 may obtain or be included in such a passport up to 31 December 1997.
- (b) No person will acquire BDTC status on or after 1 July 1997 by virtue of a connection with Hong Kong. No person born on or after 1 July 1997 will acquire the status referred to as being appropriate in sub-paragraph (a).
- (c) United Kingdom consular officials in the Hong Kong Special Administrative Region and elsewhere may renew and replace passports of persons mentioned in sub-paragraph (a) and may also issue them to persons, born before 1 July 1997 of such persons, who had previously been included in the passport of their parent.
- (d) Those who have obtained or been included in passports issued by the Government of the United Kingdom under sub-paragraphs (a) and (c) will be entitled to receive, upon request, British consular services and protection when in third countries.

Beijing,

1984.

(b) CHINESE MEMORANDUM

MEMORANDUM

Translation

The Government of the People's Republic of China has received the memorandum from the Government of the United Kingdom of Great Britain and Northern Ireland dated 1984.

Under the Nationality Law of the People's Republic of China, all Hong Kong Chinese compatriots, whether they are holders of the "British Dependent Territories citizens' Passport" or not, are Chinese nationals.

Taking account of the historical background of Hong Kong and its realities, the competent authorities of the Government of the People's Republic of China will, with effect from 1 July 1997, permit Chinese nationals in Hong Kong who were previously called "British Dependent Territories citizens" to use travel documents issued by the Government of the United Kingdom for the purpose of travelling to other states and regions.

The above Chinese nationals will not be entitled to British consular protection in the Hong Kong Special Administrative Region and other parts of the People's Republic of China on account of their holding the above-mentioned British travel documents.

Beijing, 1984.

EXPLANATORY NOTES

Introduction

1. The following notes are intended to explain the material in the Annexes to the Joint Declaration and in the associated Exchange of Memoranda. They do not seek to be a comprehensive guide and do not include every point in the texts. They are designed to explain in simple terms, and to illustrate where appropriate, how the Annexes provide for the continuation of the essentials of Hong Kong's systems. Hong Kong is a highly developed industrial, commercial and financial centre and as such is a complex place. The Hong Kong Government, in consultation with Her Majesty's Government, are taking steps to ensure that further guidance and answers to detailed questions will be provided as may be necessary and appropriate.

Annex I: Elaboration by the Government of the People's Republic of China of its basic policies regarding Hong Kong

Section I: Constitutional Arrangements and Government Structure

2. When the People's Republic of China resumes the exercise of sovereignty over Hong Kong on 1 July 1997, Hong Kong will become a Special Administrative Region (SAR) of the People's Republic of China with a high degree of autonomy. A Basic Law to be enacted by the National People's Congress of the People's Republic of China will become the constitutional instrument for the Hong Kong SAR. The Letters Patent and the Royal Instructions, which have hitherto performed this function, will be revoked. As paragraph 3(12) of the Joint Declaration makes clear, the basic policies of the People's Republic of China as set out in the Joint Declaration and elaborated in this Annex will all be stipulated in the Basic Law.

3. This section of the Annex makes clear the important point that the Basic Law will stipulate that the socialist system and socialist policies practised in the rest of the People's Republic of China will not be extended to the Hong Kong SAR and that Hong Kong's capitalist system and lifestyle will remain unchanged for 50 years after the establishment of the SAR.

4. The Annex also states that, except in relation to foreign and defence affairs, which are now the overall responsibility of Her Majesty's Government, and will with effect from 1 July 1997 become the overall responsibility of the Central People's Government of the People's Republic of China, the Hong Kong SAR will enjoy a high degree of autonomy, including executive, legislative and independent judicial power. The SAR will also have authority to conduct its own external affairs in appropriate areas (including those relating to economic, trade, financial and monetary, shipping, communications, touristic, cultural and sporting matters) as amplified in section XI of this Annex, which deals with external relations. The SAR will enjoy a significant degree of autonomy in the maintenance and development of its air transport system as set out in section IX of this Annex, which deals with civil aviation.

5. The section of the Annex which deals with constitutional arrangements and government structure provides that the Hong Kong SAR will be under the direct authority of the Central People's Government. The SAR will therefore not be under the authority of any provincial government.

6. This section of the Annex lays down the main elements of the structure of government in the Hong Kong SAR. It also states that the Government and legislature of the SAR will be composed of local inhabitants. The chief executive will be selected by election or through consultations held locally and be appointed by the Central People's Government. Officials of the rank equivalent to Secretaries will be nominated by the chief executive and appointed by the Central People's Government. The legislature will be elected.

7. Furthermore the Annex indicates that the executive authorities will be required to act in accordance with the law and will be accountable to the legislature: that both Chinese and English languages may be used in government and in the courts: and that, apart from the national flag and national emblem of the People's Republic of China, the SAR may use a regional flag and emblem of its own.

Section II: The Laws

8. This section of the Annex, which describes how the Hong Kong SAR will have its own system of laws, provides continuity of Hong Kong law beyond 1997. The law of the SAR will include the common law and laws passed by the legislature of the SAR. It will remain, as now, capable of adapting to changing conditions and will be free to take account of developments in the common law elsewhere. That this is so is reinforced by specific provisions in section III of this Annex providing that the courts of the SAR will be able to refer to precedents in other common law jurisdictions, that judges of the SAR may be recruited from other common law jurisdictions and that the SAR's court of final appeal may invite judges from other common law jurisdictions to sit on it.

9. Hong Kong laws and those enacted after 1 July 1997 by the legislature of the Hong Kong SAR will be valid unless they contravene the Basic Law. The policies stated in the Joint Declaration and in this Annex will be stipulated in the Basic Law.

10. Laws enacted in the Hong Kong SAR will, as now, have to be passed by the legislature, or under its authority in the form of delegated legislation. Such laws may amend the laws of Hong Kong carried over in 1997 so long as the provisions of the Basic Law are not transgressed. After enactment, laws will have to be reported to the Standing Committee of the National People's Congress of the People's Republic of China for the record.

Section III: The Judicial System

11. The courts of Hong Kong consist of the Supreme Court, the District Courts, the Magistrates' Courts, and various statutory tribunals. The courts are at the heart of Hong Kong's legal system, which plays an important rôle in maintaining the stability and prosperity of Hong Kong. The Annex contains the very important provision for continuity of the judicial system.

12. The Annex indicates that the main change in the judicial system which will take place is the abolition of the system of appeal to the Privy Council and the substitution of arrangements for the final adjudication of disputes by a court of the Hong Kong SAR.

13. The independent exercise of judicial power and the obligation of the courts to decide cases in accordance with the law are both provided for in this section of the Annex. It also provides that the appointment of judges in the Hong Kong SAR will be subject to the recommendation of an independent commission similar to the existing Judicial Service Commission. The independence of the judiciary is protected by the provisions that judges of the SAR may only be removed from office on the grounds of inability or misbehaviour, and then only on the recommendation of a tribunal of judges of the SAR.

14. The Annex provides that the essentials of the system of appointment and removal of judges will remain unchanged, but the appointment and removal of judges of the highest rank will require the endorsement of the legislature of the Hong Kong SAR and have to be reported for the record to the Standing Committee of the National People's Congress.

15. At present the decision whether or not to prosecute in any particular case is the responsibility of the Attorney General. That responsibility is exercised independently free from government interference. The Annex provides that the responsibility will continue to be exercised in the SAR in the same independent way.

16. The Annex provides that local lawyers and also lawyers from outside Hong Kong, who contribute greatly both to the strength of the present legal system and to the success of Hong Kong as a commercial and financial centre, will continue to be able to practise law in Hong Kong. Provision is also made to enable arrangements to be continued whereby, for example, judgments obtained in Hong Kong may be enforced in foreign states, and evidence may be obtained overseas for use in proceedings in Hong Kong.

Section IV: The Public Service

17. This section of the Annex provides for the continuation in Hong Kong of an impartial, stable and effective public service. This is an essential factor in ensuring Hong Kong's future stability and prosperity.

18. Under the provisions of this section of the Annex serving officers will be able to continue in employment with the Hong Kong SAR Government on terms and conditions, including pay and pensions, no less favourable than before 1 July 1997. Special commissions dealing with pay and conditions of service will be retained. In addition, appointments and promotions will be made on the recommendations of a public service commission and on the basis of qualifications, experience and ability.

19. The Annex states that the Hong Kong SAR may employ foreign nationals in a number of capacities, namely as public officers (except at the highest levels), as advisers and in professional and technical posts.

20. It is explicitly provided that all pensions and other benefits due to those officers leaving the public service before or after 1 July 1997 or to their dependants will be paid by the Hong Kong SAR Government.

Section V: The Financial System

21. This section of the Annex provides for continuity in that the Government of the Hong Kong SAR will determine its own fiscal policy and manage and dispose of its financial resources, in accordance with Hong Kong's own needs. There will be no requirement to remit revenue to the Central People's Government. The Annex also makes clear that the predominant authority of the legislature in financial matters, and the system for independent and impartial audit of public accounts, will continue unchanged.

Section VI: The Economic System and External Economic Relations

22. The Annex deals together with these two subjects, which are both important for Hong Kong's export-oriented economy. Hong Kong's prosperity is heavily dependent on securing continued access to its principal export markets in the developed world. This section of the Annex provides reassurance both to the community at large in Hong Kong and to its trading partners that the basis for Hong Kong's flourishing free market economy will continue. It also ensures that Hong Kong's distinct position within the international trading community, on the basis of which Hong Kong enjoys its present rights of access, will continue.

23. The Annex provides for:

- (a) Hong Kong's right to continue to determine its economic policies, including trade policy, in accordance with its own needs;
- (b) The continuation of the free enterprise system, the free trade policies and the free port, which are the essentials of Hong Kong's consistent and successful economic policies;
- (c) The continuation of individual rights and freedoms in economic matters, notably the freedoms of choice of occupation, of travel and of movement of capital, and the rights of individuals and companies to own and dispose of property.

All these essential requirements are met in this section of the Annex, read in conjunction with the appropriate paragraphs of Section XIII, which deals with rights and freedoms. The right of the future Hong Kong SAR to decide its own economic policies is an essential part of the "one country, two systems" concept.

24. Hong Kong's participation in the General Agreement on Tariffs and Trade (GATT), through which it enjoys most favoured nation treatment in its major markets, has been an important element in its success as an exporter. Even in textiles and clothing, where the free trade principles of the GATT have been modified by the Multi-Fibre Arrangement (MFA) which is a negotiated derogation from the normal GATT rules, Hong Kong is able to develop its trade within the MFA and the bilateral agreements negotiated under its provisions. What is even more important, Hong Kong plays an active rôle in the GATT and the MFA. The continuation of

Hong Kong's participation in the GATT and the MFA (if the latter is extended beyond 1986, in which year it expires) is, therefore, of prime importance: and that too is provided in this section of the Annex.

Section VII: The Monetary System

25. A freely convertible currency and the right to manage the Exchange Fund, which provides the backing for the note issue and is used to regulate the exchange value of the currency, are the essential elements of Hong Kong's monetary system. This section of the Annex clearly stipulates that these essential elements shall be maintained.

26. This section of the Annex also provides for the continuation of the arrangements by which currency is issued locally by designated banks under statutory authority.

27. The changes to the designs of bank notes and coins provided for in this section are a logical consequence of the fact that Hong Kong will become a Special Administrative Region of the People's Republic of China on 1 July 1997.

Section VIII: Shipping

28. A major factor in Hong Kong's trading success is its well-developed deep water port and the capacity to handle cargoes by up to date methods. Hong Kong's position as a major shipping centre will be preserved by this section of the Annex, which provides that systems of shipping management and shipping regulation will continue. Private shipping businesses and shipping-related businesses, including container terminals, may continue to operate freely.

29. The Annex states that the Hong Kong SAR will have its own shipping register and will issue certificates in the name of "Hong Kong, China."

30. The Annex also provides that merchant shipping will have free access to the ports of Hong Kong under the laws of the SAR.

Section IX: Civil Aviation

31. This section of the Annex makes clear that Hong Kong will continue as a major centre of regional and international air services, and that airlines and civil aviation related businesses will be able to continue operating.

32. Under the provisions of the Annex the Central People's Government of the People's Republic of China will negotiate agreements concerning air services from and to other points in China through the Hong Kong SAR. However there is also a provision that in dealing with such arrangements the Central People's Government will consult the SAR Government, take its interests into account and include its representatives in delegations to air service consultations with foreign governments. By virtue of section XI of the Annex, which deals with external relations, such representatives may also be included in delegations to appropriate international organisations.

The Central People's Government will also consult the Hong Kong SAR Government about arrangements for air services between the SAR and other parts of China.

33. It is clearly provided that all scheduled air services touching the Hong Kong SAR which do not touch the mainland of China will be regulated by separate arrangements concluded by the SAR Government. For this purpose the SAR Government will be given specific authorisations from the Central People's Government to negotiate with foreign states and regions its own bilateral arrangements regulating air services. These will as far as possible maintain the rights previously enjoyed by Hong Kong. The SAR Government will also act under a general authority from the Central People's Government in negotiating all matters concerning the implementation of such bilateral arrangements and will issue its own operating permits for air services provided under these arrangements. The Annex also states that the SAR will have the authority to licence local airlines, to keep its own aircraft register, to conduct the technical supervision of civil aviation and to manage airports in the SAR. In addition the general provisions in section II of the Annex, which deals with the laws of the SAR, provide for continuity of previously existing civil aviation laws beyond 1997.

34. Hong Kong's civil aviation industry will thus be able to continue to make an important contribution to the effective functioning of Hong Kong's economy in terms of servicing the needs of both business and tourism.

Section X: Culture and Education

35. This section of the Annex makes clear that Hong Kong's own system of education will be continued and that it will operate separately and differently from that in other parts of China. Although most of the funds for education in Hong Kong are provided by the Government, many educational institutes were founded and are run by community and religious organisations. Explicit provision is made for this system to be maintained.

36. This section also provides for continuity in the application of present educational standards, in the use of teaching materials from overseas and in the freedom to pursue education outside Hong Kong. It therefore provides a sound basis for Hong Kong to continue to develop an educational system which will ensure that the population will have the skills and expertise required to enable Hong Kong to maintain and improve its position in the fiercely competitive economic and trading environment within which Hong Kong operates.

37. Hong Kong has come to enjoy a varied cultural and intellectual life. This and other sections of the Annex provide for the present unique mix of cultural and intellectual influences to continue. Provision is made in section XI of the Annex, which deals with external relations, for Hong Kong to continue to participate in international sporting events.

Section XI: External Relations

38. This section of the Annex provides that, subject to the principle that foreign affairs are the responsibility of the Central People's Government, the Hong Kong SAR will manage on its own certain aspects of its external

relations, in particular those in the economic field. This is particularly important, since Hong Kong's access to its principal overseas markets in the industrialised world, which is crucial to Hong Kong's industry, depends upon recognition of the separate nature of these interests.

39. In keeping with the general provisions for Hong Kong to be a Special Administrative Region under Chinese sovereignty, overall responsibility for foreign affairs will lie with the Central People's Government, just as overall responsibility for these matters at present lies with Her Majesty's Government in the United Kingdom. At the same time the Hong Kong SAR will be able, under the provisions of this section of the Annex, to look after its own particular interests in certain areas by virtue of the power to be given to it to conclude agreements in appropriate fields and to be represented in the delegation of the People's Republic of China at negotiations of direct concern to Hong Kong.

40. The detailed method by which the provisions of the second paragraph of this section of the Annex, which deals with the application to the Hong Kong SAR of international agreements, will be implemented will have to be worked out during the transitional period and will be one of the matters to be considered by the Joint Liaison Group. There is a very large number of international agreements which apply to Hong Kong and whose continued application following the establishment of the Hong Kong SAR will need to be secured. This will require consultation with third countries.

41. The Annex provides for continuity of representation by all foreign states and organisations currently represented in Hong Kong, subject to the approval of the Central People's Government. Changes to the status of such missions may be required in order to take account of the existence or otherwise of formal relations between the People's Republic of China and a particular state. The United Kingdom will be represented in Hong Kong by a Consul-General after 1 July 1997.

Section XII: Defence, Security and Public Order

42. With the establishment of the Hong Kong SAR, the British garrison will be withdrawn and the Central People's Government of the People's Republic of China will be responsible for the SAR's defence. This section of the Annex makes clear that the maintenance of public order in the SAR will be the SAR Government's responsibility. It is also stated that military forces sent by the Central People's Government to be stationed in the SAR for the purpose of defence will not interfere in its internal affairs, and that expenditure for these military forces will be borne by the Central People's Government.

Section XIII: Rights and Freedoms

43. This section of the Annex explains that basic rights and freedoms will be protected in the Hong Kong SAR. It covers this important subject without an extended description of the rights and freedoms concerned by providing:

- (a) that the rights and freedoms previously enjoyed under the laws of Hong Kong will be maintained by the SAR Government; and

(b) that the provisions of the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, as they apply to Hong Kong, will continue to apply to the Hong Kong SAR.

44. It is thus made clear that persons in the Hong Kong SAR will enjoy the same protection of the law against infringements of their basic rights as they did before the establishment of the SAR.

45. While not restricting the range of rights and freedoms the text mentions specifically some of the more important rights and freedoms presently enjoyed under the law.

46. The Covenants are too lengthy to reproduce here but they are public documents.¹ They apply to Hong Kong, with certain reservations, and, in accordance with this section of the Annex, will continue to do so after 30 June 1997. The Covenants were drafted by the United Nations Human Rights Commission and adopted by the United Nations General Assembly, and entered into force in 1976. They state a general consensus of nations on basic rights and identify in detail specific human rights and freedoms: including the right to work, to an adequate standard of living, to life and liberty, and freedom of expression, conscience, religion and association.

47. The reservations entered by the United Kingdom in respect of the application of the Covenants to Hong Kong, which are also public, took account of the realities of the social and economic conditions in Hong Kong: for example, in relation to Hong Kong the United Kingdom made reservations relating to immigration and to the deportation of aliens.

Section XIV: Right of Abode, Travel Documents and Immigration

48. This section concerns the right of abode in the Hong Kong SAR, the travel documents to be used by residents of the SAR, and immigration matters. It provides for a high degree of continuity in these areas consistent with the change in Hong Kong's status on 1 July 1997.

49. The first paragraph defines the categories of people who will have the right of abode (including the right to enter, re-enter, live and work) in the Hong Kong SAR. These include:

- (a) Chinese nationals who were born in Hong Kong or have lived there continuously for at least seven years;
- (b) Chinese nationals born outside Hong Kong to Chinese nationals who have the right of abode in Hong Kong;
- (c) all non-Chinese nationals who have lived in Hong Kong continuously for at least seven years and who have taken it as their place of permanent residence; and
- (d) any others who had the right of abode only in Hong Kong before 1 July 1997.

Non-Chinese nationals born in Hong Kong to parents who have the right of abode there also have the right of abode but will retain it after the age of 21 only if they have met the requirements of seven years' residence and of

¹Treaty Series No. 6 (1977), Cmnd. 6702.

taking Hong Kong as their place of permanent residence. The SAR Government will issue permanent identity cards to all those with the right of abode in the SAR. These cards will state the holder's right of abode.

50. This section of the Annex states that Chinese nationals who have the right of abode in the Hong Kong SAR will be eligible for passports issued by the SAR Government. Other persons who have the right of abode, or are otherwise lawfully resident, in the SAR will be eligible for other travel documents issued by the SAR Government. Both these categories of persons may also use travel documents issued by the competent authorities of the People's Republic of China or by other governments to travel to and from the SAR: these include passports issued by the United Kingdom (see paragraphs 63 to 64 below).

51. The Annex makes clear that the right to leave the Hong Kong SAR for any purpose, *e.g.* business, study or emigration, will be maintained subject to the normal exceptions under the law. To facilitate entry by SAR residents into third countries, all travel documents issued to them will either include a reference to their right to return to the SAR or refer to the fact that they hold a permanent identity card as evidence of their right of abode in the SAR. The SAR Government will be assisted or authorised by the Central People's Government to conclude agreements with states or regions which provide for the mutual abolition of visa requirements.

Annex II : Terms of Reference of the Sino-British Joint Liaison Group

52. As the Secretary of State for Foreign and Commonwealth Affairs emphasised in his press conference in Hong Kong on 1 August 1984, it is fully agreed between Her Majesty's Government and the Chinese Government that Her Majesty's Government will remain responsible for the administration of Hong Kong until 30 June 1997. Nonetheless there will, of course, be a number of areas relating to the implementation of the Joint Declaration where further consultation between the two Governments will be required after the Joint Declaration has entered into force. One obvious example in the future is the arrangements for Hong Kong's continued participation in international agreements and organisations. Such consultation will be facilitated by the Sino-British Joint Liaison Group, whose rôle and functions are clearly defined in Annex II.

Annex III : Land Leases

53. This Annex takes account of the important part which land plays in the development and economy of Hong Kong.

54. It considers existing leases under two main categories: those which continue beyond 30 June 1997 and those which expire before that date. In the case of the first category (mainly 75 year leases renewable for 75 years, and 999 year leases) the rights in the leases are recognised by the Annex and will be recognised and protected under the law of the SAR after 1997. These rights include the right of renewal in the case of renewable leases, as well as rights granted by the leaseholder to other persons, *e.g.* sub-leases, mortgages and rights of way.

55. Leases which expire before 30 June 1997 (mainly New Territories leases and 75 year non-renewable leases in the urban area) may be extended without premium until 2047. A rent of 3 per cent of current rateable value will be charged from the date of extension, except in the case of village land held by indigenous villagers who will continue to pay a nominal rent.

56. New leases running until 2047 may be issued by the Hong Kong Government in the period up to 30 June 1997. These will continue to be issued under the existing system of land disposal (*i.e.* by public auction, tender or private treaty grant). A premium will be payable and a nominal rent will be charged up to 30 June 1997. After that date, no additional premium will be payable but the rent will increase to 3 per cent of current rateable value.

57. The concept of charging a rent on the basis of rateable values follows that used since 1973 to fix rents on the renewal of leases. It has, however, been agreed that the rent will be based on current rateable values (*i.e.* a rent which will change as rateable values change) rather than based, as at present, on a fixed reference point (*i.e.* a rent which is based on the rateable value at the date of renewal and which remains unchanged for the whole term of the lease).

58. The amount of new land which may be granted by the Hong Kong Government will be limited to 50 hectares a year. The limit does not include land granted to the Housing Authority for the construction of public rental housing.

59. Modifications of lease conditions will continue to be dealt with by the Hong Kong Government in accordance with existing practice.

60. In recognition of the fact that leases which extend beyond June 1997 derive part of their value from the post-June 1997 portion of their term, the Annex provides for net premium income to be shared between the Hong Kong Government and the future SAR Government.

61. A Land Commission, consisting of an equal number of officials appointed by Her Majesty's Government and the Chinese Government, will be set up. This Commission will monitor the implementation of the provisions in this Annex and will consider proposals for increasing the limit on the amount of new land which may be granted and for drawing on the SAR Government's share of premium income. It will not, however, consider individual land cases, nor will it be involved in deciding who should be issued with new leases. The Commission will be dissolved on 30 June 1997.

Associated Exchange of Memoranda

62. The status after 30 June 1997 of persons who are now British Dependent Territories citizens, and related issues, are covered in two Memoranda to be formally exchanged between the British and Chinese Governments on the same day as the signature of the Joint Declaration. These Memoranda set out the respective positions of the two Governments.

63. Since Hong Kong will no longer be a British Dependent Territory after 30 June 1997, it will not be appropriate for those who are British Dependent Territories citizens by virtue of a connection with Hong Kong to

be described as such after that date. The United Kingdom Government will seek Parliamentary approval for legislation which will give such British Dependent Territories citizens the right to a new status, with an appropriate title. This status will not give them the right of abode in the United Kingdom, which they do not possess at present, but it will carry benefits similar to those enjoyed by British Dependent Territories citizens at present, including the entitlement to use British passports and to receive British consular services and protection in third countries. The status will not, however, be transmissible by descent. The United Kingdom Government will do all they can to secure for holders of these British passports the same access to other countries as that enjoyed at present by holders of British Dependent Territories citizen passports.

64. This new status will be acquired by former Hong Kong British Dependent Territories citizens only if they obtain a British passport before 1 July 1997. The only exceptions to this are:

- (a) persons included in the passport of a parent before 1 July 1997 will be able to acquire this new status and will be able to obtain a British passport of their own after that date;
- (b) persons who were born between 1 January and 30 June 1997 will be able to acquire this new status if they obtain a British passport, or are included in the passport of a parent, on or before 31 December 1997. Those who are included in the passport of a parent will be able to obtain a British passport of their own after that date.

65. The Chinese Memorandum states the Chinese Government's position that Hong Kong Chinese are Chinese nationals. It indicates, however, that those Chinese nationals who hold British travel documents may continue to use them after 1 July 1997. Such persons will not, of course, be entitled to consular protection by the United Kingdom Government in the Hong Kong SAR or in other parts of China.

SINO-BRITISH JOINT DECLARATION
ON HONGKONG INITIALED IN BEIJING

BEIJING, SEPTEMBER 26 (XINHUA)-- A JOINT DECLARATION OF THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND ON THE QUESTION OF HONGKONG WAS INITIALED IN BEIJING THIS MORNING.

THE CEREMONY FOR INITIALING THE DOCUMENT STARTED AT 10 A.M. IN THE GREAT HALL OF THE PEOPLE.

SIGNING THE TEXTS ON BEHALF OF THE RESPECTIVE GOVERNMENTS WERE ZHOU NAN, CHAIRMAN OF THE CHINESE GOVERNMENT DELEGATION AND CHINA'S NEWLY APPOINTED VICE-MINISTER OF FOREIGN AFFAIRS, AND RICHARD EVANS, CHAIRMAN OF THE BRITISH GOVERNMENT DELEGATION AND BRITISH AMBASSADOR TO CHINA.

IN A FORMAL ADDRESS AT THE SIGNING CEREMONY, ZHOU NAN SAID "THE AGREEMENT, HAVING BEEN INITIALED, WILL GO THROUGH LEGAL PROCEDURES OF THE TWO SIDES AND BE FORMALLY SIGNED BEFORE THE END OF THIS YEAR. AT ALL EVENTS, WE HAVE TOGETHER TRAVERSED A COURSE OF DECISIVE SIGNIFICANCE

HE SAID THAT THE AGREEMENT "HAS SATISFACTORILY SOLVED THE QUESTION OF SOVEREIGNTY OVER HONGKONG ACCORDING TO THE CONCEPT OF 'ONE COUNTRY, TWO SYSTEMS' AND PROVIDES AN EFFECTIVE GUARANTEE FOR HONGKONG'S STABILITY AND PROSPERITY IN THE FUTURE.

"THE SETTLEMENT OF THE HONGKONG QUESTION WILL CERTAINLY HELP FURTHER CONSOLIDATE AND DEVELOP EXISTING SINO-BRITISH FRIENDLY TIES ON A NEW BASIS, AND OFFERS FRESH EXPERIENCE FOR SETTling PEACEFULLY PROBLEMS BETWEEN STATES LEFT OVER FROM THE PAST.

"WE BELIEVE THAT THE AGREEMENT FULLY CONFORMS TO THE FUNDAMENTAL INTERESTS OF THE ONE BILLION CHINESE PEOPLE INCLUDING OUR COMPATRIOTS IN HONGKONG AND THOSE OF THE BRITISH PEOPLE AND WILL WIN THEIR ENDORSEMENT AND SUPPORT. WE EQUALLY BELIEVE THAT IT WILL BE WELL RECEIVED AND APPROVED OF BY THE PEOPLE THROUGHOUT THE WORLD."

HE CONTINUED: "WE OWE OUR ACHIEVEMENT FIRST AND FOREMOST TO THE FAR-SIGHTED DECISION OF THE CHINESE AND BRITISH LEADERS. IT WAS THEIR PERSONAL ATTENTION AND DIRECT GUIDANCE THAT ENSURED THE SUCCESS OF OUR TALKS AND THE CONCLUSION OF THE AGREEMENT."

EVANS SAID IN HIS ADDRESS: "THE JOINT DECLARATION IS THE PRACTICAL EMBODIMENT OF THE IMAGINATIVE CONCEPT OF 'ONE COUNTRY, TWO SYSTEMS'. IT ALSO DEMONSTRATES THAT PEACEFUL NEGOTIATION IS THE BEST WAY TO RESOLVE PROBLEMS LEFT OVER FROM HISTORY."

HE PAID TRIBUTE TO THE SKILL AND DEDICATION OF ALL MEMBERS OF THE CHINESE GOVERNMENT DELEGATION. "THEY HAVE WORKED HARD, AND IN A SPIRIT OF MUTUAL ACCOMMODATION, TO ACCOMPLISH THE COMMON TASKS OF REACHING AGREEMENT ON THE ISSUES UNDER DISCUSSION AND OF NEGOTIATING THE TERMS OF THE JOINT DECLARATION WHICH WE HAVE JUST INITIALED."

HE SAID THAT THE BRITISH GOVERNMENT AND THE CHINESE GOVERNMENT HAVE AGREED THAT A PROPER NEGOTIATED SETTLEMENT OF THE QUESTION OF HONGKONG IS CONDUCIVE TO THE MAINTENANCE OF THE PROSPERITY AND STABILITY OF HONGKONG AND TO THE FURTHER STRENGTHENING AND DEVELOPMENT OF THE RELATIONS BETWEEN THE TWO COUNTRIES ON A NEW BASIS.