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FROM: R D CLIFT, HKD

DATE: 13 April 1984

Private Secretary

A. J. C. 16/4
h.a.cc: PS/Mr Luce
PS/PUS
Sir P Cradock
Sir W Harding
Dr Wilson
Mr Elliott, FED
Mr Burrows, Legal
Advisers
Mr Goulden, News
Department

FUTURE OF HONG KONG: SECRETARY OF STATE'S VISIT TO CHINA: AGREEMENT

1. I attach:

- (a) Peking telno 7~~8~~³9 giving Zhou Nan's reaction to our draft agreement;
- (b) Peking telno 7~~8~~⁴0 giving the text of the Chinese agreement;
- (c) Peking telno 7~~8~~¹1 giving the text of an exchange of notes proposed by the Chinese;
- (d) Peking telno 7~~8~~²2 giving the text of a protocol or annex to the agreement proposed by the Chinese;
- (e) Peking telno 7~~8~~³3 giving the Ambassador's comments on the above.
- (f) Supplementary points to make.

You will wish to take these with you to Peking to supplement the briefs already supplied by the Department.

2. In discussion with the Ambassador, the Chinese negotiator has rejected our draft agreement as a basis for discussion. He has put in a counter-draft. Although a number of points on which the Chinese criticise our draft are surprisingly ill presented and illogical, the fundamental point is that they refuse to enter an agreement which binds them on the systems to be adopted after 1997.

3. Sir R Evans rebutted Zhou Nan's points strongly and the latter did not contradict the Ambassador's assertion that the Secretary of State will wish to argue the merits of our draft with the Chinese leaders.

4. The Chinese counter-proposal is in the form of a draft joint declaration together with an exchange of notes which elaborate the policies which China would pursue after 1997. There is in addition a protocol on actions during the transition up to 1997. The Chinese drafts are objectionable on a number of points:

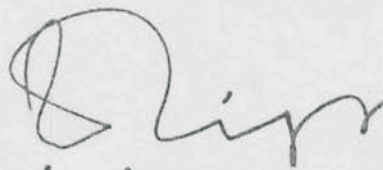
- (a) The draft declaration binds the UK to restore Hong Kong to China but does not bind China to implement either its 12 points or the elaboration contained in the exchange of notes.
- (b) The terms of the elaboration are left blank. Zhou Nan made clear that they would not be as detailed as our annexes.
- (c) The language used in para 1 of the joint declaration on the question of sovereignty refers to China resuming the exercise of sovereignty from 1 July 1997. As it stands this would imply recognition by us that China had a right to sovereignty over the ceded territories all along.
- (d) The United Kingdom would express its appreciation of the 12 points. However we could not do this in the joint declaration because the 12 points include a reference to the unequal treaties. Moreover an expression of appreciation is quite insufficient as a substitute for a binding undertaking by the Chinese to implement its declared policies.
- (e) Article 3 of the joint declaration contains a UK declaration of responsibility for maintaining and preserving the economic prosperity and essential stability of the Hong Kong area up to 1997. This is inadequate from our point of view. It could be taken to put financial and other obligations on us without giving us proper authority. The correct wording for us would be that we should be responsible for the administration of Hong Kong up to 1997.
- (f) The provisions for the establishment of a joint group or committee for the implementation of the declaration would probably be seen in Hong Kong as establishing a Chinese foothold in the territory before 1997.

5. Despite these objections, the Chinese draft, as a first bid, could, with extensive adaptation, form the basis of an acceptable agreement. It does contain a provision for detail additional to the 12 points. Moreover a declaratory form of agreement need not in principle be objectionable to us, provided that provision is made for a binding commitment on both sides, either in the body of the

agreement or in a subsequent exchange of notes.

6. Nevertheless, it would not be possible to indicate to the Chinese during the Secretary of State's visit a readiness to negotiate on the basis of their draft. This would be totally unacceptable to EXCO and would in any case put us in too weak a negotiating position. There are even considerable risks in hinting to the Chinese that we should be prepared to discuss their draft, because of the EXCO factor. However in arguing strongly that our draft should remain on the table, it will almost certainly be necessary to use the device of proposing that both drafts should be so regarded. The attached talking points therefore envisage a scenario in which the Secretary of State begins by arguing for our draft; the Chinese reject this and argue for theirs; we make preliminary criticisms of their draft but point out that there has been insufficient time on either side and that both documents should be referred to the negotiators.

7. This technique might just work. The Secretary of State will wish to judge step by step how to play the hand with each Chinese leader, possibly aiming at a resolution of a stalemate in the final meeting with Deng Xiaoping. It is however quite possible that the Chinese will persist, because of their fundamental objection to binding themselves on post-1997 arrangements. In that case there may be no option but to propose a pause while both governments reconsider their positions. This would have implications for the unveiling statement in Hong Kong. There will probably still be a requirement for such a statement as a description of HMG's approach to the talks, but it would need to be couched in much less optimistic terms.



R D Clift
Hong Kong Department

13 April 1984

SECRETARY OF STATE'S VISIT TO PEKING, 16-18 APRIL 1984

ADDITIONAL BRIEF: AGREEMENT

Points to Make

Reply to Chinese Arguments against our Agreement

1. Understand that Chinese are not happy with our draft agreement. Believe this is based on misunderstandings. We believe that draft agreement meets Chinese requirements satisfactorily. A clear indication of our sincerity.
2. Very surprised that Chinese interpret agreement as attempt to turn SAR into independent political entity. Article 1 of agreement, clearly states that China will regain sovereignty and right of administration over Hong Kong. No intention to limit Chinese sovereignty, but necessary to define degree of autonomy SAR to enjoy. Used term "Hong Kong (China)" because 12 Points described by Yao Guang on 14 November 1983 used precisely this form. However we are ready to discuss wording of this article.
3. Do not accept we are suggesting unnecessary detail. We too think that the agreement must deal with principles. But logic demands that if the Basic Law is to reflect the agreement there must be substantial descriptions of the systems in the agreement. Moreover confidence requires that this be part of our agreement.
4. Agree that condominiums must be avoided. Article Three in no way a proposal to create Sino-British condominium. Need to cooperate to implement agreement.
5. Article Four necessary if prosperity of Hong Kong to be maintained. Contains nothing about international guarantees. Extremely positive proposal. Common ground in talks. Depends on participation in GATT, MFA etc. Not intended to internationalise Hong Kong question.

6. Only a few points disagreed in talks appear in agreement. These are matters for negotiation. Annexes are based on working papers and discussion of them with Chinese. But we have not put in annexes on main areas still under discussion.

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7. Mentions of agreements with Foreign countries in the legal field intended cover agreements on the reciprocal recognition and enforcement of judgments, serving of judicial process etc. These are matters of technical co-operation between similar legal systems.

Chinese Agreement

8. Have not yet had time to study Chinese Agreement fully. However at first sight appears unacceptable. Legally binding only on British side. Arrangements post-1997 should be subject of bilateral agreement, not just declaration. Nor is it clear from Chinese side which of those principles we have discussed with Chinese in last six months will be included.

9. [if Chinese continue to reject our drafts] Our Agreement takes concerns of both sides into account. Chinese agreement does not. However more time should be allowed for study. Suggest both drafts remain on the table for the negotiators to discuss in regular talks. This is only equitable. You asked for our ideas and we have given them.

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FROM PEKING 130915Z APR 84

TO IMMEDIATE FCO

TELEGRAM NUMBER 739 OF 13/4/84

INFO IMMEDIATE HONG KONG

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RECEIVED IN	
16 APR 1984	
BY	STRY
DATE	Time Taken

VFUTURE OF HONG KONG: CALL ON ZHOU NAN ON 13 APRIL.

1. I CALLED ON ZHOU NAN AT THE MFA ON 13 APRIL, BOTH TO HAND OVER THE FURTHER ANNEXES AND TO HEAR THE CHINESE REACTION TO OUR DRAFT AGREEMENT. HE HAD TOLD ME THE NIGHT BEFORE THAT THE CHINESE HAD A COUNTER-DRAFT.
2. ZHOU SAID THAT, ALTHOUGH TIME HAD BEEN SHORT, THE CHINESE SIDE HAD MADE A SERIOUS AND EARNEST STUDY OF OUR DRAFT. TAKEN AS A WHOLE, IT WAS FUNDAMENTALLY UNACCEPTABLE. IT COULD NOT BE TAKEN AS A BASIS FOR NEGOTIATION. THE REASON FOR THIS WAS OBVIOUS. IT WAS A CLEAR ATTEMPT TO NEGATE AND LIMIT CHINESE SOVEREIGNTY OVER HONG KONG. THE CHINESE SIDE COULD NOT BUT FEEL THAT, THROUGH, BOTH THE FORM AND CONTENT OF THE DRAFT, THE UNITED KINGDOM WAS TRYING TO TURN THE FUTURE SAR INTO SOME SORT OF INDEPENDENT POLITICAL ENTITY.
3. THERE WERE FOUR SUBSTANTIVE ARTICLES TO THE DRAFT. THE FIRST TOUCHED ON THE QUESTION OF CHINA'S SOVEREIGNTY AND RIGHT OF ADMINISTRATION, BUT FAILED TO DEAL WITH IT SQUARELY. THE ARTICLE CONTAINED NOTHING ON THE RESTORATION OF HONG KONG BY THE UNITED KINGDOM TO CHINA, NOR ON THE RESUMPTION BY CHINA OF SOVEREIGNTY AND THE RIGHT OF ADMINISTRATION IN 1997. AN EXAMPLE OF THE ATTEMPT TO TURN HONG KONG INTO AN INDEPENDENT POLICAL ENTITY WAS CONTAINED IN THE FIRST CLAUSE

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OF ARTICLE 1 WHERE THE UNITED KINGDOM TRIED TO NAME THE FUTURE SAR "HONG KONG (CHINA)". IN SO DOING, WE WERE ATTEMPTING TO CHANGE THE TERRITORY'S FORMAL FUTURE NAME, WHICH WOULD BE THE "HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA". OTHER EXAMPLES WERE EXPRESSIONS IN OTHER PARTS OF THE DRAFT SUCH AS "ALL RIGHTS AND POWERS IN SUCH AND SUCH A FIELD WILL BE EXCLUSVIELY VESTED IN HONG KONG (CHINA)" AND "THERE SHALL BE NO POWER OF DISALLOWANCE OUTSIDE HONG KONG(CHINA)". THE CHINESE SIDE HAD PREVIOUSLY REPUDIATED SUCH EXPRESSIONS IN THE TALKS, BUT THEY WERE STILL PRESENT IN THE DRAFT. THIS INDICATED A DELIBERATE ATTEMPT TO CONFUSE THE DISTINCTION BETWEEN INDEPENDENCE AND AUTONOMY.

4. ARTICLE 2 OF THE DRAFT WAS AN ATTEMPT TO TREAT THE CHINESE 12 GUIDELINES AS SOMETHING TO BE APPROVED BY THE UNITED KINGDOM. THIS WAS INADMISSIBLE. FROM THE OUTSET THE SERIES OF SPECIAL POLICIES WHICH CHINA WOULD ADOPT TOWARDS HONG KONG HAD BEEN PURELY CHINA'S INTERNAL AFFAIR AND THEY WERE NOT SUBJECT TO APPROVAL BY ANOTHER COUNTRY. IN THE COURSE OF THE TALKS, THE CHINESE SIDE HAD MERELY ACQUANINTED US WITH THEM. WHAT WAS EVEN MORE ABSURD WAS THAT ARTICLE 2 ALSO ATTEMPTED TO DRAW UP THE BASIC LAW ON BEHALF OF THE CHINESE GOVERNMENT. THE DRAWING UP OF THE BASIC LAW WAS AN INTERNAL CHINESE AFFAIR, NOT A BRITISH AFFAIR. THE DRAFT NEVERTHELESS TRIED TO DEFINE THE FRAMEWORK OF THE BASIC LAW IN THIS AND THAT WAY, SPREAD OVER A TOTAL OF NINE CLAUSES. WE HAD EVEN SAID THAT THE ANNEXES WHICH SHOULD FORM PART OF THE AGREEMENT, SHOULD ALL BE INCLUDED IN THE BASIC LAW. THE UNITED KINGDOM WAS NOT ONLY TRYING TO DEFINE THE FRAMEWORK OF THE BASIC LAW, BUT ALSO THE DETAILS. NATURALLY CHINA COULD NOT ACCEPT THIS.

5. NO PERIOD WAS SET ON THE PROPOSAL IN ARTICLE 3 (SEMI-COLN,) NOR DID IT CONTAIN ANY SPECIFIC CONTENT. IT WOULD LEAD TO THE IMPRESSION OF A SINO-BRITISH CONDOMINIUM IN HONG KONG AFTER 1997. WAS IT INDEED NOT AN ATTEMPT BY THE UNITED KINGDOM TO CREAT A LEGAL BASIS BY WHICH SHE COULD INTEREFERE IN THE SAR FOR A LONG TIME AFTER 1997?

6. THE FIRST SENTENCE OF ARTICLE 4 WAS AN ATTEMPT BY THE UNITED KINGDOM TO INTERNATIONALISE THE HONG KONG QUESTION, IN OTHER WORDS TO SEEK SO-CALLED INTERNATIONAL GUARANTEES FOR HONG KONG.

7. FINALLY, NOT ONLY DID MANY POINTS WHICH CHINA HAD ALREADY REPUDIATED IN THE COURSE OF THE TALKS REAPPEAR IN DIFFERENT FORMS IN THE BRITISH DRAFT, BUT WE HAD ALSO NOW MADE SOME

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/ NEW REQUESTS

NEW REQUESTS, FOR EXAMPLE WE HAD PROPOSED THAT THE HONG KONG SAR SHOULD HAVE THE RIGHT TO CONCLUDE AGREEMENTS WITH FOREIGN COUNTRIES IN THE (NEXT WORD UNDERLINED) LEGAL FIELD. IF THE FURTHER BRITISH ANNEXES WERE MORE OR LESS LIKE THE ONE ALREADY HANDED OVER, WOULD THIS NOT BE TANTAMOUNT TO THE INITIATION OF ANOTHER ROUND OF TALKS WITH THE BRITISH WORKING PAPERS PRESENTED IN A NEW FORM? THE ONLY EFFECT OF THAT WOULD BE TO PROLONG THE COURSE OF THE TALKS.

8. IN HANDING OVER THE BRITISH DRAFT, BI HAD STRESSED HOW MUCH WORK HAD GONE INTO IT. I HAD SAID THAT IT WAS A FIRST SHOT AT AN AGREEMENT AND THAT I HOPED IT WOULD BE TAKEN AS A TOKEN OF OUR SINCERITY AND DESIRE TO MOVE THE TALKS FORWARD. HOWEVER, AFTER STUDYING IT, THE CHINESE SIDE COULD NOT SEE HOW IT EMBODIED AN EXPRESSION OF BRITISH SINCERITY. IF THE DRAFT WERE TO BE TAKEN AS A BASIS FOR THE TALKS IT WOULD IN NO WAY EXPEDITE THEM. QUITE THE CONTRARY. IT CHALLENGED CHINESE PRINCIPLES ON SOVEREIGNTY IN MANY PLACES. IT WAS FUNDAMENTALLY UNACCEPTABLE AS A BASIS FOR NEGOTIATION OF AN AGREEMENT. THIS WAS A SERIOUS REACTION BY THE CHINESE SIDE TO OUR DRAFT.

9. ZHOU WENT ON TO INTRODUCE THE CHINESE DRAFT.

HE RECALLED HAVING INFORMALLY LET ME KNOW OF CHINA'S IDEAS ABOUT THE FORM AND CONTENT OF AN AGREEMENT. ON FORM, THE CHINESE SIDE THOUGHT IT APPROPRIATE THAT WE SHOULD WORK FOR A JOINT COMMUNIQUE OR JOINT DECLARATION. HE HAD EARLIER MENTIONED THAT THE SHANGHAI COMMUNIQUE COULD SERVE AS A POINT OF REFERENCE. ON CONTENT, AN AGREEMENT MUST FIRST AND FOREMOST SOLVE THE CENTRAL QUESTION OF SOVEREIGNTY IN EXPLICIT AND UNEQUIVOCAL TERMS. SECONDLY, CHINA WAS PREPARED FORMALLY TO DECLARE IN THE AGREEMENT HER BASIC POLICIES TOWARDS HONG KONG AFTER 1997, IE THE 12 GUIDELINES. BUT IT WAS FOR THE CHINESE GOVERNMENT TO FORMULATE AND DECLARE THESE POLICIES. THEY COULD NOT BE EXPRESSED AS AGREED BETWEEN THE TWO COUNTRIES. THESE 12 GUIDELINES WOULD BE REFLECTED IN THE BASIC LAW. BUT AN AGREEMENT SHOULD IN NO WAY ATTEMPT TO DEFINE THE BASIC LAW. THIRDLY, AN AGREEMENT SHOULD MAKE A BRIEF REFERENCE TO BASIC PRINCIPLES FOR ARRANGEMENTS IN THE TRANSITIONAL PERIOD. THE CHINESE SIDE HAD OFTEN SAID THAT THIS JOINT COMMUNIQUE OR JOINT DECLARATION MUST FOCUS ON MAJOR PRINCIPLES AND NOT BE A DOCUMENT CONTAINING DETAILS. DETAILS SHOULD NOT BE DEALT WITH IN THE AGREEMENT. IN THE VIEW OF THE CHINESE SIDE, THE 12 GUIDELINES WERE QUITE SUFFICIENT.

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10. OF COURSE, THE BRITISH SIDE HAD SAID THAT IT WAS NECESSARY TO INCLUDE DETAILS DISCUSSED IN THE TALKS. TO SOLVE THIS QUESTION, THE CHINESE SIDE CONTEMPLATED AN ANNEX, WHICH COULD TAKE THE FORM OF AN EXCHANGE OF NOTES. IT WOULD AMPLIFY THE IMPLICATIONS OF THE 12 GUIDELINES IN THE LIGHT OF THE TALKS. BUT IT WOULD BE FOR THE CHINESE GOVERNMENT TO SET OUT THESE IMPLICATIONS AND ONLY MAJOR QUESTIONS OF PRINCIPLE, NOT DETAILS COVERED IN THE TALKS, COULD BE INCLUDED. MANY DETAILED POINTS SHOULD BE LEFT TO THE SINO-BRITISH JOINT GROUP WHICH WOULD BE SET UP IN THE TRANSITIONAL PERIOD.

11. AT THE TIME THE AGREEMENT WAS SIGNED, IT WOULD BE NECESSARY TO SIGN A PROTOCOL ON ARRANGEMENTS FOR THE TRANSITIONAL PERIOD. THIS NEED NOT BE LONG. IT WOULD DESCRIBE THE WORK OF THE SINO-BRITISH JOINT GROUP AND THE PRINCIPLES WHICH WOULD ENSURE AN ORDERLY TRANSFER OF GOVERNMENT DURING THIS PERIOD.

A14. ZHOU THEN HANDED ME COPIES OF A DRAFT JOINT DECLARATION, DRAFT NOTES, AND A DRAFT PROTOCOL (SEE TEXTS IN MY THREE IFTS)

13. I THANKED ZHOU FOR THE SPEED OF HIS REACTION. I HAD TO SAY THAT I WAS VERY DISAPPOINTED BY IT AND WAS SURE THAT HMG WOULD BE SO TOO. IT WAS PARTICULARLY DISAPPOINTING THAT THE CHINESE SIDE CONSIDERED OUR DRAFT UNACCEPTABLE AS A BASIS FOR NEGOTIATION. YOU WOULD CERTAINLY WISH TO DISCUSS IT FURTHER WITH CHINESE LEADERS AND TO ARGUE ITS MERITS. MEANWHILE, I WANTED TO REPLY IMMEDIATELY TO A NUMBER OF ZHOU'S COMMENTS:

(A) ZHOU HAD SAID THAT AFTER 1997 WE WERE ATTEMPTING TO TURN HONG KONG INTO AN INDEPENDENT POLITICAL ENTITY, OR THAT WE WERE TRYING TO MAKE IT A CONDOMINIUM. THIS WAS COMPLETELY GROUNDLESS.

(B) WE BELIEVED THAT WE HAD DEALT SQUARELY WITH THE QUESTION OF SOVEREIGNTY IN ARTICLE 1 AND THAT OUR FORMULATION MET THE ESSENTIAL CHINESE POINT THAT HONG KONG SHOULD BECOME AN SAR OF THE PEOPLE'S REPUBLIC OF CHINA.

(C) IT WAS NOT WE WHO HAD INVENTED THE NAME "'HONG KONG (CHINA)'. THIS LOCUTION WAS FAVOURED BY THE CHINESE GOVERNMENT: WE HAD HEARD IT OFTEN IN THE TALKS.

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- (D) ON THE QUESTION OF DEVOLUTION OF POWERS TO THE FUTURE SAR, WE HAD TRIED IN OUR DRAFT TO GIVE AS PRE- A DEFINITION AS POSSIBLE OF THE HIGH DEGREE OF AUTONOMY WHICH THE SAR WOULD ENJOY. THIS WAS VITAL IF CONFIDENCE WAS TO BE RETAINED.
- (E) IN DRAFTING ARTICLE 2, WE HAD DRAWN ON THE 12 POINTS OUTLINED BY THE CHINESE SIDE, ON OUR WORKING PAPERS AND ON THE DIALOGUE IN THE TALKS. AGAIN WE BELIEVED THAT THE ARRANGEMENTS AFTER 1997 IN THE SAR HAD TO BE SPELLED OUT CLEARLY AND WITH PRECISION IF CONFIDENCE IN THE TERRITORY WAS TO BE MAINTAINED.
- (F) ON ZHOU'S POINT THAT IT WAS INADMISSIBLE FOR ANY COUNTRY SAVE CHINA TO PREPARE THE BASIC LAW, I SAID THAT WE WERE NOT DRAFTING THE BASIC LAWS BUT A CLEAR AND PRECISE AGREEMENT ON FUTURE ARRANGEMENTS WHICH WOULD BE REFLECTED IN THE BASIC LAW.
- (G) I WAS ASTONISHED AT THE CHINESE REACTION TO ARTICLE 3. IT ENCAPSULATED AN EXPRESSION OF OUR WILLINGNESS TO COOPERATE WITH CHINA IN ADDITION TO OUR MEETING CHINA'S REQUIREMENT ON SOVEREIGNTY. I SHOULD HAVE EXPECTED IT TO BE WELCOMED.
- (H) THE PURPOSE OF ARTICLE 4 WAS TO SEEK TO ENSURE THAT THE SAR WOULD CONTINUE ENJOY THOSE RIGHTS AND PRIVILEGES WHICH IT NOW ENJOYED, AND WHICH IT MIGHT COME TO ENJOY BY 1997, FLOWING FROM HONG KONG'S PARTICIPATION IN MANY INTERNATIONAL AGREEMENTS AND INTERNATIONAL ORGANISATIONS.

14. I CONCLUDED WITH TWO GENERAL POINTS. FIRST, WE BELIEVED THAT OUR DRAFT GAVE THE CHINESE SIDE THEIR ESSENTIAL REQUIREMENT IN RELATION TO SOVEREIGNTY AND THE RIGHT OF ADMINISTRATION. SECONDLY, WE BELIEVED THAT AN AGREEMENT BETWEEN US MUST BE PRECISE ABOUT THE ARRANGEMENTS WHICH WOULD OBTAIN AFTER 1997 IN THE SAR.

15. TURNING TO THE THREE CHINESE DRAFTS, I SAID THAT WE WOULD GIVE THEM THE STUDY WHICH THEY DESERVED. CHINESE IDEAS APPEARED TO BE FAR FROM OURS. I RESERVED YOUR RIGHT TO COMMENT ON THE DRAFTS DURING YOUR VISIT.

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16. I HANDED THE FURTHER ANNEXES TO ZHOU NAN, SPEAKING ON THE LINES OF YOUR TEL NO 373 AND PARAGRAPH 2 OF YOUR TEL NO 664 TO HONG KONG.

17. ZHOU SAID THAT HE HAD LISTENED CAREFULLY TO MY REMARKS. HE THANKED ME FOR THE ANNEXES WHICH THE CHINESE SIDE WOULD STUDY AND REACT TO IN DUE COURSE. HE REPEATED THAT STUDY OF THE BRITISH DRAFT HAD NOT CONVINCED THE CHINESE THAT IT WAS AN EXPRESSION OF OUR GOOD INTENTIONS. NOR DID MY EXPLANATIONS CONVINCED HI. HIS COMMENTS STOOD. THE BRITISH DRAFT WAS INCONSISTENT WITH CHINA'S PRINCIPLE OF SOVEREIGNTY. IT WAS FUNDAMENTALLY UNACCEPTABLE AND COULD NOT BE USED AS A BASIS FOR NEGOTIATION. I HAD SAID THAT IN THE DRAFT ONE OF OUR OBJECTIVES HAD BEEN PRECISION. CHINA ALSO THOUGHT THAT THERE SHOULD BE PRECISION. BUT THE CONTENTS OF THE BRITISH DRAFT WERE INCONSISTENT WITH CHINA'S VIEWS. THERE WAS THEREFORE NO QUESTION OF PRECISION IN THE BRITISH DRAFT. PRECISION ON THE QUESTION OF SOVEREIGNTY COULD BE FOUND IN THE CHINESE DRAFT. IT WAS IMPERMISSIBLE UNDER THE PRETEXT OF CLARITY FOR THE BRITISH TO SEEK TO APPROVE CHINESE POLICIES OR TO FORMULATE THE BASIC LAW FOR THE CHINESE GOVERNMENT.

18. I REPEATED THAT WE WERE NOT SEEKING TO DRAFT THE BASIC LAW, BUT AN AGREEMENT BETWEEN US. WE SOUGHT IN SUCH AN AGREEMENT A CLEAR AND PRECISE EXPRESSION OF THE MAIN PRINCIPLES AND ARRANGEMENTS WHICH WOULD OBTAIN AFTER 1997 IN HONG KONG. YOU WOULD CERTAINLY BE URGING THE MERITS OF OUR DRAFT ON CHINESE LEADERS DURING YOUR VISIT.

19 FOR COMMENT SEE MY FOURTH IFT.

EVANS

FUTURE OF HONG KONG

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ED/ED

ED/FED

ED/PLANNING STAFF

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D/ED/PUSD

RES.B. (MR WALKER)

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DESBKY 131130Z

FROM PEKING 131000Z APR 84

TO IMMEDIATE FCO

TELEGRAM NUMBER 740 OF 13/4/84

INFO IMMEDIATE HONG KONG

HKIC 040/4	
RECEIVED	
13 APR 1984	
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TIME	

359 MIPT: CALL ON ZHOU NAN ON 13 APRIL:

JOINT DECLARATION.

1. FOLLOWING IS THE TEXT OF THE DRAFT JOINT DECLARATION PROPOSED BY CHINA:

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 HONG KONG

(DRAFT)

1. THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

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 CONDUCIV TO THE FURTHER STRENGTHENING AND DEVELOPMENT OF THE RELATIONS BETWEEN THE TWO COUNTRIES ON A NEW BASIS. AFTER TALKS BETWEEN THE DELEGATIONS OF THE TWO GOVERNMENTS, IT IS AGREED THAT THE UNITED KINGDOM GOVERNMENT WILL RESTORE THE HONG KONG ARE (INCLUDING HONGKONG ISLAND, KOWLOON AND THE NEW TERRITORIES, THE SAME BELOW) TO THE PEOPLE'S REPUBLIC OF CHINA ON 1 JULY 1997 AND WITHDRAW ALL ITS ARMED FORCES FROM THE HONG KONG AREA. THE PEOPLE'S REPUBLIC OF CHINA WILL RESUME THE EXERCISE OF ITS SOVEREIGNTY OVER THE HONG KONG AREAS AS FROM 1 JULY 1997. THE TIME BETWEEN NOW AND 30 JUNE 1997 IS THE TRANSITION PERIOD FOR THE SETTLEMENT OF THE HONG KONG QUESTION.

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2. THE CHINESE GOVERNMENT DECLARES THAT THE GUIDLINES OF THE PEOPLE'S REPUBLIC OF CHINA FOR THE SETTLEMENT OF THE HONG KONG QUESTION ARE AS FOLLOWS:

(1) THE HONG KONG AREA HAS BEEN PART OF CHINA'S SACRED TERRITORY SINCE ANCIENT TIMES. THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA DOES NOT RECOGNIZE THE THREE UNEQUAL TREATIES CONCERNING THE HONG KONG AREA WHICH BRITAIN IMPOSED ON CHINA IN THE 19TH CENTURY. TO RECOVER THE HONG KONG AREA AND RESUME THE EXERCISE OF SOVEREIGNTY IS THE COMMON ASPIRATION OF THE ENTIRE CHINESE PEOPLE, INCLUDING THE COMPATRIOTS IN HONG KONG. IN ORDER TO UPHOLD THE UNITY AND TERRITORIAL INTEGRITY OF THE COUNTRY AND OUT OF CONSIDERATION FOR THE HISTORICAL AND PRESENT CONDITIONS IN THE HONG KONG AREA, 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 EXERCISE OF ITS SOVEREIGNTY OVER THE HONG KONG AREA.

(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 THE POWER OF LEGISLATION AND INDEPENDENT JUDICIAL POWER, INCLUDING THAT OF FINAL ADJUDICATION. THE LAWS, DECREES AND ORDINANCES CURRENTLY IN FORCE WILL REMAIN BASICALLY UNCHANGED.

(4) THE GOVERNMENT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION WILL BE CONSTITUTED BY 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. THE PRINCIPAL OFFICIALS WILL BE NOMINATED BY THE GOVERNMENT OF THE SPECIAL ADMINISTRATIVE REGION FOR APPOINTMENT BY THE CENTRAL PEOPLE'S GOVERNMENT. THE CHINESE AND FOREIGN NATIONALS WORKING IN THE PUBLIC AND POLICE SERVICES IN THE DEPARTMENTS OF THE BRITISH AUTHORITIES IN HONG KONG MAY REMAIN IN EMPLOYMENT. BRITISH AND OTHER FOREIGN NATIONALS MAY ALSO BE EMPLOYED TO SERVE AS ADVISERS IN ORGANS AT VARIOUS LEVELS IN THE HONG KONG SPECIAL ADMINISTRATIVE REGION.

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(5) THE CURRENT SOCIAL AND ECONOMIC SYSTEMS IN THE HONG KONG AREA WILL REMAIN UNCHANGED, SO WILL THE LIFE-STYLE. FREEDOMS 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 TARIFF AREA.

(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 REMAIN OPEN. THERE WILL BE FREE FLOW OF CAPITAL. THE HONG KONG DOLLAR WILL CIRCULATE AND BE CONVERTIBLE AS USUAL.

(8) THE HONG KONG SPECIAL ADMINISTRATIVE REGION WILL HAVE INDEPENDENT FINANCES.

(9) THE HONG KONG SPECIAL ADMINISTRATIVE REGION MAY ESTABLISH MUTUALLY PREFERENTIAL ECONOMIC RELATIONS WITH THE UNITED KINGDOM. BRITISH ECONOMIC INTERESTS IN THE HONG KONG AREA WILL BE TAKEN CARE OF.

(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 SIGN AGREEMENTS ON THESE MATTERS WITH FOREIGN COUNTRIES AND REGIONS AND RELEVANT INTERNATIONAL ORGANIZATIONS.

THE GOVERNMENT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION MAY ISSUE ON ITS OWN 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.

SECRET -3-

1(14)

SECRET

(12) THE ABOVE-STATED GUIDELINES ON THE HONG KONG SPECIAL ADMINISTRATIVE REGION WILL BE STIPULATED IN A BASIC LAW OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA TO BE PROBULGATED BY THE NATIONAL PEOPLE'S CONGRESS OF THE PEOPLE'S REPUBLIC OF CHINA, AND THEY WILL REMAIN UNCHANGED FOR FIFTY YEARS.

THE GOVERNMENT OF THE UNITED KINGDOM EXPRESSES ITS APPRECIATION OF THE ABOVE POLICIES DECLARED BY THE CHINESE GOVERNMENT.

3. THE UNITED KINGDOM GOVERNMENT DECLARES THAT DURING THE TRANSITION PERIOD BETWEEN NOW AND 30 JUNE 1997, THE UNITED KINGDOM GOVERNMENT WILL BE RESPONSIBLE FOR MAINTAINING AND PRESERVING THE ECONOMIC PROSPERITY AND SOCIAL STABILITY OF THE HONG KONG AREA.

4. THE TWO SIDES HAVE AGREED THAT WITH () MONTHS AFTER THE SIGNING OF THIS JOINT DECLARATION, A SINO-BRITISH JOINT GROUP (JOINT COMMITTEE) COMPOSED OF AN EQUAL NUMBER OF PERSONS FROM EACH SIDE HEADED BY OFFICIALS OF AMBASSADORIAL RANK WILL BE SET UP TO CONDUCT CONSULTATIONS WHENEVER NECESSARY DURING THE TRANSITION PERIOD ON THE IMPLEMENTATION OF THIS JOINT DECLARATION, THE SMOOTH TRANSFER OF GOVERNMENT AND OTHER RELATED MATTERS.

5. THIS JOINT DECLARATION SHALL ENTER INTO FORCE ON THE DATE OF SIGNING.

-4-
SECRET

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ONE IN DUPLICATE AT ON DAY OF
1984, IN THE CHINESE AND ENGLISH LANGUAGES, BOTH TEXTS
BEING EQUALLY AUTHENTIC.

(SIGNED)

PLENIPOTENTIARY OF THE
GOVERNMENT OF THE
PEOPLE'S REPUBLIC OF CHINA

(SIGNED)

PLENIPOTENTIARY OF THE
GOVERNMENT OF THE UNITED
KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND.

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GREAT BRITAIN AND NRO NORTHERN IRELAND HAVE RECEIVED WITH ETC K
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-5-
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SECRET

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SECRET

DESKBY 131130Z

FROM PEKING 131030Z APR 84

TO IMMEDIATE FCO

TELEGRAM NUMBER 741 OF 13/4/84

INFO IMMEDIATE ONG KONG

859 (360)

MY 2 IPTS: CALL ON ZHOU NAN ON 13 APRIL:

EXCHANGE OF NOTE'

HKK040A		
RECEIVED IN REGISTRY		
6 APR 1984		
INDEX	FILE NO	REGISTRY
		Action Taken

1. FOLLOWING ARE THE TEXTS OF THE DRAFT NOTES PROPOSED BY CHINA:

EXCHANGE OF NOTES

(1) CHINA'S NOTE

DATE 1984

HIS EXCELLENCY.....,

.....OF THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

SECRET

EXCELLENCY,

SECRET

EXCELLENCY,

I HAVE THE HONOUR TO ELABORATE FURTHER ON THE POLICIES THE PEOPLE'S REPUBLIC OF CHINA WILL PURSUE AFTER IT RESUMES THE EXERCISE OF ITS SOVEREIGNTY OVER THE HONG KONG AREA, AS SET FORTH IN ARTICLE OF THE 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 HONG KONG WHICH HAS BEEN SIGNED BY OUR TWO SIDES TODAY:

1.

2.

.....

IF OUR EXCELLENCY WOULD KINDLY CONFIRM THE RECEIPT OF HIS NOTE IN A NOTE OF REPLY, THIS NOTE AND YOUR EXCELLENCY'S NOTE OF REPLY WILL CONSTITUTE ANNEXES TO THE JOINT DECLARATION OF THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORHTERN IRELAND ON THE QUESTION OF HONG KONG.

I AVAIL MYSELF OF THIS OPPORTUNITY TO RENEW TO YOU EXCELLENCY THE ASSURANCES OF MY HIGHEST CONSIDERATION.

(SIGNED).....

.....OF THE PEOPLE'S REPUBLIC OF CHINA

(2) BRITAIN'S NOTE OF REPLY

DATE 1984

HIS EXCELLENCY.....

.....OF THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA

SECRET

/ EXCELLENCY:

SECRET

EXCELLENCY,

I HAVE THE HONOUR TO ACKNOWLEDGE THE RECEIPT OF YOUR EXCELLENCY'S NOTE OF TODAY, WHOSE CONTENTS ARE AS FOLLOWS:

".....
1.....
2....."

YOUR EXCELLENCY'S NOTE AND THIS NOTE OF REPLY WILL CONSTITUTE ANNEXES TO THE 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 HONG KONG.

I AVAIL MYSELF OF THIS OPPORTUNITY TO RENEW TO YOUR EXCELLENCY THE ASSURANCES OF MY HIGHEST CONSIDERATION.

(SIGNED).....

..... OF THE UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND

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PES.B. (MR WALKER)

LEGAL ADVISER (MR FREELAND).

PS

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362

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DESKBY 131130Z

FROM PEKING 131040Z APR 84

TO IMMEDIATE FCO

TELEGRAM NUMBER 742 OF 13/4/84

INFO IMMEDIATE HONG KONG

HKK040/4		
RECEIVED IN		
16 APR 1984		
CLASSIFIED BY		
INDEX	PA	EXEMPT FROM

359 360 361

MY 3 IPTS: CALL ON ZHOU NAN ON 13 APRIL: PROTOCOL ON ARRANGEMENTS FOR THE TRANSITIONAL PERIOD.

1. FOLLOWING IS THE TEXT OF THE DRAFT PROTOCOL PROPOSED BY CHINA:

DRAFT PROTOCOL ON THE ARRANGEMENTS FOR THE TRANSITION PERIOD BETWEEN THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

IN ACCORDANCE WITH THE JOINT DECLARATION THE QUESTION OF HONG KONG SIGNED BY THE TWO GOVERNMENTS ON 1984, THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND HAVE SIGNED THIS PROTOCOL.

ARTICLE 1

...

ARTICLE 2

...

ARTICLE...

.....

THIS PROTOCOL IS AN ANNEX TO THE 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 HONG KONG.

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SECRET

DONE IN DUPLICATE INON1984, IN
THE CHINESE AND ENGLISH LANGUAGES, BOTH TEXTS
BEING EQUALLY AUTHENTIC

(SIGNED).....

(SIGNED).....

PLENIPOTENTIARY OF THE
GOVERNMENT OF THE PEOPLE'S
REPUBLIC OF CHINA

PLENIPOTENTIARY OF THE
GOVERNMENT OF THE UNITED
KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND

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36

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DESBKY 131130Z

FROMPEKING 131048Z APR 84

TO IMMEDIATE FCO

TELEGRAM NUMBER 743 OF 13/4/84

INFO IMMEDIATE HONG KONG

RECEIVED	
16 APR 1984	

359 360 361 362

MY 4 IPTS: CALL ON ZHOU NAN ON 13 APRIL:

COMMENT

1. I AM NOT SURPRISED THAT ZHOU REJECTED OUR DRAFT AGREEMENT AS A BASIS FOR NEGOTIATION. HE SAID THAT THE REACTION WHICH HE WAS CONVEYING TO ME HAD BEEN CAREFULLY CONSIDERED. BUT HE DID NOT MAKE ANY ATTEMPT TO ARGUE WHEN I SAID, BOTH AT THE BEGINNING AND THE END OF MY RESPONSE, THAT I WAS SURE YOU WOULD WISH TO ARGUE THE MERITS OF OUR DRAFT WITH WU XUEQIAN AND OTHER CHINESE LEADERS WHEN YOU MET THEM NEXT WEEK. NOR DID HE REFUSE TO STUDY OUR DRAFT ANNEXES.

2. QUITE A LOT OF ZHOU'S CRITICISMS OF OUR DRAFT ARE FAR FETCHED. SOME OF THEM WILL BE EASY TO DEMOLISH. MANY MORE OF HIS CRITICISMS CONCERN FORM THAN SUBSTANCE.

3. GIVEN ALL THAT I HAVE SAID TO ZHOU NAN IN CNFORMAL DISCUSSIONS WITH HIM DURING THE PAST SIX WEEKS, HE AT LEAST CANNOT SERIOUSLY EXPECT US TO ACCEPT THE CHINESE DRAFT.

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4. THE WAY IS OPEN FOR YOU TO ARGUE THE MERITS OF OUR DRAFT WITH WU AND OTHERS YOU MEET. YOU WILL, I IMAGINE, WISH TO DO THIS VIGOROUSLY, EVENIN IF YOU DECIDE TO CONCEDE A FEW POINTS WHICH ARE UNIMPORTANT TO US (E.G. TO AGREE TO AMEND THE REFERENCE TO 'HONG KONG(CHINA)'' IN ARTICLE 1)

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