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Hong Kong's Transition to 1997: Background, Problems and Prospects (With Documents)

Hungdah Chiu

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TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Summary</td>
<td>1</td>
</tr>
<tr>
<td>I. Historical Background</td>
<td>2</td>
</tr>
<tr>
<td>II. Chinese Policy Toward the Hong Kong Question</td>
<td>2</td>
</tr>
<tr>
<td>III. Sino-British Negotiations on the Question of Hong Kong</td>
<td>5</td>
</tr>
<tr>
<td>IV. Reaction to the Sino-British Joint Declaration</td>
<td>7</td>
</tr>
<tr>
<td>V. The Enactment of the Basic Law</td>
<td>9</td>
</tr>
<tr>
<td>VI. Transition to 1997</td>
<td>13</td>
</tr>
<tr>
<td>(1) Emigration Issues</td>
<td>13</td>
</tr>
<tr>
<td>(2) Building a New Airport</td>
<td>15</td>
</tr>
<tr>
<td>(3) Direct Election of Some Legislative Council Members</td>
<td>16</td>
</tr>
<tr>
<td>VII. Future Prospects</td>
<td>18</td>
</tr>
</tbody>
</table>

Documents


2. The Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China .............................................. 41

3. China, UK Reach Accord on Hong Kong Airport Memorandum of Understanding ............................................. 98

HONG KONG'S TRANSITION TO 1997: BACKGROUND, PROBLEMS AND PROSPECTS*

Hungdah Chiu
University of Maryland School of Law

Summary

Hong Kong is scheduled to return to the People's Republic of China (PRC) in 1997. The PRC enacted a Basic Law to assure the "high-degree of autonomy" promised to the Hong Kong people provided in the 1984 Sino-British Joint Declaration. However, several import issues arise during the transition to 1997. Among them the most important one is Governor Christopher Patten's plan to reform the Legislative Council to make all its members directly or indirectly elected by the Hong Kong people. While a Legislative Council so composed, which bears the mandate of all Hong Kong residents, would have the ability to resist the PRC's interference in Hong Kong affairs in the post-1997 period, it would be less amenable to PRC manipulation and control. Therefore, the PRC strongly opposes such a political reform plan. On the other hand, for Hong Kong residents, this political reform appears to be the only effective way to protect their rights in the post-1997 period. Unless the PRC is willing to gradually introduce democracy on the mainland, any aggressive

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*This paper was originally delivered at China Symposium, October 21, 1992, Indiana Purdue University at Fort Wayne and at the International Trade Committee of the District of Columbia Bar International Law Section, November 18, 1992.
effort to push such a plan for political reform by the Hong Kong residents may put them on a confrontation course with the PRC.

I. Historical Background

Great Britain annexed the island of Hong Kong under the 1842 Treaty of Nanking,\(^1\) after it defeated China in the Opium War of 1839-42. Controversies arising from attempts to open Canton (Guangdong) to foreign trade resulted in an Anglo-French expedition against Peking in 1858. The 1860 Treaty of Peking\(^2\) ending this conflict forced China to cede the Kowloon Peninsula, opposite the island of Hong Kong, to Great Britain. In 1898, Great Britain, taking advantage of China's weakness, forced China to "lease" a much larger area north of the Kowloon Peninsula, which later became known as the "New Territories."\(^3\) The "lease" convention was for a period of ninety-nine years, i.e., to June 30, 1997.

The three treaties through which Great Britain established its rule over Hong Kong were considered by the Chinese Nationalist party as "unequal treaties." One of the major goals of the Nationalist Revolution was to abrogate the "unequal treaties" and to recover Chinese territories lost to foreign countries.\(^4\)

II. Chinese Policy Toward the Hong Kong Question

During the Second World War, when Great Britain was

\(^1\) Article 3 of the Sino-British Treaty of Nanking, August 29, 1842, Consolidated Treaty Series, Vol. 103, p. 467.


\(^3\) Convention between China and Great Britain Respecting An Extension of Hong Kong Territory, June 9, 1898, Consolidated Treaty Series, Vol. 186, pp. 310-11.

negotiating with the Republic of China (ROC) government for the termination of British extraterritorial and other special rights in China, the Chinese government demanded the termination of the 1898 "lease" of the so-called "New Territories." The British government refused. In order not to delay the abrogation of British extraterritorial and other special rights in China, the Chinese side finally agreed to drop the issue of the Kowloon leased territories, but made it clear that it reserved the right to reopen negotiations in the future. Therefore, the Sino-British Treaty on the Abrogation of British Extraterritorial and Other Special Rights signed on January 11, 1943, did not deal with the 1898 lease. Later, through U.S. mediation, the Republic of China proposed the designation of Hong Kong and the Kowloon Peninsula, previously ceded to Great Britain, as a free port if Great Britain agreed to return Hong Kong, Kowloon and the "New Territories" to China. Great Britain did not respond to this proposal.

In late 1949, Communist forces defeated the ROC government and the latter moved to Taiwan. On January 5-6, 1950, Great Britain withdrew its recognition of the ROC (Nationalist) government, and the ROC has not subsequently been in a position to negotiate the Hong Kong question with Great Britain.

Despite its nationalistic, revolutionary and anti-imperialist policy, the People’s Republic of China (PRC) has an important stake in maintaining Hong Kong’s prosperity since it acquires a substantial amount of foreign exchange through its trade with Hong Kong.

Moreover, Hong Kong provides an outlet for Chinese political dissidents, and serves to reduce the political tension at home and to provide indirect contacts with Taiwan such as mail and trade. For these reasons, although the PRC has considered Hong

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Kong as Chinese territory to be recovered, there had been no attempts to implement that goal until 1982.

Although, until recently, the PRC was willing to maintain the status quo in Hong Kong, it was made clear that it would not tolerate Hong Kong becoming an independent state. In 1964, the Soviet-sponsored World Youth Forum adopted a resolution putting Hong Kong and Macao on a par with Timor Island, Papua, Oman, Aden and South Arabia and demanded "independence" for these places in accordance with the 1960 United Nations Declaration on the Granting of Independence to Colonial Countries and People. The PRC delegates strongly protested the adoption of such a resolution.\(^7\)

After its entry into the United Nations, when the PRC found that the General Assembly's Special Committee on Colonialism included Hong Kong and Macao in its list of colonial territories, it sent a letter to the chairman of the Committee on March 10, 1972, stating that:

Hong Kong and Macao are part of Chinese territory occupied by the British and Portuguese authorities. The settlement of the questions of Hong Kong and Macao is entirely within China's sovereign right and does not at all fall under the ordinary category of colonial territories.

Consequently, they should not be included in the list of colonial territories covered by the declaration on the granting of independence to colonial countries and people.

With regard to the question of Hong Kong and Macao, the Chinese government has consistently held that they should be settled in an appropriate way when conditions are

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\(^7\) United Nations General Assembly Resolution 1514 (XV) of December 14, 1960. A convenient source to find this resolution is Ian Brownlie, *Basic Documents in International Law*, 3d ed., London: Oxford University Press, 1983, pp. 299-301. Paragraph 2 of the operative part of this declaration reads: "All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."

ripe. The United Nations has no right to discuss these questions.9

III. Sino-British Negotiations on the Question of Hong Kong

In September 1982, Margaret Thatcher, the British prime minister, visited the PRC and raised the subject of Hong Kong with both Premier Zhao Ziyang and Chairman of the Military Affairs Commission Deng Xiaoping. According to well-informed sources, Deng told Mrs. Thatcher that when China recovers sovereignty, the British flag and the British governor would have to go, and China would take steps to ensure Hong Kong’s prosperity. Thatcher emphasized the importance of continuing Hong Kong’s links with the United Kingdom if the territory was to be preserved as a bustling commercial and financial center, but she left open the possibility that something could be worked out to satisfy China’s demand that the United Kingdom recognize Chinese sovereignty over Hong Kong. At the end of Thatcher’s visit, a joint communiqué was issued stating that both countries “agreed to enter talks through diplomatic channels following the visit, with the common aim of maintaining the stability and prosperity of Hong Kong.”10

During the two years of hard and sometimes frustrating negotiations, land values and stock prices plunged and the Hong Kong dollar lost at least 50 percent of its value. Many individuals began making plans to emigrate to foreign countries and some companies began making plans to seek fortunes abroad.11

On September 26, 1984, the United Kingdom and the People’s Republic of China initialed the Joint Declaration on the

10 Frank Ching, Hong Kong and China: For Better or for Worse, New York: China Council of the Asian Society and the Foreign Policy Association, 1985, pp. 11-12.
11 Ibid., p. 5.
Question of Hong Kong, which was formally signed on December 19, 1984, and the instruments of ratification were exchanged on May 27, 1985.\footnote{Facts on File, 1985, Vol. 45, no. 2323 (May 31, 1985), pp. 412-43. For the text of the declaration and related documents, see International Legal Materials, Vol. 23, No. 6 (November 1984), pp. 1366-87.} The Joint Declaration contains more than 8,000 words and is, perhaps, the second longest international agreement ever concluded by the PRC.\footnote{The longest PRC treaty is the 1962 boundary treaty with Mongolia. See Zhonghua Renmin Gonghe Guo Tiaoyue Ji [Collection of Treaties of the People’s Republic of China], Vol. 11 (1962), pp. 19-32.} It spelled out in detail the PRC’s policy toward Hong Kong, the post-1997 Hong Kong regime, and its international relations. The highlights of the declaration are as follows:

1. After 1997, Hong Kong will become a Special Administrative Region of the PRC under Article 31 of the PRC Constitution.\footnote{Article 31 provides: “The state may establish special administrative regions when necessary. The systems to be instituted in special administrative regions shall be prescribed by law enacted by the National People’s Congress in the light of the specific conditions.” In line with this, Article 62(13) of the Constitution provides the National People’s Congress with the power “to decide on the establishment of special administrative regions and the systems to be instituted there.” The Laws of the People’s Republic of China 1979-1982, Beijing: Foreign Languages Press, 1987, pp. 11, 17.} It will enjoy a “high degree of autonomy” except in foreign and defense affairs.

2. Hong Kong will be vested with executive, legislative and independent judicial power, including that of final adjudication.

3. Hong Kong’s chief executive will be appointed by the PRC after elections or consultation in Hong Kong. The government of Hong Kong will be composed of local people.

4. Hong Kong shall maintain the capitalist economic and trade systems for 50 years after 1997.

5. The existing social and economic system will remain unchanged. Freedom of speech, movement, the press, assembly, strike, and religion and other freedoms will be
protected by law. Similarly, private property rights will be protected.

6. Apart from displaying the national flag and national emblem of the PRC, Hong Kong may use a regional flag and emblem of its own.

7. Hong Kong may participate in relevant international organizations and international trade agreements. It may establish official and semi-official economic and trade missions in foreign countries, using the name “Hong Kong, China” to maintain and develop relations and conclude and implement agreements with states, regions and relevant international organizations in appropriate fields.

8. The PRC defense force stationed in Hong Kong shall not interfere in the internal affairs in Hong Kong and the expenditures for these military forces shall be borne by the PRC's Central People's Government.

9. The PRC's National People's Congress will enact a Basic Law to implement the Joint Declaration.

IV. Reaction to the Sino-British Joint Declaration

The public reaction to Hong Kong was generally favorable, as observed by Frank Ching:

Most people who took part in public discussions found the agreement much more detailed, and more reassuring, than they had expected. One feature of the Joint Declaration, however, that many Hong Kong residents are unhappy about is its reference to the stationing of Chinese troops in Hong Kong. Several Chinese leaders had said troops would not be sent, and some Hong Kong residents see China's reversal on this issue as a sign that it may also renege on other commitments.

Missing from the Joint Declaration is a statement as to whether China will conscript Hong Kong youths to serve in the armed forces. The British pressed for [such] a declaration, and the Chinese said their policy was not to draft men from Hong Kong. But they refused to incorporate such a pledge in the Joint Declaration. Taken as a whole, however, the agreement—in all its detail and the care with which it was negotiated—signaled China's desire to reassure Hong Kong

Internationally, the agreement was well received by the United States, Japan, southeast Asian countries and Western European countries,\footnote{E.g., see “Accord Welcomed by Shultz,” *New York Times*, September 27, 1984, p. A12 and report of reaction of Japan and Singapore in *Foreign Broadcast Information Service, China*, October 2, 1984, pp. G3, G4-G5.} all of whom have a stake in the continuation of the stability and prosperity of Hong Kong—the third largest financial center of the world—in the post-1997 period.

After the announcement of the Joint Declaration, the financial and real estate markets in Hong Kong gradually recovered and, at least on the surface, the city began to thrive again. But, as to whether this phenomenon will continue until 1997 and beyond, there is, of course, no simple answer.

The Declaration was greeted with relief by the Hong Kong people, though not with enthusiasm, because they realized that the alternative, a unilateral “solution” proclaimed by the PRC, would be even worse. Moreover, the Chinese promise of a high degree of autonomy for Hong Kong and the preservation of its existing socioeconomic system and lifestyle seems, at least on paper, reasonable. Furthermore, the Joint Declaration also legitimates British rule from 1984 to 1997, and given that in Hong Kong the typical pay-back period for investment is about five to eight years, the Joint Declaration insures a period during which orderly planning for the future—including exit as an ultimate alternative—can be made.

Despite this economic recovery, many firms are preparing for the worst. They have followed what may be called a strategy of “precautionary relocation or diversification” in several ways: (a) removal of the registered head office from Hong Kong to a foreign country, particularly a tax haven; (b) establishment of branches or offices in foreign countries, or acquisition of foreign firms in whole or in part; (c) sale of the firm’s equity to a foreign firm or formation of a joint venture with a foreign firm in Hong
Kong; and (d) transfer of liquid assets abroad, leaving only money balances enough for transaction purposes in Hong Kong. Along with capital flight and the relocations of business, large numbers of entrepreneurs, managers, professionals and technicians have begun to emigrate from Hong Kong. Therefore, a deep-seated uncertainty over the long-term future will remain.

With respect to the PRC's policy during the transition period, it appears that the PRC has taken two seemingly contradictory approaches. On the one hand, the PRC has been willing to bolster Hong Kong whenever necessary, including investment, in order to preserve Hong Kong's economic prospects. On the other hand, it also wants to make sure that in the future Hong Kong will actually be governed by a pliable and obedient administration without the interference of potentially obstructionist local political interests. To insure that the second objective will be satisfied, the PRC has increased the transfer of communist cadres to Hong Kong and has expended the number of PRC-controlled enterprises there. However, this policy of sending more cadres to Hong Kong makes post-1997 prospects more grim as the people of Hong Kong may suspect that the PRC's so-called "high degree of autonomy" is rhetorical only.

V. The Enactment of the Basic Law

The Joint Declaration is to be implemented by a Basic Law of the Hong Kong Special Administrative Region ("SAR") which will be enacted by the PRC's National People's Congress; therefore, the Basic Law is of vital importance in maintaining Hong Kong's prosperity in the post-1997 period. According to the PRC, the constitutional basis of the Hong Kong Special Administrative Region is Article 31 of the 1982 PRC Constitution which states:

The state may establish special administrative regions when necessary. The systems to be instituted in special administrative regions shall be prescribed by law enacted by the National People's Congress in the light of specific
conditions.17

However, some Hong Kong groups pointed out that the capitalist system to be continued in Hong Kong for fifty years after 1997 would be contrary to at least two articles of the PRC Constitution, namely:

ARTICLE 5. The state upholds the uniformity and dignity of the socialist legal system. No law or administrative or local rules and regulations shall contravene the Constitution.18

ARTICLE 6. The basis of the socialist economic system of the People's Republic of China is socialist public ownership of the means of production, namely, ownership by the whole people and collective ownership by the working people.19

These groups would like the PRC to revise Article 31 of the Constitution to provide a more specific guarantee for the Hong Kong capitalist system in the post-1997 period. However, the PRC has been reluctant to even discuss the issue.

On April 4, 1990, the President of the PRC promulgated the Basic Law of the Hong Kong Special Administrative Region adopted by the National People’s Congress on the same day.20

On the surface, the 159 articles of the Basic Law appear to ensure the “high degree” of autonomy for Hong Kong in the post-1997 period. However, an analysis of several key provisions indicates that the PRC wants to retain final control, especially in matters relating to the autonomy of the Hong Kong SAR’s political system.

First, the residual powers, i.e., those powers not delegated to the Hong Kong SAR by the Basic Law, are to be reserved for the PRC Central People’s Government (Article 20),21 and both the interpretation and amendment of the Basic Law are to be entrusted to the PRC’s National People’s Congress (NPC) and

17 The Laws of the People’s Republic of China, supra note 14, p. 11.
18 Ibid., p. 7.
19 Ibid.
21 Ibid., p. 1524.
its Standing Committee (Articles 158 and 159).  

Second, laws enacted by the legislature of the Hong Kong SAR must be submitted to the NPC’s Standing Committee for the record and, if the latter considers that a SAR law is not in conformity with the provisions of the Basic Law regarding affairs within the responsibility of the Central Authorities or regarding the relationship between the Central Authorities and the Region, the Standing Committee may return the law in question which shall immediately be invalidated (Article 17, paragraph 3).  

Third, PRC law applicable to the SAR shall be confined to those laws relating to defense and foreign affairs as well as to other matters outside the limits of the autonomy of the Region as specified by the Basic Law (Article 18, paragraph 3).  

However, in the event that the Standing Committee of the NPC decided to declare a state of war or, by reason of turmoil within the Hong Kong SAR which endangers national unity or security and is beyond the control of the SAR government, decides that the Region is in a state of emergency, the Central People’s Government may issue an order applying the relevant national laws in the Region (Article 18, paragraph 4). Under such circumstances, the PRC may in fact cancel the “high degree of autonomy” for the Hong Kong SAR.  

Fourth, the Hong Kong SAR shall enact laws on its own to prohibit any act of treason, secession, sedition, subversion against the Central People’s Government, or theft of state secrets, to prohibit foreign political organizations or bodies from conducting political activities in the Region, and to prohibit political organizations or bodies of the Region from establishing ties with foreign political organizations or bodies (Article 23).  

It should be noted that the PRC has considered the spread of democratic idea as subversive, therefore, this article is intended to deter Chinese or foreign groups from using Hong Kong to spread democratic ideas to China.

With respect to the appointment of the Chief Executive of the

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22 Ibid., p. 1545.  
23 Ibid., p. 1523.  
24 Ibid.  
25 Ibid.  
26 Ibid., p. 1524.
Hong Kong SAR, the Basic Law rejects direct election by the Hong Kong people. The PRC shall select and Election Committee of 800 members to elect the Chief Executive (Appendix I of the Basic Law),\textsuperscript{27} the election is therefore under the control of the PRC. Although the Basic Law provides that “the ultimate aim is the selection of the Chief Executive by universal suffrage,” the candidate shall be nominated “by a broadly representative nominating committee in accordance with democratic procedures” (Article 45 paragraph 2).\textsuperscript{28} Through the nominating committee, the PRC shall assure that only politicians approved by it can be put on the candidate list.

On the composition of the Legislative Council of the Hong Kong SAR, the Basic Law provides that the Council shall be constituted by election “in accordance with principles of graduate and orderly progress” and the “ultimate aim is the election of all members of the Legislative Council by universal suffrage” (Article 68).\textsuperscript{29} In a decision adopted by the NPC on April 4, 1990 on the formation of the first Hong Kong SAR government and the first Legislative Council, only 20 members of the 60-member Council shall be directly elected. Ten members are selected by an election committee and 30 members are selected by functional constituencies. Their terms of office shall be two years, but starting with the second term of the Council, the term of office for members shall be four years. In the second term, the directly elected members shall increase to 24 and, from the third term on, that number will be 30 (Annex II of the Basic Law). Under this arrangement, the PRC can assure that at least half of the Legislative Council will be under its control.\textsuperscript{30}

On April 5, 1990, a day after the promulgation of the Basic Law, about 10,000 Hong Kong residents joined a peaceful procession to mourn the victims of the Tiananmen Square massacre by PRC forces on June 4, 1989. The protesters vowed not to forget the incident and to fight for a democratic China. Some even shouted provocative slogans such as “Down with Deng

\textsuperscript{27} Ibid., p. 1546.
\textsuperscript{28} Ibid., p. 1527.
\textsuperscript{29} Ibid., p. 1531.
\textsuperscript{30} Ibid., p. 1548.
Xiaoping, Li Peng and Yang Shangkun."31

Earlier, when the draft of the Basic Law was released in January 1990, Martin Lee, a prominent Hong Kong lawyer and democracy advocate who serves on the Hong Kong Legislative Council, commented that "instead of a high degree of autonomy, what we are getting from the Basic Law is a high degree of control."32

VI. Transition to 1997

With the promulgation of the Basic Law, Hong Kong formally entered into the transitional period that will take it to 1997. Several important issues involved are analyzed below:

(1) Emigration Issues:

Since the Basic Law, as explained before, does not really provide a "high degree of autonomy" in Hong Kong in the post-1997 period, it can affect adversely the confidence of the Hong Kong people as to their future. This is reflected in increasing emigration. Hong Kong's emigration figure has hovered historically at about 20,000 people a year. In 1987, it jumped to 30,000 and in 1988 and 1989 40,000 left annually. In 1990, the British Hong Kong government estimated that 62,000 people would emigrate that year and more are expected to go in the coming years.33

Compared to a population of 5.7 million people, the percent-

31 "10,000 Demonstrate Against Beijing Leaders," Foreign Broadcast Information Service, China, April 6, 1990, p. 60.
age of people seeking emigration is very small, but the people who are leaving are educated, skilled, professional people whose services are essential to Hong Kong's prosperous economy. In an effort to stem the "hemorrhage of talents," the British Government decided to grant full British citizenship to 50,000 people and their immediate families. The beneficiaries are people who are most able and likely to emigrate before 1997. The British government considered that it was important to give such an insurance policy against an uncertain future and hoped that this measure would help residents to stay in Hong Kong during the transitional period to 1997.34

Ironically, by March 1, 1991, the Hong Kong government received only about 60,000 applications for the 43,500 passports offered, which is far short of the 300,000 applications originally anticipated. This is because Great Britain ranks fairly low on the list of preferred destinations for Hong Kong immigrants. Those Hong Kong residents who are qualified to go apply for British passports, but they may be equally qualified to go to the United States, Canada or Australia, places people think of as open, fair and full of opportunity. Great Britain is just not seen that way by the Hong Kong people.35

Moreover, the PRC does not like this arrangement; it believed that the British plan tries to perpetuate British rule after 1997, and has warned that Hong Kong Chinese who benefit under the scheme will not be treated as British citizens and cannot enjoy consular protection in the future Hong Kong SAR.36 The Basic Law has already provided that Hong Kong people with a right of abode in any foreign country cannot serve as principal officials in the SAR (Article 101, paragraph 1).37

34 Asia 1991 Yearbook, supra note 33, p. 111.
36 Asia 1991 Yearbook, supra note 33, p. 112.
(2) *Building a New Airport:*

It is generally agreed that Hong Kong is in need of a second airport to replace the over-utilized Kai Tak airport. However, the British government decided not to build a new airport in 1982 because of the uncertain political future.

After the June 4, 1989 Tiananmen Massacre, which shocked Hong Kong's residents and the international community, the British government decided to engage in a new airport and port project to boost local and international business confidence. The cost of the project is estimated at U.S. $16.20 billion. The PRC was worried that it might have to finance the huge project after 1997. It also suspects that the Hong Kong government may only use British and American firms for the project. Therefore, the PRC demanded negotiation on this issue before it gave support to the project. The Hong Kong government, however, believed that Hong Kong had financial autonomy, both before and after 1997, and did not need to consult the PRC, but would voluntarily supply the PRC with information. Analysts were concerned that the PRC might even use this issue to assert control over Hong Kong, even before 1997.

Under heavy Chinese pressure, a Memorandum of Understanding Concerning the Construction of the New Airport in Hong Kong and Related Questions was reached between the PRC and Great Britain in early July 1991. It also covered the issue of how the territory will be governed until transfer to the PRC on July 1, 1997. According to the Memorandum, the Hong

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Kong government will complete the core project of the airport to the maximum extent possible, while the PRC will support the construction. In addition, Great Britain will consult the PRC on important matters related to the project straddling June 30, 1997—the date when Hong Kong is to be returned to the PRC. A loan for up to 5 billion Hong Kong dollars (approximately 641 million U.S. dollars) for the project, which is to be repaid in the post-1997 period, may be raised by the Hong Kong government, but it must inform the Chinese side. Loans exceeding 5 billion Hong Kong dollars can be raised only by agreement between the PRC and Hong Kong governments. Moreover, the Chinese-controlled Bank of China will play an appropriate part in the syndication of loans for the airport project, and Chinese construction firms may compete for projects connected with the airport. The Hong Kong government is required to plan its finances with the objective that the fiscal reserve left for the use of the future Hong Kong SAR government will not be less than 25 billion (approximately 3.2 billion U.S. dollars) Hong Kong dollars.

This episode indicates that the PRC could exercise a form of veto power over a major Hong Kong issue during the transitional period to 1997.41

(3) Direct Election of Some Legislative Council Members:

In order to appease the Hong Kong people's dissatisfaction with the Basic Law, which allows only one third of the Legislative Council to be directly elected by the people when Hong Kong is returned to the PRC, the Hong Kong government decided to increase the number of directly-elected seats in the 60 seats Legislative Council in 1991 from 10 to 18. The British government hoped that the 1991 election would be a success, and if so, it would ask the PRC to allow Hong Kong to have more than

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20 directly-elected seats in the Legislative Council.\textsuperscript{42}

The election was held on September 15, 1991. Liberal pro-democracy United Democrats of Hong Kong (UDHK) candidates and their allies won 16 of the 18 seats. Not one pro-Chinese communist candidate was a winner. The two seats that did not go to the United Democrats and their allies were taken by a conservative pro-business candidate and an independent. Despite such an impressive result for the democracy candidates, the turnout was only 39.2 percent of the 1.9 million registered voters.\textsuperscript{43} It appears that most Hong Kong people are either uninterested in politics or considered the election a futile exercise that will not change the way Hong Kong is governed now or in the future.

On October 7, 1992, the newly-appointed British Governor of Hong Kong, Christopher Patten, announced a plan to increase voters in future legislative elections.\textsuperscript{44} For the 1995 election, the purpose of which will be to choose members of the Legislative Council through 1997, the Basic Law calls for 20 directly-elected seats, 30 functional constituency seats, and 10 seats elected by an Election Committee.

Governor Patten's plan, taking advantage of the lack of a provision prohibiting the reform of the election process of the functional groups and the election committee, is to increase the electorate from about 110,000 people to most registered voters for electing the 30 members in the functional constituency election, where interested groups such as lawyers, trade unionists and businessmen vote for members of the Legislative Council.\textsuperscript{45} His

\textsuperscript{42} Asia 1991 Yearbook, supra note 33, p. 110.


\textsuperscript{45} See ibid. Currently, many functional groups with a right to elect a representative to the Legislative Council have tiny constituencies that are easily manipulated. Governor Patten's plan is to give the right to vote in functional constituencies to each working person. In practice, therefore, 19 new seats in the Legislative Council will be selected through open competition rather than through
plan also calls for direct elections for the lower level district boards and municipal council members who are now largely appointed. Those elected to serve in lower level boards or councils will make up the Election Committee, who will elect the remaining 10 members of the Legislative Council. In other words, under Governor Patten’s plan, all members of the Legislative Council in the 1995 election will directly or indirectly be elected by the people of Hong Kong.

The PRC, however, immediately denounced the plan as in violation of the Basic Law.\textsuperscript{46} The reason is simple; a Legislative Council so composed bears the mandate of all the people of Hong Kong and would have the ability to stand up for the people of Hong Kong and resist the PRC’s interference in Hong Kong affairs.

VII. Future Prospects

Will the 1984 Sino-British Joint Declaration and the 1990 Basic Law work to maintain prosperity and stability in Hong Kong in the post-1997 period? There are optimistic and pessimistic answers to this question.

On the optimistic side, there is no reason for and no benefit to the PRC in seeking Hong Kong’s collapse or deterioration after assuming control of the territory in 1997. Moreover, the PRC’s attempt to promote the “one country-two systems” Hong Kong model of unification for unifying Taiwan is an additional incen-

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tive for the PRC to honor its settlement of the Hong Kong question, at least until the final incorporation of Taiwan into the PRC. Furthermore, with respect to the concern about the departure of large members of Hong Kong's best educated and most talented people, the fact is that after those people have acquired a Canadian, Australian or other foreign passport, some of them have returned to Hong Kong. There is in their view, no better place than Hong Kong for achieving personal financial success so quickly.

Finally, while there has been continuing capital flight from Hong Kong since 1982, when the PRC and Great Britain began to negotiate the future of Hong Kong, there also has been, in the same period, increasing investment in Hong Kong by American, Japanese, Chinese in Taiwan, and others. Since these people also have been making heavy investments on the communist-controlled mainland, there is no reason for them to worry about their investment in Hong Kong, a place the PRC publicly has obligated itself to maintain a capitalist system for 50 years after 1997.

Be that as it may, there is also a more pessimistic side to assessing the future of Hong Kong. During the transitional period to 1997, there appears to have been important areas of disagreement between the PRC and Great Britain which may cast doubt on the sincerity of the PRC in honoring its commitment to grant Hong Kong a "high degree of autonomy." The British strategy during the transitional period appears to nurture the development of a parliamentary democracy based primarily on a mixture of direct and indirect election of the Hong Kong people. Governor Christopher Patten's plan to increase voters in future election reflects this strategy. Apparently, the British government hopes that a Legislative Council, bearing the mandate of the Hong Kong residents through a combination of direct and indirect elections, will be able to resist PRC pressure to infringe

on the "high degree of autonomy" promised in the Sino-British Joint Declaration and implemented in the Basic Law.

The PRC, however, is afraid that a Legislative Council in Hong Kong, which embodies the popular will, might be much less amenable to manipulation and control after 1997. More importantly, such development might generate a "demonstration effect" on the people in the mainland to demand more democracy from the PRC government. Therefore, the PRC's strategy is to gradually increase its influence on Hong Kong during the transitional period in order to ensure its control over Hong Kong in the post-1997 period.

In the airport construction case, the PRC has attempted to set a precedent for playing a vital role in any matter straddling beyond 1997. On March 11, 1992, the PRC appointed forty-four Hong Kong residents as advisers on Hong Kong affairs, and all Hong Kong liberals and other critics of the PRC were excluded. Nearly two thirds of them previously served as the PRC's appointees in the Basic Law Drafting or Consultative Committee; another third are delegates to the PRC's National People's Congress or Chinese People's Political Consultative Conference. Half are prominent members of the business community. Although the advisors' terms of reference and organization remain vague, many people in Hong Kong suspect that these people might form a new power base on the colony.48

With respect to the political reform planned by Governor Patten, the director of the PRC's Hong Kong and Macao Affairs, Lu Bing, warned on August 25, 1992, before Patten's plan was announced, that a new election to the Legislative Council would be called immediately after Hong Kong's return to the PRC in 1997 if the membership of the Legislative Council failed to mirror the composition set out in the Basic Law.49 Under the Basic


Law, Legislative Council election will not be called until 1998. On the other hand, an overwhelming proportion of Hong Kong citizens seem to support Governor Patten's plan. One poll in October 1992 found that 73 percent of those surveyed supported Governor Patten's proposal for a more representative government, with 11 percent opposed and the remainder uncertain.50 Another poll in early November 1992 found that 57 percent of those questioned believed that Hong Kong should proceed with the steps toward more democracy despite PRC opposition, while 29 percent disagreed.51 Ironically, some of Hong Kong's leading capitalists have joined the PRC in urging Governor Patten to back down from his political reform plan.52

Until recently, Hong Kong's capitalist system and the PRC's communist system have co-existed side by side and resulted in mutual benefit. But both systems are essentially incompatible and the British presence in Hong Kong has served as a buffer to make the co-existence between the two possible and insulate Hong Kong from the political turmoil in the PRC.

The PRC, by insisting on removing that buffer and replacing it with its own unilateral guarantee—the Basic Law—thus subjects the fate of Hong Kong to the political fluctuation in the PRC.

When the 14th Congress of the Chinese Communist Party opened on October 12, 1992, Secretary-General Jiang Zemin's opening speech formally embraced economic restructuring along free-market lines. But he also called on the PRC government to "strengthen the people's democratic dictatorship" and "crack

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suggested that the Basic Law could be amended to increase the directly-elected seats in the Legislative Council. This suggestion was immediately denounced by local pro-PRC newspapers in Hong Kong. Stacy Mosher, "Basic Law, Britain, China argue over pace of democratization," Far Eastern Economic Review, June 11, 1992, p. 18. See also "China Aide Vows to Halt Hong Kong Reform," The New York Times, November 9, 1992, p. 6.


51 Ibid.

52 Ibid.
down on activities of hostile forces.” In addition, he said that China must “resolutely eliminate all factors that might lead to unrest or turmoil.” It appears that the Chinese Communist Party, which rules the PRC, intends to create a sort of free-market totalitarianism. From the Chinese communist point of view, the Hong Kong developmental experience appears to support this policy. Great Britain did not introduce democracy to Hong Kong until recently, but Hong Kong has developed into one of the most prosperous economies in the world.

The fallacy of the PRC’s view is that it does not take into account the special situation in Hong Kong. While there is no adequate participatory democracy and self-government in Hong Kong, numerous freedoms exist in Hong Kong, and human rights are respected as well. The Hong Kong judiciary enjoys a good reputation. The most important reason for the people of Hong Kong not to have demanded full self-government from the British until recently is that the alternative to British rule was reversion to the PRC, from where most people in Hong Kong originally escaped. Moreover, as the PRC considers Hong Kong a territory that should be “recovered,” the British government could not apply its normal decolonization process to Hong Kong—introducing self-government to a colony and then, through plebiscite, deciding the status of the colony.

Since the PRC, at least for the foreseeable future, is going to follow the policy of free-market totalitarianism on the Chinese mainland, it is only natural for the PRC not to allow genuine democracy and autonomy to be practiced in Hong Kong. Otherwise, such a development may have a “demonstration effect” on the Chinese mainland. On the other hand, the people of Hong Kong, after the removal of the British “buffer” in 1997, have no other choice but to resort to the democratic process to protect their rights. They are likely to push for more democracy during

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the transitional period in order to protect their rights in the post-1997 period.

PRC's response, however, is to put more pressure on the British Hong Kong government and to influence the Hong Kong people to stop Governor Patten's plan for political reform. On November 30, 1992, the PRC's Hong Kong and Macao Affairs office issued a statement announcing that it would refuse to honor any contracts, leases or agreements undertaken by the Hong Kong government after 1997. This statement appears to make it clear that the PRC is linking political and economic issues in its opposition to Governor Patten's plan for political reform.\(^5^4\)

At the same time, the PRC will not benefit from undermining business confidence in Hong Kong. Therefore, Chinese officials have also assured the business community in Hong Kong, including British companies, that they would be safe in the future, provided that they respect the Basic Law and other relevant measures.\(^5^5\) On January 17, 1993, the Spokesman of the Chinese Foreign Ministry stated at a press conference that the PRC will not accept Governor Patten's plan for political reform or any "compromised plan" if it is not consistent with the Basic Law.\(^5^6\) Unless the PRC gradually changes its policy toward democracy, which appears to be unlikely in the foreseeable future, any aggressive effort to push for more democracy by the Hong Kong government or people may put them on a confrontational course with the PRC before or after 1997. In mid-March, 1993, the confrontation between the two sides intensified when the PRC, reacting to recent proposals in Hong Kong for democratic reforms, threatened to set up a "shadow government" or a "new kitchen"

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in Hong Kong before it takes over the territory in 1997.\textsuperscript{57} In view of this, the future of Hong Kong is at the very least uncertain, and it is closely intertwined with the political and economic development of the PRC on the mainland.\textsuperscript{58}


\textsuperscript{58} On April 13, 1993, Great Britain and China announced that they would resume talks on the issue of political reform in Hong Kong. It is possible that both sides may make concessions to resolve the issue. See Sheryl Wu Dunn, "Hong Kong Talks are Set to Resume," \textit{The New York Times}, April 14, 1993, p. A3. For a comprehensive study of Hong Kong's developments in 1992, see Joseph Y.S. Cheng and Paul C.K. Kwong, eds., \textit{The Other Hong Kong Report, 1992} (Hong Kong: Chinese University Press, 1993). For a bibliographic listing of recent studies of Hong Kong, see Diana Chan and Dainan Wu, comp., \textit{A Bibliography of Asia-Pacific Studies, Vol. II: China and Hong Kong} (Hong Kong: University Library, Chinese Univ. of Hong Kong, 1992).
Documents

1.

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 1 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 19 December 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
Margaret Thatcher

For the
Government of the People's Republic of China
Zhao Ziyang

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 Kong 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 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 or 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 organisations.

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
King 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, 19 December 1984.

(Stamp of the British Embassy)
(B) CHINESE MEMORANDUM

Translation

MEMORANDUM

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 19 December 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, 19 December 1984.

(Stamp of the Ministry of Foreign Affairs of the Central People’s Government)
2. THE BASIC LAW
OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF
THE PEOPLE’S REPUBLIC OF CHINA

Adopted on 4 April 1990 by the Seventh
National People’s Congress of the People’s Republic
of China at its Third Session

Preamble

Hong Kong has been part of the territory of China since ancient
times; it was occupied by Britain after the Opium War in 1840. On 19
December 1984, the Chinese and British Governments signed the Joint
Declaration on the Question of Hong Kong, affirming that the
Government of the People’s Republic of China will resume the exercise
of sovereignty over Hong Kong with effect from 1 July 1997, thus
fulfilling the long-cherished common aspiration of the Chinese people for
the recovery of Hong Kong.

Upholding national unity and territorial integrity, maintaining the
prosperity and stability of Hong Kong, and taking account of its history
and realities, the People’s Republic of China has decided that upon
China’s resumption of the exercise of sovereignty over Hong Kong, a
Hong Kong Special Administrative Region will be established in
accordance with the provisions of Article 31 of the Constitution of the
People’s Republic of China, and that under the principle of “one
country, two systems”, the socialist system and policies will not be
practised in Hong Kong. The basic policies of the People’s Republic of
China regarding Hong Kong have been elaborated by the Chinese
Government in the Sino-British Joint Declaration.

In accordance with the Constitution of the People’s Republic of
China, the National People’s Congress hereby enacts the Basic Law of
the Hong Kong Special Administrative Region of the People’s Republic
of China, prescribing the systems to be practised in the Hong Kong
Special Administrative Region, in order to ensure the implementation of
the basic policies of the People’s Republic of China regarding Hong
Kong.
Chapter I: General Principles

Article 1

The Hong Kong Special Administrative Region is an inalienable part of the People's Republic of China.

Article 2

The National People's Congress authorizes the Hong Kong Special Administrative Region to exercise a high degree of autonomy and enjoy executive, legislative and independent judicial power, including that of final adjudication, in accordance with the provisions of this Law.

Article 3

The executive authorities and legislature of the Hong Kong Special Administrative Region shall be composed of permanent residents of Hong Kong in accordance with the relevant provisions of this Law.

Article 4

The Hong Kong Special Administrative Region shall safeguard the rights and freedoms of the residents of the Hong Kong Special Administrative Region and of other persons in the Region in accordance with law.

Article 5

The socialist system and policies shall not be practised in the Hong Kong Special Administrative Region, and the previous capitalist system and way of life shall remain unchanged for 50 years.

Article 6

The Hong Kong Special Administrative Region shall protect the right of private ownership of property in accordance with law.
Article 7

The land and natural resources within the Hong Kong Special Administrative Region shall be State property. The Government of the Hong Kong Special Administrative Region shall be responsible for their management, use and development and for their lease or grant to individuals, legal persons or organizations for use or development. The revenues derived therefrom shall be exclusively at the disposal of the government of the Region.

Article 8

The laws previously in force in Hong Kong, that is, the common law, rules of equity, ordinances, subordinate legislation and customary law shall be maintained, except for any that contravene this Law, and subject to any amendment by the legislature of the Hong Kong Special Administrative Region.

Article 9

In addition to the Chinese language, English may also be used as an official language by the executive authorities, legislature and judiciary of the Hong Kong Special Administrative Region.

Article 10

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

The regional flag of the Hong Kong Special Administrative Region is a red flag with a bauhinia highlighted by five star-tipped stamens.

The regional emblem of the Hong Kong Special Administrative Region is a bauhinia in the centre highlighted by five star-tipped stamens and encircled by the words “Hong Kong Special Administrative Region of the People’s Republic of China” in Chinese and “HONG KONG” in English.
Article 11

In accordance with Article 31 of the Constitution of the People’s Republic of China, the systems and policies practised in the Hong Kong Special Administrative Region, including the social and economic systems, the system for safeguarding the fundamental rights and freedoms of its residents, the executive, legislative and judicial systems, and the relevant policies, shall be based on the provisions of this Law.

No law enacted by the legislature of the Hong Kong Special Administrative Region shall contravene this Law.
Chapter II: Relationship between the Central Authorities and the Hong Kong Special Administrative Region

Article 12

The Hong Kong Special Administrative Region shall be a local administrative region of the People's Republic of China, which shall enjoy a high degree of autonomy and come directly under the Central People's Government.

Article 13

The Central People's Government shall be responsible for the foreign affairs relating to the Hong Kong Special Administrative Region.

The Ministry of Foreign Affairs of the People's Republic of China shall establish an office in Hong Kong to deal with foreign affairs.

The Central People's Government authorizes the Hong Kong Special Administrative Region to conduct relevant external affairs on its own in accordance with this Law.

Article 14

The Central People's Government shall be responsible for the defence of the Hong Kong Special Administrative Region.

The Government of the Hong Kong Special Administrative Region shall be responsible for the maintenance of public order in the Region.

Military forces stationed by the Central People's Government in the Hong Kong Special Administrative Region for defence shall not interfere in the local affairs of the Region. The Government of the Hong Kong Special Administrative Region may, when necessary, ask the Central People's Government for assistance from the garrison in the maintenance of public order and in disaster relief.
In addition to abiding by national laws, members of the garrison shall abide by the laws of the Hong Kong Special Administrative Region.

Expenditure for the garrison shall be borne by the Central People’s Government.

Article 15

The Central People’s Government shall appoint the Chief Executive and the principal officials of the executive authorities of the Hong Kong Special Administrative Region in accordance with the provisions of Chapter IV of this Law.

Article 16

The Hong Kong Special Administrative Region shall be vested with executive power. It shall, on its own, conduct the administrative affairs of the Region in accordance with the relevant provisions of this Law.

Article 17

The Hong Kong Special Administrative Region shall be vested with legislative power.

Laws enacted by the legislature of the Hong Kong Special Administrative Region must be reported to the Standing Committee of the National People’s Congress for the record. The reporting for record shall not affect the entry into force of such laws.

If the Standing Committee of the National People’s Congress, after consulting the Committee for the Basic Law of the Hong Kong Special Administrative Region under it, considers that any law enacted by the legislature of the Region is not in conformity with the provisions of this Law regarding affairs within the responsibility of the Central Authorities or regarding the relationship between the Central Authorities and the Region, the Standing Committee may return the law in question but shall not amend it. Any law returned by the Standing Committee of the National People’s Congress shall immediately be invalidated. This invalidation shall not have retroactive effect, unless otherwise provided for in the laws of the Region.
Article 18

The laws in force in the Hong Kong Special Administrative Region shall be this Law, the laws previously in force in Hong Kong as provided for in Article 8 of this Law, and the laws enacted by the legislature of the Region.

National laws shall not be applied in the Hong Kong Special Administrative Region except for those listed in Annex III to this Law. The laws listed therein shall be applied locally by way of promulgation or legislation by the Region.

The Standing Committee of the National People’s Congress may add to or delete from the list of laws in Annex III after consulting its Committee for the Basic Law of the Hong Kong Special Administrative Region and the government of the Region. Laws listed in Annex III to this Law shall be confined to those relating to defence and foreign affairs as well as other matters outside the limits of the autonomy of the Region as specified by this Law.

In the event that the Standing Committee of the National People’s Congress decides to declare a state of war or, by reason of turmoil within the Hong Kong Special Administrative Region which endangers national unity or security and is beyond the control of the government of the Region, decides that the Region is in a state of emergency, the Central People’s Government may issue an order applying the relevant national laws in the Region.

Article 19

The Hong Kong Special Administrative Region shall be vested with independent judicial power, including that of final adjudication.

The courts of the Hong Kong Special Administrative Region shall have jurisdiction over all cases in the Region, except that the restrictions on their jurisdiction imposed by the legal system and principles previously in force in Hong Kong shall be maintained.
The courts of the Hong Kong Special Administrative Region shall have no jurisdiction over acts of state such as defence and foreign affairs. The courts of the Region shall obtain a certificate from the Chief Executive on questions of fact concerning acts of state such as defence and foreign affairs whenever such questions arise in the adjudication of cases. This certificate shall be binding on the courts. Before issuing such a certificate, the Chief Executive shall obtain a certifying document from the Central People’s Government.

**Article 20**

The Hong Kong Special Administrative Region may enjoy other powers granted to it by the National People’s Congress, the Standing Committee of the National People’s Congress or the Central People’s Government.

**Article 21**

Chinese citizens who are residents of the Hong Kong Special Administrative Region shall be entitled to participate in the management of state affairs according to law.

In accordance with the assigned number of seats and the selection method specified by the National People’s Congress, the Chinese citizens among the residents of the Hong Kong Special Administrative Region shall locally elect deputies of the Region to the National People’s Congress to participate in the work of the highest organ of state power.

**Article 22**

No department of the Central People’s Government and no province, autonomous region, or municipality directly under the Central Government may interfere in the affairs which the Hong Kong Special Administrative Region administers on its own in accordance with this Law.

If there is a need for departments of the Central Government, or for provinces, autonomous regions, or municipalities directly under the Central Government to set up offices in the Hong Kong Special
Administrative Region, they must obtain the consent of the government of the Region and the approval of the Central People's Government.

All offices set up in the Hong Kong Special Administrative Region by departments of the Central Government, or by provinces, autonomous regions, or municipalities directly under the Central Government, and the personnel of these offices shall abide by the laws of the Region.

For entry into the Hong Kong Special Administrative Region, people from other parts of China must apply for approval. Among them, the number of persons who enter the Region for the purpose of settlement shall be determined by the competent authorities of the Central People’s Government after consulting the government of the Region.

The Hong Kong Special Administrative Region may establish an office in Beijing.

Article 23

The Hong Kong Special Administrative Region shall enact laws on its own to prohibit any act of treason, secession, sedition, subversion against the Central People's Government, or theft of state secrets, to prohibit foreign political organizations or bodies from conducting political activities in the Region, and to prohibit political organizations or bodies of the Region from establishing ties with foreign political organizations or bodies.
Chapter III: Fundamental Rights and Duties of the Residents

Article 24

Residents of the Hong Kong Special Administrative Region ("Hong Kong residents") shall include permanent residents and non-permanent residents.

The permanent residents of the Hong Kong Special Administrative Region shall be:

(1) Chinese citizens born in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region;

(2) Chinese citizens who have ordinarily resided in Hong Kong for a continuous period of not less than seven years before or after the establishment of the Hong Kong Special Administrative Region;

(3) Persons of Chinese nationality born outside Hong Kong of those residents listed in categories (1) and (2);

(4) Persons not of Chinese nationality who have entered Hong Kong with valid travel documents, have ordinarily resided in Hong Kong for a continuous period of not less than seven years and have taken Hong Kong as their place of permanent residence before or after the establishment of the Hong Kong Special Administrative Region;

(5) Persons under 21 years of age born in Hong Kong of those residents listed in category (4) before or after the establishment of the Hong Kong Special Administrative Region; and

(6) Persons other than those residents listed in categories (1) to (5), who, before the establishment of the Hong Kong Special Administrative Region, had the right of abode in Hong Kong only.
The above-mentioned residents shall have the right of abode in the Hong Kong Special Administrative Region and shall be qualified to obtain, in accordance with the laws of the Region, permanent identity cards which state their right of abode.

The non-permanent residents of the Hong Kong Special Administrative Region shall be persons who are qualified to obtain Hong Kong identity cards in accordance with the laws of the Region but have no right of abode.

Article 25

All Hong Kong residents shall be equal before the law.

Article 26

Permanent residents of the Hong Kong Special Administrative Region shall have the right to vote and the right to stand for election in accordance with law.

Article 27

Hong Kong residents shall have freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions, and to strike.

Article 28

The freedom of the person of Hong Kong residents shall be inviolable.

No Hong Kong resident shall be subjected to arbitrary or unlawful arrest, detention or imprisonment. Arbitrary or unlawful search of the body of any resident or deprivation or restriction of the freedom of the person shall be prohibited. Torture of any resident or arbitrary or unlawful deprivation of the life of any resident shall be prohibited.
Article 29

The homes and other premises of Hong Kong residents shall be inviolable. Arbitrary or unlawful search of, or intrusion into, a resident’s home or other premises shall be prohibited.

Article 30

The freedom and privacy of communication of Hong Kong residents shall be protected by law. No department or individual may, on any grounds, infringe upon the freedom and privacy of communication of residents except that the relevant authorities may inspect communication in accordance with legal procedures to meet the needs of public security or of investigation into criminal offences.

Article 31

Hong Kong residents shall have freedom of movement within the Hong Kong Special Administrative Region and freedom of emigration to other countries and regions. They shall have freedom to travel and to enter or leave the Region. Unless restrained by law, holders of valid travel documents shall be free to leave the Region without special authorization.

Article 32

Hong Kong residents shall have freedom of conscience.

Hong Kong residents shall have freedom of religious belief and freedom to preach and to conduct and participate in religious activities in public.

Article 33

Hong Kong residents shall have freedom of choice of occupation.

Article 34

Hong Kong residents shall have freedom to engage in academic research, literary and artistic creation, and other cultural activities.
Article 35

Hong Kong residents shall have the right to confidential legal advice, access to the courts, choice of lawyers for timely protection of their lawful rights and interests or for representation in the courts, and to judicial remedies.

Hong Kong residents shall have the right to institute legal proceedings in the courts against the acts of the executive authorities and their personnel.

Article 36

Hong Kong residents shall have the right to social welfare in accordance with law. The welfare benefits and retirement security of the labour force shall be protected by law.

Article 37

The freedom of marriage of Hong Kong residents and their right to raise a family freely shall be protected by law.

Article 38

Hong Kong residents shall enjoy the other rights and freedoms safeguarded by the laws of the Hong Kong Special Administrative Region.

Article 39

The provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and international labour conventions as applied to Hong Kong shall remain in force and shall be implemented through the laws of the Hong Kong Special Administrative Region.

The rights and freedoms enjoyed by Hong Kong residents shall not be restricted unless as prescribed by law. Such restrictions shall not contravene the provisions of the preceding paragraph of this Article.
Article 40

The lawful traditional rights and interests of the indigenous inhabitants of the "New Territories" shall be protected by the Hong Kong Special Administrative Region.

Article 41

Persons in the Hong Kong Special Administrative Region other than Hong Kong residents shall, in accordance with law, enjoy the rights and freedoms of Hong Kong residents prescribed in this Chapter.

Article 42

Hong Kong residents and other persons in Hong Kong shall have the obligation to abide by the laws in force in the Hong Kong Special Administrative Region.
Chapter IV: Political Structure

Section 1: The Chief Executive

Article 43

The Chief Executive of the Hong Kong Special Administrative Region shall be the head of the Hong Kong Special Administrative Region and shall represent the Region.

The Chief Executive of the Hong Kong Special Administrative Region shall be accountable to the Central People's Government and the Hong Kong Special Administrative Region in accordance with the provisions of this Law.

Article 44

The Chief Executive of the Hong Kong Special Administrative Region shall be a Chinese citizen of not less than 40 years of age who is a permanent resident of the Region with no right of abode in any foreign country and has ordinarily resided in Hong Kong for a continuous period of not less than 20 years.

Article 45

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.

The method for selecting the Chief Executive shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures.

The specific method for selecting the Chief Executive is prescribed in Annex I: "Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region".
Article 46

The term of office of the Chief Executive of the Hong Kong Special Administrative Region shall be five years. He or she may serve for not more than two consecutive terms.

Article 47

The Chief Executive of the Hong Kong Special Administrative Region must be a person of integrity, dedicated to his or her duties.

The Chief Executive, on assuming office, shall declare his or her assets to the Chief Justice of the Court of Final Appeal of the Hong Kong Special Administrative Region. This declaration shall be put on record.

Article 48

The Chief Executive of the Hong Kong Special Administrative Region shall exercise the following powers and functions:

(1) To lead the government of the Region;

(2) To be responsible for the implementation of this Law and other laws which, in accordance with this Law, apply in the Hong Kong Special Administrative Region;

(3) To sign bills passed by the Legislative Council and to promulgate laws:

To sign budgets passed by the Legislative Council and report the budgets and final accounts to the Central People's Government for the record;

(4) To decide on government policies and to issue executive orders;
(5) To nominate and to report to the Central People's Government for appointment the following principal officials: Secretaries and Deputy Secretaries of Departments, Directors of Bureaux, Commissioner Against Corruption, Director of Audit, Commissioner of Police, Director of Immigration and Commissioner of Customs and Excise; and to recommend to the Central People's Government the removal of the above-mentioned officials;

(6) To appoint or remove judges of the courts at all levels in accordance with legal procedures;

(7) To appoint or remove holders of public office in accordance with legal procedures;

(8) To implement the directives issued by the Central People's Government in respect of the relevant matters provided for in this Law;

(9) To conduct, on behalf of the Government of the Hong Kong Special Administrative Region, external affairs and other affairs as authorized by the Central Authorities;

(10) To approve the introduction of motions regarding revenues or expenditure to the Legislative Council;

(11) To decide, in the light of security and vital public interests, whether government officials or other personnel in charge of government affairs should testify or give evidence before the Legislative Council or its committees;

(12) To pardon persons convicted of criminal offences or commute their penalties; and

(13) To handle petitions and complaints.
Article 49

If the Chief Executive of the Hong Kong Special Administrative Region considers that a bill passed by the Legislative Council is not compatible with the overall interests of the Region, he or she may return it to the Legislative Council within three months for reconsideration. If the Legislative Council passes the original bill again by not less than a two-thirds majority of all the members, the Chief Executive must sign and promulgate it within one month, or act in accordance with the provisions of Article 50 of this Law.

Article 50

If the Chief Executive of the Hong Kong Special Administrative Region refuses to sign a bill passed the second time by the Legislative Council, or the Legislative Council refuses to pass a budget or any other important bill introduced by the government, and if consensus still cannot be reached after consultations, the Chief Executive may dissolve the Legislative Council.

The Chief Executive must consult the Executive Council before dissolving the Legislative Council. The Chief Executive may dissolve the Legislative Council only once in each term of his or her office.

Article 51

If the Legislative Council of the Hong Kong Special Administrative Region refuses to pass the budget introduced by the government, the Chief Executive may apply to the Legislative Council for provisional appropriations. If appropriation of public funds cannot be approved because the Legislative Council has already been dissolved, the Chief Executive may, prior to the election of the new Legislative Council, approve provisional short-term appropriations according to the level of expenditure of the previous fiscal year.

Article 52

The Chief Executive of the Hong Kong Special Administrative Region must resign under any of the following circumstances:
(1) When he or she loses the ability to discharge his or her duties as a result of serious illness or other reasons;

(2) When, after the Legislative Council is dissolved because he or she twice refuses to sign a bill passed by it, the new Legislative Council again passes by a two-thirds majority of all the members the original bill in dispute, but he or she still refuses to sign it; and

(3) When, after the Legislative Council is dissolved because it refuses to pass a budget or any other important bill, the new Legislative Council still refuses to pass the original bill in dispute.

**Article 53**

If the Chief Executive of the Hong Kong Special Administrative Region is not able to discharge his or her duties for a short period, such duties shall temporarily be assumed by the Administrative Secretary, Financial Secretary or Secretary of Justice in this order of precedence.

In the event that the office of Chief Executive becomes vacant, a new Chief Executive shall be selected within six months in accordance with the provisions of Article 45 of this Law. During the period of vacancy, his or her duties shall be assumed according to the provisions of the preceding paragraph.

**Article 54**

The Executive Council of the Hong Kong Special Administrative Region shall be an organ for assisting the Chief Executive in policymaking.

**Article 55**

Members of the Executive Council of the Hong Kong Special Administrative Region shall be appointed by the Chief Executive from among the principal officials of the executive authorities, members of the Legislative Council and public figures. Their appointment or removal
shall be decided by the Chief Executive. The term of office of members of the Executive Council shall not extend beyond the expiry of the term of office of the Chief Executive who appoints them.

Members of the Executive Council of the Hong Kong Special Administrative Region shall be Chinese citizens who are permanent residents of the Region with no right of abode in any foreign country.

The Chief Executive may, as he or she deems necessary, invite other persons concerned to sit in on meetings of the Council.

Article 56

The Executive Council of the Hong Kong Special Administrative Region shall be presided over by the Chief Executive.

Except for the appointment, removal and disciplining of officials and the adoption of measures in emergencies, the Chief Executive shall consult the Executive Council before making important policy decisions, introducing bills to the Legislative Council, making subordinate legislation, or dissolving the Legislative Council.

If the Chief Executive does not accept a majority opinion of the Executive Council, he or she shall put the specific reasons on record.

Article 57

A Commission Against Corruption shall be established in the Hong Kong Special Administrative Region. It shall function independently and be accountable to the Chief Executive.

Article 58

A Commission of Audit shall be established in the Hong Kong Special Administrative Region. It shall function independently and be accountable to the Chief Executive.
Section 2: The Executive Authorities

Article 59

The Government of the Hong Kong Special Administrative Region shall be the executive authorities of the Region.

Article 60

The head of the Government of the Hong Kong Special Administrative Region shall be the Chief Executive of the Region.

A Department of Administration, a Department of Finance, a Department of Justice, and various bureaux, divisions and commissions shall be established in the Government of the Hong Kong Special Administrative Region.

Article 61

The principal officials of the Hong Kong Special Administrative Region shall be Chinese citizens who are permanent residents of the Region with no right of abode in any foreign country and have ordinarily resided in Hong Kong for a continuous period of not less than 15 years.

Article 62

The Government of the Hong Kong Special Administrative Region shall exercise the following powers and functions:

(1) To formulate and implement policies;

(2) To conduct administrative affairs;

(3) To conduct external affairs as authorized by the Central People's Government under this Law;

(4) To draw up and introduce budgets and final accounts;
(5) To draft and introduce bills, motions and subordinate legislation; and

(6) To designate officials to sit in on the meetings of the Legislative Council and to speak on behalf of the government.

Article 63

The Department of Justice of the Hong Kong Special Administrative Region shall control criminal prosecutions, free from any interference.

Article 64

The Government of the Hong Kong Special Administrative Region must abide by the law and be accountable to the Legislative Council of the Region: it shall implement laws passed by the Council and already in force; it shall present regular policy addresses to the Council; it shall answer questions raised by members of the Council; and it shall obtain approval from the Council for taxation and public expenditure.

Article 65

The previous system of establishing advisory bodies by the executive authorities shall be maintained.

Section 3: The Legislature

Article 66

The Legislative Council of the Hong Kong Special Administrative Region shall be the legislature of the Region.

Article 67

The Legislative Council of the Hong Kong Special Administrative Region shall be composed of Chinese citizens who are permanent residents of the Region with no right of abode in any foreign country. However, permanent residents of the Region who are not of Chinese
nationality or who have the right of abode in foreign countries may also
be elected members of the Legislative Council of the Region, provided
that the proportion of such members does not exceed 20 per cent of the
total membership of the Council.

Article 68

The Legislative Council of the Hong Kong Special Administrative
Region shall be constituted by election.

The method for forming the Legislative Council shall be specified in
the light of the actual situation in the Hong Kong Special Administrative
Region and in accordance with the principle of gradual and orderly
progress. The ultimate aim is the election of all the members of the
Legislative Council by universal suffrage.

The specific method for forming the Legislative Council and its
procedures for voting on bills and motions are prescribed in Annex II:
“Method for the Formation of the Legislative Council of the Hong Kong
Special Administrative Region and Its Voting Procedures”.

Article 69

The term of office of the Legislative Council of the Hong Kong
Special Administrative Region shall be four years, except the first term
which shall be two years.

Article 70

If the Legislative Council of the Hong Kong Special Administrative
Region is dissolved by the Chief Executive in accordance with the
provisions of this Law, it must, within three months, be reconstituted by
election in accordance with Article 68 of this Law.

Article 71

The President of the Legislative Council of the Hong Kong Special
Administrative Region shall be elected by and from among the members
of the Legislative Council.
The President of the Legislative Council of the Hong Kong Special Administrative Region shall be a Chinese citizen of not less than 40 years of age, who is a permanent resident of the Region with no right of abode in any foreign country and has ordinarily resided in Hong Kong for a continuous period of not less than 20 years.

Article 72

The President of the Legislative Council of the Hong Kong Special Administrative Region shall exercise the following powers and functions:

1. To preside over meetings;

2. To decide on the agenda, giving priority to government bills for inclusion in the agenda;

3. To decide on the time of meetings;

4. To call special sessions during the recess;

5. To call emergency sessions on the request of the Chief Executive; and

6. To exercise other powers and functions as prescribed in the rules of procedure of the Legislative Council.

Article 73

The Legislative Council of the Hong Kong Special Administrative Region shall exercise the following powers and functions:

1. To enact, amend or repeal laws in accordance with the provisions of this Law and legal procedures;

2. To examine and approve budgets introduced by the government;

3. To approve taxation and public expenditure;
(4) To receive and debate the policy addresses of the Chief Executive;

(5) To raise questions on the work of the government;

(6) To debate any issue concerning public interests;

(7) To endorse the appointment and removal of the judges of the Court of Final Appeal and the Chief Judge of the High Court;

(8) To receive and handle complaints from Hong Kong residents;

(9) If a motion initiated jointly by one-fourth of all the members of the Legislative Council charges the Chief Executive with serious breach of law or dereliction of duty and if he or she refuses to resign, the Council may, after passing a motion for investigation, give a mandate to the Chief Justice of the Court of Final Appeal to form and chair an independent investigation committee. The committee shall be responsible for carrying out the investigation and reporting its findings to the Council. If the committee considers the evidence sufficient to substantiate such charges, the Council may pass a motion of impeachment by a two-thirds majority of all its members and report it to the Central People’s Government for decision; and

(10) To summon, as required when exercising the above-mentioned powers and functions, persons concerned to testify or give evidence.

Article 74

Members of the Legislative Council of the Hong Kong Special Administrative Region may introduce bills in accordance with the provisions of this Law and legal procedures. Bills which do not relate to public expenditure or political structure or the operation of the government may be introduced individually or jointly by members of the Council. The written consent of the Chief Executive shall be required before bills relating to government policies are introduced.
Article 75

The quorum for the meeting of the Legislative Council of the Hong Kong Special Administrative Region shall be not less than one half of all its members.

The rules of procedure of the Legislative Council shall be made by the Council on its own, provided that they do not contravene this Law.

Article 76

A bill passed by the Legislative Council of the Hong Kong Special Administrative Region may take effect only after it is signed and promulgated by the Chief Executive.

Article 77

Members of the Legislative Council of the Hong Kong Special Administrative Region shall be immune from legal action in respect of their statements at meetings of the Council.

Article 78

Members of the Legislative Council of the Hong Kong Special Administrative Region shall not be subjected to arrest when attending or on their way to a meeting of the Council.

Article 79

The President of the Legislative Council of the Hong Kong Special Administrative Region shall declare that a member of the Council is no longer qualified for the office under any of the following circumstances:

1. When he or she loses the ability to discharge his or her duties as a result of serious illness or other reasons;

2. When he or she, with no valid reason, is absent from meetings for three consecutive months without the consent of the President of the Legislative Council;
(3) When he or she loses or renounces his or her status as a permanent resident of the Region;

(4) When he or she accepts a government appointment and becomes a public servant;

(5) When he or she is bankrupt or fails to comply with a court order to repay debts;

(6) When he or she is convicted and sentenced to imprisonment for one month or more for a criminal offence committed within or outside the Region and is relieved of his or her duties by a motion passed by two-thirds of the members of the Legislative Council present; and

(7) When he or she is censured for misbehaviour or breach of oath by a vote of two-thirds of the members of the Legislative Council present.

Section 4: The Judiciary

Article 80

The courts of the Hong Kong Special Administrative Region at all levels shall be the judiciary of the Region, exercising the judicial power of the Region.

Article 81

The Court of Final Appeal, the High Court, district courts, magistrates' courts and other special courts shall be established in the Hong Kong Special Administrative Region. The High Court shall comprise the Court of Appeal and the Court of First Instance.

The judicial system previously practised in Hong Kong shall be maintained except for those changes consequent upon the establishment
of the Court of Final Appeal of the Hong Kong Special Administrative Region.

Article 82

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

Article 83

The structure, powers and functions of the courts of the Hong Kong Special Administrative Region at all levels shall be prescribed by law.

Article 84

The courts of the Hong Kong Special Administrative Region shall adjudicate cases in accordance with the laws applicable in the Region as prescribed in Article 18 of this Law and may refer to precedents of other common law jurisdictions.

Article 85

The courts of the Hong Kong Special Administrative Region shall exercise judicial power independently, free from any interference. Members of the judiciary shall be immune from legal action in the performance of their judicial functions.

Article 86

The principle of trial by jury previously practised in Hong Kong shall be maintained.

Article 87

In criminal or civil proceedings in the Hong Kong Special Administrative Region, the principles previously applied in Hong Kong and the rights previously enjoyed by parties to proceedings shall be maintained.
Anyone who is lawfully arrested shall have the right to a fair trial by
the judicial organs without delay and shall be presumed innocent until
convicted by the judicial organs.

Article 88

Judges of the courts of the Hong Kong Special Administrative
Region shall be appointed by the Chief Executive on the
recommendation of an independent commission composed of local
judges, persons from the legal profession and eminent persons from
other sectors.

Article 89

A judge of a court of the Hong Kong Special Administrative Region
may only be removed for inability to discharge his or her duties, or for
misbehaviour, by the Chief Executive on the recommendation of a
tribunal appointed by the Chief Justice of the Court of Final Appeal and
consisting of not fewer than three local judges.

The Chief Justice of the Court of Final Appeal of the Hong Kong
Special Administrative Region may be investigated only for inability to
discharge his or her duties, or for misbehaviour, by a tribunal appointed
by the Chief Executive and consisting of not fewer than five local judges
and may be removed by the Chief Executive on the recommendation of
the tribunal and in accordance with the procedures prescribed in this
Law.

Article 90

The Chief Justice of the Court of Final Appeal and the Chief Judge
of the High Court of the Hong Kong Special Administrative Region shall
be Chinese citizens who are permanent residents of the Region with no
right of abode in any foreign country.

In the case of the appointment or removal of judges of the Court of
Final Appeal and the Chief Judge of the High Court of the Hong Kong
Special Administrative Region, the Chief Executive shall, in addition to
following the procedures prescribed in Articles 88 and 89 of this Law,
obtain the endorsement of the Legislative Council and report such appointment or removal to the Standing Committee of the National People’s Congress for the record.

**Article 91**

The Hong Kong Special Administrative Region shall maintain the previous system of appointment and removal of members of the judiciary other than judges.

**Article 92**

Judges and other members of the judiciary of the Hong Kong Special Administrative Region shall be chosen on the basis of their judicial and professional qualities and may be recruited from other common law jurisdictions.

**Article 93**

Judges and other members of the judiciary serving in Hong Kong before the establishment of the Hong Kong Special Administrative Region may all remain in employment and retain their seniority with pay, allowances, benefits and conditions of service no less favourable than before.

The Government of the Hong Kong Special Administrative Region shall pay to judges and other members of the judiciary who retire or leave the service in compliance with regulations, including those who have retired or left the service before the establishment of the Hong Kong Special Administrative Region, or to their dependants, all pensions, gratuities, allowances and benefits due to them on terms no less favourable than before, irrespective of their nationality or place of residence.

**Article 94**

On the basis of the system previously operating in Hong Kong, the Government of the Hong Kong Special Administrative Region may make provisions for local lawyers and lawyers from outside Hong Kong to work and practise in the Region.
Article 95

The Hong Kong Special Administrative Region may, through consultations and in accordance with law, maintain juridical relations with the judicial organs of other parts of the country, and they may render assistance to each other.

Article 96

With the assistance or authorization of the Central People’s Government, the Government of the Hong Kong Special Administrative Region may make appropriate arrangements with foreign states for reciprocal juridical assistance.

Section 5: District Organizations

Article 97

District organizations which are not organs of political power may be established in the Hong Kong Special Administrative Region, to be consulted by the government of the Region on district administration and other affairs, or to be responsible for providing services in such fields as culture, recreation and environmental sanitation.

Article 98

The powers and functions of the district organizations and the method for their formation shall be prescribed by law.

Section 6: Public Servants

Article 99

Public servants serving in all government departments of the Hong Kong Special Administrative Region must be permanent residents of the Region, except where otherwise provided for in Article 101 of this Law
regarding public servants of foreign nationalities and except for those below a certain rank as prescribed by law.

Public servants must be dedicated to their duties and be responsible to the Government of the Hong Kong Special Administrative Region.

**Article 100**

Public servants serving in all Hong Kong government departments, including the police department, before the establishment of the Hong Kong Special Administrative Region, may all remain in employment and retain their seniority with pay, allowances, benefits and conditions of service no less favourable than before.

**Article 101**

The Government of the Hong Kong Special Administrative Region may employ British and other foreign nationals previously serving in the public service in Hong Kong, or those holding permanent identity cards of the Region, to serve as public servants in government departments at all levels, but only Chinese citizens among permanent residents of the Region with no right of abode in any foreign country may fill the following posts: the Secretaries and Deputy Secretaries of Departments, Directors of Bureaux, Commissioner Against Corruption, Director of Audit, Commissioner of Police, Director of Immigration and Commissioner of Customs and Excise.

The Government of the Hong Kong Special Administrative Region may also employ British and other foreign nationals as advisers to government departments and, when required, may recruit qualified candidates from outside the Region to fill professional and technical posts in government departments. These foreign nationals shall be employed only in their individual capacities and shall be responsible to the government of the Region.

**Article 102**

The Government of the Hong Kong Special Administrative Region shall pay to public servants who retire or who leave the service in
compliance with regulations, including those who have retired or who have left the service in compliance with regulations before the establishment of the Hong Kong Special Administrative Region, or to their dependants, all pensions, gratuities, allowances and benefits due to them on terms no less favourable than before, irrespective of their nationality or place of residence.

Article 103

The appointment and promotion of public servants shall be on the basis of their 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 their appointment, pay and conditions of service, shall be maintained, except for any provisions for privileged treatment of foreign nationals.

Article 104

When assuming office, the Chief Executive, principal officials, members of the Executive Council and of the Legislative Council, judges of the courts at all levels and other members of the judiciary in the Hong Kong Special Administrative Region must, in accordance with law, swear to uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China.
Chapter V: Economy

Section 1: Public Finance, Monetary Affairs, Trade, Industry and Commerce

Article 105
The Hong Kong Special Administrative Region shall, in accordance with law, protect the right of individuals and legal persons to the acquisition, use, disposal and inheritance of property and their right to compensation for lawful deprivation of their property.

Such compensation shall correspond to the real value of the property concerned at the time and shall be freely convertible and paid without undue delay.

The ownership of enterprises and the investments from outside the Region shall be protected by law.

Article 106
The Hong Kong Special Administrative Region shall have independent finances.

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 Central People's Government shall not levy taxes in the Hong Kong Special Administrative Region.

Article 107
The Hong Kong Special Administrative Region shall follow the principle of keeping expenditure within the limits of revenues in drawing up its budget, and strive to achieve a fiscal balance, avoid deficits and keep the budget commensurate with the growth rate of its gross domestic product.
Article 108

The Hong Kong Special Administrative Region shall practise an independent taxation system.

The Hong Kong Special Administrative Region shall, taking the low tax policy previously pursued in Hong Kong as reference, enact laws on its own concerning types of taxes, tax rates, tax reductions, allowances and exemptions, and other matters of taxation.

Article 109

The Government of the Hong Kong Special Administrative Region shall provide an appropriate economic and legal environment for the maintenance of the status of Hong Kong as an international financial centre.

Article 110

The monetary and financial systems of the Hong Kong Special Administrative Region shall be prescribed by law.

The Government of the Hong Kong Special Administrative Region shall, on its own, formulate monetary and financial policies, safeguard the free operation of financial business and financial markets, and regulate and supervise them in accordance with law.

Article 111

The Hong Kong dollar, as the legal tender in the Hong Kong Special Administrative Region, shall continue to circulate.

The authority to issue Hong Kong currency shall be vested in the Government of the Hong Kong Special Administrative Region. The issue of Hong Kong currency must be backed by a 100 per cent reserve fund. The system regarding the issue of Hong Kong currency and the reserve fund system shall be prescribed by law.

The Government of the Hong Kong Special Administrative Region may authorize designated banks to issue or 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.

Article 112

No foreign exchange control policies shall be applied in the Hong Kong Special Administrative Region. The Hong Kong dollar shall be freely convertible. Markets for foreign exchange, gold, securities, futures and the like shall continue.

The Government of the Hong Kong Special Administrative Region shall safeguard the free flow of capital within, into and out of the Region.

Article 113

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

Article 114

The Hong Kong Special Administrative Region shall maintain the status of a free port and shall not impose any tariff unless otherwise prescribed by law.

Article 115

The Hong Kong Special Administrative Region shall pursue the policy of free trade and safeguard the free movement of goods, intangible assets and capital.

Article 116

The Hong Kong Special Administrative Region shall be a separate customs territory.

The Hong Kong Special Administrative Region may, using the name "Hong Kong, China", participate in relevant international organizations 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, which are obtained or made by the Hong Kong Special Administrative Region or which were obtained or made and remain valid, shall be enjoyed exclusively by the Region.

Article 117

The Hong Kong Special Administrative Region may issue its own certificates of origin for products in accordance with prevailing rules of origin.

Article 118

The Government of the Hong Kong Special Administrative Region shall provide an economic and legal environment for encouraging investments, technological progress and the development of new industries.

Article 119

The Government of the Hong Kong Special Administrative Region shall formulate appropriate policies to promote and co-ordinate the development of various trades such as manufacturing, commerce, tourism, real estate, transport, public utilities, services, agriculture and fisheries, and pay regard to the protection of the environment.

Section 2: Land Leases

Article 120

All leases of land granted, decided upon or renewed before the establishment of the Hong Kong Special Administrative Region which extend beyond 30 June 1997, and all rights in relation to such leases, shall continue to be recognized and protected under the law of the Region.
Article 121

As regards all leases of land granted or renewed where the original leases contain no right of renewal, during the period from 27 May 1985 to 30 June 1997, which extend beyond 30 June 1997 and expire not later than 30 June 2047, the lessee is not required to pay an additional premium as from 1 July 1997, but an annual rent 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, shall be charged.

Article 122

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, where the property is granted to, a lessee descended through the male line from a person who was in 1898 a resident of an established village in Hong Kong, the previous rent shall remain unchanged so long as the property is held by that lessee or by one of his lawful successors in the male line.

Article 123

Where leases of land without a right of renewal expire after the establishment of the Hong Kong Special Administrative Region, they shall be dealt with in accordance with laws and policies formulated by the Region on its own.

Section 3: Shipping

Article 124

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 Government of the Hong Kong Special Administrative Region shall, on its own, define its specific functions and responsibilities in respect of shipping.
Article 125

The Hong Kong Special Administrative Region shall be authorized by the Central People’s Government to continue to maintain a shipping register and issue related certificates under its legislation, using the name “Hong Kong, China”.

Article 126

With the exception of foreign warships, access for which requires the special 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 Region.

Article 127

Private shipping businesses and shipping-related businesses and private container terminals in the Hong Kong Special Administrative Region may continue to operate freely.

Section 4: Civil Aviation

Article 128

The Government of the Hong Kong Special Administrative Region shall provide conditions and take measures for the maintenance of the status of Hong Kong as a centre of international and regional aviation.

Article 129

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.

Access of foreign state aircraft to the Hong Kong Special Administrative Region shall require the special permission of the Central People’s Government.
Article 130

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 to it under the regional air navigation procedures of the International Civil Aviation Organization.

Article 131

The Central People’s Government shall, in consultation with the Government of the Hong Kong Special Administrative Region, make arrangements providing air services between the Region and other parts of the People’s Republic of China for airlines incorporated in the Hong Kong Special Administrative Region and having their principal place of business in Hong Kong and other airlines of the People’s Republic of China.

Article 132

All air service agreements providing 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.

In concluding the air service agreements referred to in the first paragraph of this Article, 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 government of the Region.

Representatives of the Government of the Hong Kong Special Administrative Region may, as members of the delegations of the Government of the People’s Republic of China, participate in air service consultations conducted by the Central People’s Government with
foreign governments concerning arrangements for such services referred to in the first paragraph of this Article.

Article 133

Acting under specific authorizations from the Central People’s Government, the Government of the Hong Kong Special Administrative Region may:

(1) renew or amend air service agreements and arrangements previously in force;

(2) negotiate and conclude new air service agreements providing routes for airlines incorporated in the Hong Kong Special Administrative Region and having their principal place of business in Hong Kong and providing rights for over-flights and technical stops; and

(3) negotiate and conclude provisional arrangements with foreign states or regions with which no air service agreements have been concluded.

All scheduled air services to, from or through Hong Kong, which do not operate to, from or through the mainland of China shall be regulated by the air service agreements or provisional arrangements referred to in this Article.

Article 134

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

(1) negotiate and conclude with other authorities all arrangements concerning the implementation of the air service agreements and provisional arrangements referred to in Article 133 of this Law;

(2) issue licences to airlines incorporated in the Hong Kong Special Administrative Region and having their principal place of business in Hong Kong;
(3) designate such airlines under the air service agreements and provisional arrangements referred to in Article 133 of this Law; and

(4) issue permits to foreign airlines for services other than those to, from or through the mainland of China.

Article 135

Airlines incorporated and having their principal place of business in Hong Kong and businesses related to civil aviation functioning there prior to the establishment of the Hong Kong Special Administrative Region may continue to operate.
Chapter VI: Education, Science, Culture, Sports, Religion, Labour and Social Services

Article 136

On the basis of the previous educational system, the Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies on the development and improvement of education, 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 qualifications.

Community organizations and individuals may, in accordance with law, run educational undertakings of various kinds in the Hong Kong Special Administrative Region.

Article 137

Educational institutions of all kinds may retain their autonomy and enjoy academic freedom. They may continue to recruit staff and use teaching materials from outside the Hong Kong Special Administrative Region. Schools run by religious organizations may continue to provide religious education, including courses in religion.

Students shall enjoy freedom of choice of educational institutions and freedom to pursue their education outside the Hong Kong Special Administrative Region.

Article 138

The Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies to develop Western and traditional Chinese medicine and to improve medical and health services. Community organizations and individuals may provide various medical and health services in accordance with law.
Article 139

The Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies on science and technology and protect by law achievements in scientific and technological research, patents, discoveries and inventions.

The Government of the Hong Kong Special Administrative Region shall, on its own, decide on the scientific and technological standards and specifications applicable in Hong Kong.

Article 140

The Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies on culture and protect by law the achievements and the lawful rights and interests of authors in their literary and artistic creation.

Article 141

The Government of the Hong Kong Special Administrative Region shall not restrict the freedom of religious belief, interfere in the internal affairs of religious organizations or restrict religious activities which do not contravene the laws of the Region.

Religious organizations shall, in accordance with law, enjoy the rights to acquire, use, dispose of and inherit property and the right to receive financial assistance. Their previous property rights and interests shall be maintained and protected.

Religious organizations may, according to their previous practice, continue to run seminaries and other schools, hospitals and welfare institutions and to provide other social services.

Religious organizations and believers in the Hong Kong Special Administrative Region may maintain and develop their relations with religious organizations and believers elsewhere.
Article 142

The Government of the Hong Kong Special Administrative Region shall, on the basis of maintaining the previous systems concerning the professions, formulate provisions on its own for assessing the qualifications for practice in the various professions.

Persons with professional qualifications or qualifications for professional practice obtained prior to the establishment of the Hong Kong Special Administrative Region may retain their previous qualifications in accordance with the relevant regulations and codes of practice.

The Government of the Hong Kong Special Administrative Region shall continue to recognize the professions and the professional organizations recognized prior to the establishment of the Region, and these organizations may, on their own, assess and confer professional qualifications.

The Government of the Hong Kong Special Administrative Region may, as required by developments in society and in consultation with the parties concerned, recognize new professions and professional organizations.

Article 143

The Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies on sports. Non-governmental sports organizations may continue to exist and develop in accordance with law.

Article 144

The Government of the Hong Kong Special Administrative Region shall maintain the policy previously practised in Hong Kong in respect of subventions for non-governmental organizations in fields such as education, medicine and health, culture, art, recreation, sports, social welfare and social work. Staff members previously serving in subvented organizations in Hong Kong may remain in their employment in accordance with the previous system.
Article 145

On the basis of the previous social welfare system, the Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies on the development and improvement of this system in the light of the economic conditions and social needs.

Article 146

Voluntary organizations providing social services in the Hong Kong Special Administrative Region may, on their own, decide their forms of service, provided that the law is not contravened.

Article 147

The Hong Kong Special Administrative Region shall on its own formulate laws and policies relating to labour.

Article 148

The relationship between non-governmental organizations in fields such as education, science, technology, culture, art, sports, the professions, medicine and health, labour, social welfare and social work as well as religious organizations in the Hong Kong Special Administrative Region and their counterparts on the mainland shall be based on the principles of non-subordination, non-interference and mutual respect.

Article 149

Non-governmental organizations in fields such as education, science, technology, culture, art, sports, the professions, medicine and health, labour, social welfare and social work as well as religious organizations in the Hong Kong Special Administrative Region may maintain and develop relations with their counterparts in foreign countries and regions and with relevant international organizations. They may, as required, use the name “Hong Kong, China” in the relevant activities.
Chapter VII: External Affairs

Article 150

Representatives of the Government of the Hong Kong Special Administrative Region may, as members of delegations of the Government of the People's Republic of China, participate in negotiations at the diplomatic level directly affecting the Region conducted by the Central People's Government.

Article 151

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 foreign states and regions and relevant international organizations in the appropriate fields, including the economic, trade, financial and monetary, shipping, communications, tourism, cultural and sports fields.

Article 152

Representatives of the Government of the Hong Kong Special Administrative Region may, as members of delegations of the People's Republic of China, participate in international organizations or conferences in appropriate fields limited to states and affecting the Region, or may attend in such other capacity as may be permitted by the Central People's Government and the international organization or conference concerned, and may express their views, using the name "Hong Kong, China".

The Hong Kong Special Administrative Region may, using the name "Hong Kong, China", participate in international organizations and conferences not limited to states.

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 organizations 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 organizations 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.

Article 153

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 Region, and after seeking the views of the government of the Region.

International agreements to which the People’s Republic of China is not a party but which are implemented in Hong Kong may continue to be implemented in the Hong Kong Special Administrative Region. The Central People’s Government shall, as necessary, authorize or assist the government of the Region to make appropriate arrangements for the application to the Region of other relevant international agreements.

Article 154

The Central People’s Government shall authorize the Government of the Hong Kong Special Administrative Region to issue, in accordance with law, passports of the Hong Kong Special Administrative Region of the People’s Republic of China to all Chinese citizens who hold permanent identity cards of the 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 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 Region.

The Government of the Hong Kong Special Administrative Region may apply immigration controls on entry into, stay in and departure from the Region by persons from foreign states and regions.
Article 155

The Central People’s Government shall assist or authorize the Government of the Hong Kong Special Administrative Region to conclude visa abolition agreements with foreign states or regions.

Article 156

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

Article 157

The establishment of foreign consular and other official or semi-official missions in the Hong Kong Special Administrative Region shall require the approval of the Central People’s Government.

Consular and other official missions established in Hong Kong by states which have 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 established in Hong Kong by states which have no formal diplomatic relations with the People’s Republic of China may be permitted either to remain or be changed to semi-official missions.

States not recognized by the People’s Republic of China may only establish non-governmental institutions in the Region.
Chapter VIII: Interpretation and Amendment of the Basic Law

Article 158

The power of interpretation of this Law shall be vested in the Standing Committee of the National People's Congress.

The Standing Committee of the National People's Congress shall authorize the courts of the Hong Kong Special Administrative Region to interpret on their own, in adjudicating cases, the provisions of this Law which are within the limits of the autonomy of the Region.

The courts of the Hong Kong Special Administrative Region may also interpret other provisions of this Law in adjudicating cases. However, if the courts of the Region, in adjudicating cases, need to interpret the provisions of this Law concerning affairs which are the responsibility of the Central People's Government, or concerning the relationship between the Central Authorities and the Region, and if such interpretation will affect the judgments on the cases, the courts of the Region shall, before making their final judgments which are not appealable, seek an interpretation of the relevant provisions from the Standing Committee of the National People's Congress through the Court of Final Appeal of the Region. When the Standing Committee makes an interpretation of the provisions concerned, the courts of the Region, in applying those provisions, shall follow the interpretation of the Standing Committee. However, judgments previously rendered shall not be affected.

The Standing Committee of the National People's Congress shall consult its Committee for the Basic Law of the Hong Kong Special Administrative Region before giving an interpretation of this Law.

Article 159

The power of amendment of this Law shall be vested in the National People's Congress.
The power to propose bills for amendments to this Law shall be vested in the Standing Committee of the National People's Congress, the State Council and the Hong Kong Special Administrative Region. Amendment bills from the Hong Kong Special Administrative Region shall be submitted to the National People's Congress by the delegation of the Region to the National People's Congress after obtaining the consent of two-thirds of the deputies of the Region to the National People's Congress, two-thirds of all the members of the Legislative Council of the Region, and the Chief Executive of the Region.

Before a bill for amendment to this Law is put on the agenda of the National People's Congress, the Committee for the Basic Law of the Hong Kong Special Administrative Region shall study it and submit its views.

No amendment to this Law shall contravene the established basic policies of the People's Republic of China regarding Hong Kong.
Chapter IX: Supplementary Provisions

Article 160

Upon the establishment of the Hong Kong Special Administrative Region, the laws previously in force in Hong Kong shall be adopted as laws of the Region except for those which the Standing Committee of the National People's Congress declares to be in contravention of this Law. If any laws are later discovered to be in contravention of this Law, they shall be amended or cease to have force in accordance with the procedure as prescribed by this Law.

Documents, certificates, contracts, and rights and obligations valid under the laws previously in force in Hong Kong shall continue to be valid and be recognized and protected by the Hong Kong Special Administrative Region, provided that they do not contravene this Law.
Annex I: Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region

1. The Chief Executive shall be elected by a broadly representative Election Committee in accordance with this Law and appointed by the Central People's Government.

2. The Election Committee shall be composed of 800 members from the following sectors:

<table>
<thead>
<tr>
<th>Sector</th>
<th>Members</th>
</tr>
</thead>
<tbody>
<tr>
<td>Industrial, commercial and financial sectors</td>
<td>200</td>
</tr>
<tr>
<td>The professions</td>
<td>200</td>
</tr>
<tr>
<td>Labour, social services, religious and other sectors</td>
<td>200</td>
</tr>
<tr>
<td>Members of the Legislative Council, representatives of district-based organizations, Hong Kong deputies to the National People's Congress, and representatives of Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference</td>
<td>200</td>
</tr>
</tbody>
</table>

The term of office of the Election Committee shall be five years.

3. The delimitation of the various sectors, the organizations in each sector eligible to return Election Committee members and the number of such members returned by each of these organizations shall be prescribed by an electoral law enacted by the Hong Kong Special Administrative Region in accordance with the principles of democracy and openness.

Corporate bodies in various sectors shall, on their own, elect members to the Election Committee, in accordance with the number of seats allocated and the election method as prescribed by the electoral law.

Members of the Election Committee shall vote in their individual capacities.
4. Candidates for the office of Chief Executive may be nominated jointly by not less than 100 members of the Election Committee. Each member may nominate only one candidate.

5. The Election Committee shall, on the basis of the list of nominees, elect the Chief Executive designate by secret ballot on a one-person-one-vote basis. The specific election method shall be prescribed by the electoral law.

6. The first Chief Executive shall be selected in accordance with the “Decision of the National People’s Congress on the Method for the Formation of the First Government and the First Legislative Council of the Hong Kong Special Administrative Region”.

7. If there is a need to amend the method for selecting the Chief Executives for the terms subsequent to the year 2007, such amendments must be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the National People’s Congress for approval.
Annex II: Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and Its Voting Procedures

I. Method for the formation of the Legislative Council

1. The Legislative Council of the Hong Kong Special Administrative Region shall be composed of 60 members in each term. In the first term, the Legislative Council shall be formed in accordance with the “Decision of the National People’s Congress on the Method for the Formation of the First Government and the First Legislative Council of the Hong Kong Special Administrative Region”. The composition of the Legislative Council in the second and third terms shall be as follows:

Second term

- Members returned by functional constituencies: 30
- Members returned by the Election Committee: 6
- Members returned by geographical constituencies through direct elections: 24

Third term

- Members returned by functional constituencies: 30
- Members returned by geographical constituencies through direct elections: 30

2. Except in the case of the first Legislative Council, the above-mentioned Election Committee refers to the one provided for in Annex I of this Law. The division of geographical constituencies and the voting method for direct elections therein; the delimitation of functional sectors and corporate bodies, their seat allocation and election methods; and the method for electing members of the Legislative Council by the Election Committee shall be specified by an electoral law introduced by the Government of the Hong Kong Special Administrative Region and passed by the Legislative Council.
II. Procedures for voting on bills and motions in the Legislative Council

Unless otherwise provided for in this Law, the Legislative Council shall adopt the following procedures for voting on bills and motions:

The passage of bills introduced by the government shall require at least a simple majority vote of the members of the Legislative Council present.

The passage of motions, bills or amendments to government bills introduced by individual members of the Legislative Council shall require a simple majority vote of each of the two groups of members present: members returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee.

III. Method for the formation of the Legislative Council and its voting procedures subsequent to the year 2007

With regard to the method for forming the Legislative Council of the Hong Kong Special Administrative Region and its procedures for voting on bills and motions after 2007, if there is a need to amend the provisions of this Annex, such amendments must be made with the endorsement of a two-thirds majority of all the members of the Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the National People’s Congress for the record.
Annex III: National Laws to be Applied in the Hong Kong Special Administrative Region

The following national laws shall be applied locally with effect from 1 July 1997 by way of promulgation or legislation by the Hong Kong Special Administrative Region:

1. Resolution on the Capital, Calendar, National Anthem and National Flag of the People's Republic of China

2. Resolution on the National Day of the People's Republic of China

3. Order on the National Emblem of the People's Republic of China Proclaimed by the Central People's Government

Attached: Design of the national emblem, notes of explanation and instructions for use


5. Nationality Law of the People's Republic of China

6. Regulations of the People's Republic of China Concerning Diplomatic Privileges and Immunities
3. China, UK Reach Accord on Hong Kong Airport
Memorandum of Understanding

The representatives of the governments of the People's Republic of China and the United Kingdom of Great Britain and Northern Ireland held a friendly consultation in Beijing from 27 to 30 June 1991. The following considerations were reached by the governments of the two countries:

-- Hong Kong urgently needs a new airport in order to ensure and develop its prosperity and stability;
-- The airport project should conform to cost efficiency, and it should not create financial burden for the government of Hong Kong Special Administrative Region (SAR) of the PRC after 30 June 1997;
-- It is necessary to make practical arrangements in order to enable projects related to the new airport to proceed rapidly and effectively;

For this purpose the following understanding has been reached:

1. Between now and 30 June 1997, the British Hong Kong Government will complete the core program projects covered in an annex to the memorandum to the maximum extent possible. The British Hong Kong Government will be responsible for the construction of projects covered by this memorandum up to 30 June 1997.

2. The Chinese Government will support the construction of the new airport and other related projects. The Chinese side will, in accordance with the principles clearly defined in this memorandum, declare to interested potential investors that commitments or guarantees made by the British Hong Kong Government in connection with the airport project will continue to be effective after 1 July 1997, and will be recognized and projected by the government of the Hong Kong SAR. The Chinese Government has agreed that the Bank of China should play a proper role, for example, playing a role in loan syndicates for the airport project; Chinese construction companies may compete in investing in airport-related projects through normal practice.

3. With regard to important matters relating to the airport project that go beyond 30 June 1997, the Chinese and British Governments will carry out consultations in the spirit of cooperation and in accordance with Sino-British joint declaration. For this purpose, an airport committee will be set up under the leadership of the Sino-British Joint Liaison Group, with membership drawn equally from both sides. The committee's tasks will be as follows:

(1) The British Hong Kong Government will consult the Chinese side within the airport committee before it grants major airport-related franchises or contracts straddling 30 June 1997 or guarantees airport-related debt straddling 30 June 1997. The Chinese side will adopt a positive attitude toward such grants, contracts and guarantees. Up to one month after the British side provide details of the proposals will be allowed for discussion between the two sides in each case. Any decision will give full weight to the Chinese Government's views. The criteria in granting a franchise will [be] the profitability and efficiency of that franchise.

(2) The British side will consult the Chinese side within the airport committee before the British Hong Kong government proceeds with any major airport project other than those in the annex to this memorandum and any of the current airport core program projects in the annex for which the bulk of government expenditure will fall after 30 June 1997. Such projects will only be initiated if the two sides have reached a common view concerning them.

4. The Chinese Government will adopt a positive attitude toward necessary and reasonable government borrowing of the British Hong Kong government that must be repaid after 30 June 1997. If the total amount of debt that must be repaid after 30 June 1997 does not exceed $5 billion (Hong Kong dollar), the British Hong Kong Government will be responsible for the loan of its own accord according to its needs, and then report the matter to the Chinese Government. A loan exceeding $5 billion (Hong Kong dollars) can proceed only after both sides reach a consensus on the proposed loan.

5. Based on the above-mentioned understanding, the British Hong Kong Government will set 25 billion Hong Kong dollars as the minimum fixed target for financial reserves to be retained on 30 June 1997 for use by the Hong Kong SAR Government when arranging financial plans.
6. To facilitate the construction of the new Hong Kong airport, an airport authority and a consultative committee will be set up.

(1) The Airport Authority Ordinance will be modeled as far as possible on the Mass Transit Railway Corporation Ordinance. The British Hong Kong Government will retain power to direct the airport authority and responsibility for key areas of policy up to 30 June 1997. The British Hong Kong Government will be willing to consider and take into account the views of the Chinese side when drawing up the draft ordinance on the authority.

(2) The British Hong Kong Government is willing to appoint a Hong Kong-based individual from the Bank of China group to sit as a full member on the board of the airport authority. This member will have equal rights with the other members. The Chinese side will no doubt make some suggestions to the British Hong Kong Government as to who this member should be.

(3) The British Hong Kong Government will set up a consultative committee on the new airport and related projects. The committee may discuss any relevant matter but will have no decision-making power. It should not delay the progress of the projects.

(4) The British Hong Kong Government will inform the Chinese side of the members of the airport authority and the consultative committee whom it plans to appoint, and will be willing to listen to any views that the Chinese side may have before making a final decision on the appointments. The British Hong Kong Government is willing to consider the appointment of a vice chairman of the airport authority about two years after its establishment.

7. The governments of both countries hope to strengthen consultation and cooperation on the Hong Kong issue as 30 June 1997 draws near. As part of the effort to strengthen consultation, the Chinese foreign minister and the British foreign secretary will meet twice a year to discuss issues of common concern. The director of the Hong Kong and Macao Affairs Office under the Chinese State Council and the Hong Kong governor will also meet regularly.

This Memorandum of Understanding will take effect on the day it is signed by the heads of government of the two countries.

The above-mentioned points constitute the understanding reached by the Governments of the People’s Republic of China and the United Kingdom of Great Britain and Northern Ireland on the issues in question.

Signed in [blank space] on [blank space] in duplicate, each of which is written in both Chinese and English. Both texts will be equally valid.

For the Government of the People’s Republic of China

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

Annex: Airport core program project (first runway and associated facilities); North Lantau Expressway; West Kowloon Reclamation; West Kowloon Expressway; Western Harbor Crossing, Route 3 (part); airport railway; that part of the Central and Wanchai Reclamation that relates to the airport railway; Lantau Fixed Crossing (including rail portion and Route 3 interchange); and Tung Chung Development Phase One.

4. UNITED STATES-HONG KONG POLICY ACT OF 1992

Public Law 102-383
102d Congress

An Act

To set forth the policy of the United States with respect to Hong Kong, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “United States-Hong Kong Policy Act of 1992”.

SEC. 2. FINDINGS AND DECLARATIONS.

The Congress makes the following findings and declarations:

(1) The Congress recognizes that under the 1984 Sino-British Joint Declaration:
   (A) The People’s Republic of China and the United Kingdom of Great Britain and Northern Ireland have agreed that the People’s Republic of China will resume the exercise of sovereignty over Hong Kong on July 1, 1997. Until that time, the United Kingdom will be responsible for the administration of Hong Kong.
   (B) The Hong Kong Special Administrative Region of the People’s Republic of China, beginning on July 1, 1997, will continue to enjoy a high degree of autonomy on all matters other than defense and foreign affairs.
   (C) There is provision for implementation of a “one country, two systems” policy, under which Hong Kong will retain its current lifestyle and legal, social, and economic systems until at least the year 2047.
   (D) The legislature of the Hong Kong Special Administrative Region will be constituted by elections, and 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.
   (E) Provision is made for the continuation in force of agreements implemented as of June 30, 1997, and for the ability of the Hong Kong Special Administrative Region to conclude new agreements either on its own or with the assistance of the Government of the People’s Republic of China.

(2) The Congress declares its wish to see full implementation of the provisions of the Joint Declaration.

(3) The President has announced his support for the policies and decisions reflected in the Joint Declaration.

(4) Hong Kong plays an important role in today’s regional and world economy. This role is reflected in strong economic, cultural, and other ties with the United States that give the United States a strong interest in the continued vitality, prosperity, and stability of Hong Kong.
PUBLIC LAW 102-383—OCT. 5, 1992  106 STAT. 1449

(5) Support for democratization is a fundamental principle of United States foreign policy. As such, it naturally applies to United States policy toward Hong Kong. This will remain equally true after June 30, 1997.

(6) The human rights of the people of Hong Kong are of great importance to the United States and are directly relevant to United States interests in Hong Kong. A fully successful transition in the exercise of sovereignty over Hong Kong must safeguard human rights in and of themselves. Human rights also serve as a basis for Hong Kong's continued economic prosperity.

SEC. 3. DEFINITIONS.  

For purposes of this Act—

(1) the term "Hong Kong" means, prior to July 1, 1997, the British Dependent Territory of Hong Kong, and on and after July 1, 1997, the Hong Kong Special Administrative Region of the People's Republic of China;

(2) the term "Joint Declaration" means 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, done at Beijing on December 19, 1984; and

(3) the term "laws of the United States" means provisions of law enacted by the Congress.

TITLE I—POLICY

SEC. 101. BILATERAL TIES BETWEEN THE UNITED STATES AND HONG KONG.  

It is the sense of the Congress that the following, which are based in part on the relevant provisions of the Joint Declaration, should be the policy of the United States with respect to its bilateral relationship with Hong Kong:

(1) The United States should play an active role, before, on, and after July 1, 1997, in maintaining Hong Kong's confidence and prosperity, Hong Kong's role as an international financial center, and the mutually beneficial ties between the people of the United States and the people of Hong Kong.

(2) The United States should actively seek to establish and expand direct bilateral ties and agreements with Hong Kong in economic, trade, financial, monetary, aviation, shipping, communications, tourism, cultural, sport, and other appropriate areas.

(3) The United States should seek to maintain, after June 30, 1997, the United States consulate-general in Hong Kong, together with other official and semi-official organizations, such as the United States Information Agency American Library.

(4) The United States should invite Hong Kong to maintain, after June 30, 1997, its official and semi-official missions in the United States, such as the Hong Kong Economic & Trade Office, the Office of the Hong Kong Trade Development Council, and the Hong Kong Tourist Association. The United States should invite Hong Kong to open and maintain other official or semi-official missions to represent Hong Kong in those areas in which Hong Kong is entitled to maintain relations on its
own, including economic, trade, financial, monetary, aviation, shipping, communications, tourism, cultural, and sport areas.
(5) The United States should recognize passports and travel documents issued after June 30, 1997, by the Hong Kong Special Administrative Region.
(6) The resumption by the People's Republic of China of the exercise of sovereignty over Hong Kong after June 30, 1997, should not affect treatment of Hong Kong residents who apply for visas to visit or reside permanently in the United States, so long as such treatment is consistent with the Immigration and Nationality Act.

22 USC 5712. SEC. 102. PARTICIPATION IN MULTILATERAL ORGANIZATIONS, RIGHTS UNDER INTERNATIONAL AGREEMENTS, AND TRADE STATUS.

It is the sense of the Congress that the following, which are based in part on the relevant provisions of the Joint Declaration, should be the policy of the United States with respect to Hong Kong after June 30, 1997:
(1) The United States should support Hong Kong's participation in all appropriate multilateral conferences, agreements, and organizations in which Hong Kong is eligible to participate.
(2) The United States should continue to fulfill its obligations to Hong Kong under international agreements, so long as Hong Kong reciprocates, regardless of whether the People's Republic of China is a party to the particular international agreement, unless and until such obligations are modified or terminated in accordance with law.
(3) The United States should respect Hong Kong's status as a separate customs territory, and as a contracting party to the General Agreement on Tariffs and Trade, whether or not the People's Republic of China participates in the latter organization.

22 USC 5713. SEC. 103. COMMERCE BETWEEN THE UNITED STATES AND HONG KONG.

It is the sense of the Congress that the following, which are based in part on the relevant provisions of the Joint Declaration, are and should continue after June 30, 1997, to be the policy of the United States with respect to commerce between the United States and Hong Kong:
(1) The United States should seek to maintain and expand economic and trade relations with Hong Kong and should continue to treat Hong Kong as a separate territory in economic and trade matters, such as import quotas and certificates of origin.
(2) The United States should continue to negotiate directly with Hong Kong to conclude bilateral economic agreements.
(3) The United States should continue to treat Hong Kong as a territory which is fully autonomous from the United Kingdom and, after June 30, 1997, should treat Hong Kong as a territory which is fully autonomous from the People's Republic of China with respect to economic and trade matters.
(4) The United States should continue to grant the products of Hong Kong nondiscriminatory trade treatment (commonly referred to as "most-favored-nation status") by virtue of Hong Kong's membership in the General Agreement on Tariffs and Trade.
(5) The United States should recognize certificates of origin for manufactured goods issued by the Hong Kong Special Administrative Region.

(6) The United States should continue to allow the United States dollar to be freely exchanged with the Hong Kong dollar.

(7) United States businesses should be encouraged to continue to operate in Hong Kong, in accordance with applicable United States and Hong Kong law.

(8) The United States should continue to support access by Hong Kong to sensitive technologies controlled under the agreement of the Coordinating Committee for Multilateral Export Controls (commonly referred to as "COCOM") for so long as the United States is satisfied that such technologies are protected from improper use or export.

(9) The United States should encourage Hong Kong to continue its efforts to develop a framework which provides adequate protection for intellectual property rights.

(10) The United States should negotiate a bilateral investment treaty directly with Hong Kong, in consultation with the Government of the People's Republic of China.

(11) The change in the exercise of sovereignty over Hong Kong should not affect ownership in any property, tangible or intangible, held in the United States by any Hong Kong person.

SEC. 104. TRANSPORTATION.

It is the sense of the Congress that the following, which are based in part on the relevant provisions of the Joint Declaration, should be the policy of the United States after June 30, 1997, with respect to transportation from Hong Kong:

(1) Recognizing Hong Kong's position as an international transport center, the United States should continue to recognize ships and airplanes registered in Hong Kong and should negotiate air service agreements directly with Hong Kong.

(2) The United States should continue to recognize ships registered by Hong Kong.

(3) United States commercial ships, in accordance with applicable United States and Hong Kong law, should remain free to port in Hong Kong.

(4) The United States should continue to recognize airplanes registered by Hong Kong in accordance with applicable laws of the People's Republic of China.

(5) The United States should recognize licenses issued by the Hong Kong to Hong Kong airlines.

(6) The United States should recognize certificates issued by the Hong Kong to United States air carriers for air service involving travel to, from, or through Hong Kong which does not involve travel to, from, or through other parts of the People's Republic of China.

(7) The United States should negotiate at the appropriate time directly with the Hong Kong Special Administrative Region, acting under authorization from the Government of the People's Republic of China, to renew or amend all air service agreements existing on June 30, 1997, and to conclude new air service agreements affecting all flights to, from, or through the Hong Kong Special Administrative Region which
PUBLIC LAW 102–383—OCT. 5, 1992

do not involve travel to, from, or through other parts of the
People's Republic of China.

(8) The United States should make every effort to ensure
that the negotiations described in paragraph (7) lead to pro-
competitive air service agreements.

22 USC 5715. SEC. 105. CULTURAL AND EDUCATIONAL EXCHANGES.

It is the sense of the Congress that the following, which are
based in part on the relevant provisions of the Joint Declaration,
are and should continue after June 30, 1997, to be the policy
of the United States with respect to cultural and educational
exchanges with Hong Kong:

(1) The United States should seek to maintain and expand
United States-Hong Kong relations and exchanges in culture,
education, science, and academic research. The United States
should encourage American participation in bilateral exchanges
with Hong Kong, both official and unofficial.

(2) The United States should actively seek to further United
States-Hong Kong cultural relations and promote bilateral
exchanges, including the negotiating and concluding of appro-
priate agreements in these matters.

(3) Hong Kong should be accorded separate status as a
full partner under the Fulbright Academic Exchange Program
(apart from the United Kingdom before July 1, 1997, and apart
from the People's Republic of China thereafter), with the con-
tinuation or establishment of a Fulbright Commission or func-
tionally equivalent mechanism.

(4) The United States should actively encourage Hong Kong
residents to visit the United States on nonimmigrant visas
for such purposes as business, tourism, education, and scientific
and academic research, in accordance with applicable United
States and Hong Kong laws.

(5) Upon the request of the Legislative Council of Hong
Kong, the Librarian of Congress, acting through the Congress-
ional Research Service, should seek to expand educational
and informational ties with the Council.

TITLE II—THE STATUS OF HONG KONG
IN UNITED STATES LAW

22 USC 5721. SEC. 201. CONTINUED APPLICATION OF UNITED STATES LAW.

(a) IN GENERAL.—Notwithstanding any change in the exercise
of sovereignty over Hong Kong, the laws of the United States
shall continue to apply with respect to Hong Kong, on and after
July 1, 1997, in the same manner as the laws of the United
States were applied with respect to Hong Kong before such date
unless otherwise expressly provided by law or by Executive order
under section 202.

(b) INTERNATIONAL AGREEMENTS.—For all purposes, including
actions in any court in the United States, the Congress approves
the continuation in force on and after July 1, 1997, of all treaties
and other international agreements, including multilateral con-
ventions, entered into before such date between the United States
and Hong Kong, or entered into before such date between the
United States and the United Kingdom and applied to Hong Kong,
unless or until terminated in accordance with law. If in carrying
out this title, the President determines that Hong Kong is not legally competent to carry out its obligations under any such treaty or other international agreement, or that the continuation of Hong Kong’s obligations or rights under any such treaty or other international agreement is not appropriate under the circumstances, such determination shall be reported to the Congress in accordance with section 301.

SEC. 202. PRESIDENTIAL ORDER.

(a) PRESIDENTIAL DETERMINATION.—On or after July 1, 1997, whenever the President determines that Hong Kong is not sufficiently autonomous to justify treatment under a particular law of the United States, or any provision thereof, different from that accorded the People’s Republic of China, the President may issue an Executive order suspending the application of section 201(a) to such law or provision of law.

(b) FACTOR FOR CONSIDERATION.—In making a determination under subsection (a) with respect to the application of a law of the United States, or any provision thereof, to Hong Kong, the President should consider the terms, obligations, and expectations expressed in the Joint Declaration with respect to Hong Kong.

(c) PUBLICATION IN FEDERAL REGISTER.—Any Executive order issued under subsection (a) shall be published in the Federal Register and shall specify the law or provision of law affected by the order.

(d) TERMINATION OF SUSPENSION.—An Executive order issued under subsection (a) may be terminated by the President with respect to a particular law or provision of law whenever the President determines that Hong Kong has regained sufficient autonomy to justify different treatment under the law or provision of law in question. Notice of any such termination shall be published in the Federal Register.

SEC. 203. RULES AND REGULATIONS.

The President is authorized to prescribe such rules and regulations as the President may deem appropriate to carry out this Act.

SEC. 204. CONSULTATION WITH CONGRESS.

In carrying out this title, the President shall consult appropriately with the Congress.

TITLE III—REPORTING PROVISIONS

SEC. 301. REPORTING REQUIREMENT.

Not later than March 31, 1993, March 31, 1995, March 31, 1997, March 31, 1998, March 31, 1999, and March 31, 2000, the Secretary of State shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report on conditions in Hong Kong of interest to the United States. This report shall cover (in the case of the initial report) the period since the date of enactment of this Act or (in the case of subsequent reports) the period since the most recent report pursuant to this section and shall describe—

1) significant developments in United States relations with Hong Kong, including a description of agreements that have entered into force between the United States and Hong Kong;
(2) other matters, including developments related to the change in the exercise of sovereignty over Hong Kong, affecting United States interests in Hong Kong or United States relations with Hong Kong;
(3) the nature and extent of United States-Hong Kong cultural, education, scientific, and academic exchanges, both official and unofficial;
(4) the laws of the United States with respect to which the application of section 201(a) has been suspended pursuant to section 202(a) or with respect to which such a suspension has been terminated pursuant to section 202(d), and the reasons for the suspension or termination, as the case may be;
(5) treaties and other international agreements with respect to which the President has made a determination described in the last sentence of section 201(b), and the reasons for each such determination;
(6) significant problems in cooperation between Hong Kong and the United States in the area of export controls;
(7) the development of democratic institutions in Hong Kong; and
(8) the nature and extent of Hong Kong's participation in multilateral forums.

SEC. 302. SEPARATE PART OF COUNTRY REPORTS.
Whenever a report is transmitted to the Congress on a country-by-country basis there shall be included in such report, where applicable, a separate subreport on Hong Kong under the heading of the state that exercises sovereignty over Hong Kong. The reports to which this section applies include the reports transmitted under—
(1) sections 116(d) and 502B(h) of the Foreign Assistance Act of 1961 (relating to human rights);
(2) section 181 of the Trade Act of 1974 (relating to trade barriers); and
(3) section 2202 of the Export Enhancement Act of 1988 (relating to economic policy and trade practices).


LEGISLATIVE HISTORY—S. 1731:
May 21, considered and passed Senate.
Aug. 11, considered and passed House, amended.
Sept. 17, Senate concurred in House amendments.
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<th>ISBN</th>
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<th>Pages</th>
<th>Price</th>
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<tr>
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