

ANNEX A

1968 AGREEMENT BETWEEN THE HONG KONG GOVERNMENT
AND THE MAIN STAFF ASSOCIATIONS

1. The following is an interpretation of certain words and expressions used in this document:

"Government" means the Governor, acting where appropriate after taking the advice of the Executive Council and/or with the consent of the Legislative Council or any Standing Committee thereof save where the context otherwise requires.

"Governor" means the Governor of Hong Kong and includes the acting Governor and also includes the Governor's Deputy exercising any power which he is duly appointed to exercise under the Royal Letters Patent constituting the office of Governor and Commander-in-Chief of the Colony of Hong Kong and its Dependencies.

"Governor-in-Council" means the Governor acting with the advice of the Executive Council, but not necessarily in accordance with such advice nor necessarily in such Council assembled.

"Colonial Secretary", "Deputy Colonial Secretary" and "Establishment Officer" mean the persons for the time being holding these offices in either a substantive or acting capacity.

"main Staff Associations" and "Staff Associations" and "Associations" and "Association" mean the Hong Kong Chinese Civil Servants' Association, the Association of European Civil Servants of Hong Kong and the Senior Non-Expatriate Officers' Association, or any one of these three Associations, or any other Association that may be granted central recognition. Central recognition is granted by the Colonial Secretary and may be withdrawn by the Colonial Secretary.

"Senior Civil Service Council" and "Council" mean the Council set up in accordance with Clause 2(1) of this Agreement with the Constitution contained in Appendix A to this Agreement, unless the context otherwise requires.

2. (1) The Government undertakes not to make any considerable change in conditions of service which affects a substantial part of the Service as a whole, or of the members of one or more main Staff Associations, without prior consultation with the appropriate Associations or Association. To this end machinery in the form of a Senior Civil Service Council, with the Constitution contained in Appendix A to this Agreement, will be set up with the object of

(a) discussing, in a spirit of goodwill, any matters which fall within the scope of this Agreement, or which may be more specifically set out in the Constitution of the Senior Civil Service Council, and

(b) reaching agreement if possible between the Official and Staff Sides of the Council on any such matter generally, and in particular on any changes in conditions of service whether proposed officially or by the Associations, jointly or severally.

(2) The Government further undertakes to adhere to any agreement that has been reached between the Official and Staff Sides of the Council, subject to any decision thereon of the Governor-in-Council and/or the Legislative Council or the Finance Committee thereof whenever the Governor considers that reference to any of these bodies is necessary.

(3) The Government also undertakes that matters on which agreement cannot be reached after full and proper discussion in the Council may be referred to an independent Committee of Inquiry, to be set up in the manner described in Clause 6 of this Agreement, subject to the conditions and limitations set out in Clauses 6 and 7 of this Agreement.

3. The Associations on their part undertake to be bound by any decision reached by agreement in the Council and any recommendation of a Committee of Inquiry to the extent that it is accepted by Government.

4. Informal consultation may take place at any time between the Staff Associations and Establishment Branch Officers, the Establishment Officer and the Deputy Colonial Secretary.

5. Committees of the Senior Civil Service Council with representation therein of the Official Side and the Association or Associations concerned may be appointed in such manner as the Council determines to

Annex A contd.

consider particular matters after they have been raised in the Council. Any agreement reached in any Committee shall be subject to endorsement by the Council but may be endorsed in the Council without the necessity of representatives of Associations that are not concerned being present.

6. (1) If the Chairman of the Council and the leader or leaders of the Staff Side jointly declare that there are no prospects of reaching agreement on any matter within the scope of Clause 7(1) of this Agreement, an independent Committee of Inquiry will be appointed by the Governor, provided the Governor so decides or the Associations so request, and provided the matter in dispute is not one which, in the opinion of the Governor:—

- (a) is trivial; or
- (b) is a matter of settled public policy; or
- (c) affects the security of the Colony;

and provided further that the Governor may at any time, if he considers that the prospects for reaching agreement have materially improved, direct that the matter in dispute be referred back to the Council for reconsideration.

(2) The Associations will have the right to state a case to the Governor in rebuttal of triviality or of a matter being regarded as one of settled public policy, but after consideration thereof the Governor's decision shall be final. The Governor's decision that a matter affects the security of the Colony will not be open to question.

(3) The Establishment Officer and the Associations will co-operate with a view to the appointment of a Committee of Inquiry within two months after a decision being made by the Governor that such a Committee should be appointed.

7. (1) The matters referable to a Committee of Inquiry shall be restricted to salaries (other than Scale 1, Police Force Rank and File, and superscale), allowances, weekly hours of work, leave-rates (for vacation, casual and sick leave), rent for quarters, house allowances, eligibility for housing and charges for medical and dental treatment and the effective date of any alteration in these conditions of service.

(2) Matters which are specifically not referable to a Committee of Inquiry are salaries and other benefits of Scale 1 Minor Staff and Police Rank and File, pensions and retirement allowance which are governed by Ordinance, the grant or refusal of pensionable status, numbers or complements of staff, actual times of attendance of staff, disciplinary questions, and matters concerning individual officers and individual grades.

(3) The salaries, allowances, hours of work, and leave of superscale officers will not be referred to a Committee of Inquiry; but this restriction shall not operate in any way to the detriment of proper consideration of any issues concerning lower salary scales either in deliberations of the Council or by any Committee of Inquiry.

8. The Terms of Reference of a Committee of Inquiry will, if possible, be agreed between the Chairman of the Council and the leader or leaders of the staff side at a meeting of the Senior Civil Service Council. In the event of inability to agree, the Government will put forward one version which, together with the Staff Associations' version or versions, will together constitute the Terms of Reference; provided that a Committee will not be entitled to consider issues beyond the scope of Clauses 6 and 7.

9. (1) A Committee of Inquiry will consist of a Chairman and two Members appointed by the Governor.

(2) The Associations will have the right:—

- (a) to offer suggestions for a Chairman, and to express an opinion on the acceptability of a Chairman proposed by the Governor;
- (b) to propose one Member of the Committee for the Governor's consideration and to make representations to the Governor should it be intended not to accept the person proposed, and in this latter event to make further proposals;
- (c) to express an opinion on the acceptability of the third Member who will be nominated by the Governor.

Annex A contd.

(3) A person who has a direct personal interest in the subject matter of the Inquiry, separate from his interest as a member of the public at large, will not be appointed as the Chairman or as a Member of a Committee of Inquiry.

(4) The Secretary and secretarial staff to the Committee will be provided by Government, which will also meet any other expenses necessarily incurred by the Committee, subject to the proviso contained in sub-clause 9(6) below.

(5) In the event that the Associations cannot agree on a Member to be proposed by them, the Governor will accept for first consideration the person nominated by any two of them.

(6) In the event that the Associations desire to propose a Member from overseas who is otherwise acceptable to the Governor, the Associations shall bear the cost of his passages to and from the Colony, and his accommodation therein, unless the Government agrees that an overseas Member is desirable and accepts these charges.

10. A Committee of Inquiry will examine any matter set before it in accordance with Clause 8 of this Agreement and may call for any relevant information it requires from either the Colonial Secretary or the Associations or any one of them, who shall furnish the information desired to the best of their reasonable ability. On completion of the examination of any matter included in its Terms of Reference it will make its report as set out in Clause 11(1).

11. (1) The Report of a Committee of Inquiry will be submitted to the Governor, copies being made available simultaneously to the Associations, in confidence if necessary in the first instance.

(2) The recommendations of a Committee of Inquiry (including recommendations concerning dates of implementation) will not be subject to further consultation under Clause 2 of this Agreement but will be subject to any decision thereon by the Governor-in-Council and/or the Legislative Council or the Finance Committee thereof whenever the Governor considers that reference to any of those bodies is necessary. In matters not requiring such reference, the recommendations of the Committee of Inquiry will be adhered to provided they are not unacceptable to both the Government and all the Staff Associations concerned.

(3) Recommendations of a Committee of Inquiry which are accepted by Government, or are rejected or modified after reference to the Governor-in-Council and/or the Legislative Council or the Finance Committee thereof, shall not again be considered in the Council within twelve months without leave of the Colonial Secretary so to do: provided that this prohibition shall not be held to extend to discussion of the detailed machinery by which any recommendation or modified recommendation may best be put into effect.

12. A Salaries Commission shall be considered to be a Committee of Inquiry for the purposes of this Agreement, and the Report of a Salaries Commission shall be dealt with in the same manner and under the same conditions as the Report of a Committee of Inquiry, as laid down in Clause 11.

13. As regards matters that are not referable to a Committee of Inquiry, if after discussions in the Senior Civil Service Council it is found impossible to meet the views of the Associations at official level, reasons will be given and the official view will be explained to the Associations. In such cases, if the subject matter under discussion falls to be determined by the Governor-in-Council, the Legislative Council or the Finance Committee thereof, or the Secretary of State, such views as the Associations may wish to express will be forwarded to any of these authorities which considers the matter.

14. The terms of this Agreement shall be reviewed initially after one year and thereafter at periods of not less than every two years by the Senior Civil Service Council, who may then recommend any modifications it considers desirable. Minor modifications may also be recommended by agreement in the Council at all times, but all modifications will be subject to the approval of the Government.

15. (1) Notwithstanding the terms of this Agreement, the Government may, at any time, if satisfied that the public interest so requires, make or refuse to make any change in conditions of service whether or not the main Staff Associations have been consulted and whether or not they have agreed thereto.

Annex I, contd.

(2) The Government shall, when exercising the right referred to in Clause 15(1), inform the main Staff Associations of the reasons for such exercise. The Staff Associations shall comply with any requirement as to secrecy which the Government may impose when supplying this information.

(3) The right to alter, or refuse to alter, conditions of service referred to in Clause 15(1) comprises also the right to make such amendments to Establishment Regulations, and any other Regulations issued by and on behalf of the Government, as may be necessary to give effect to any exercise of the right referred to in Clause 15(1).

16. Nothing in this Agreement shall affect any rights of petition conferred by Colonial Regulations.

Made this seventeenth day of June 1968.

for and on behalf of the Government

Geoffrey Cadzow Hamilton,
Deputy Colonial Secretary

for and on behalf of the Associations

CHUNG Wah-leung,
President, Hong Kong Chinese Civil Servants' Association

CHAN Yuan-lin,
Secretary, Hong Kong Chinese Civil Servants' Association

Thomas Alan Hunter Hodson,
President, Association of European Civil Servants

Michael Ronald George,
Secretary, Association of European Civil Servants

Eric Peter Ho,
Chairman, Senior Non-Expatriate Officers' Association

Christopher WONG Kim-kam,
Secretary, Senior Non-Expatriate Officers' Association

APPENDIX A

CONSTITUTION OF THE SENIOR CIVIL SERVICE COUNCIL

MEMBERSHIP

1. The Council shall consist of not more than 16 members (including two secretaries) to be appointed from time to time as to a maximum of six official members by the Colonial Secretary and as to a maximum of ten (including a staff side secretary) by the Staff Associations from amongst their members. All appointments and terminations of appointment will be notified to both secretaries by the appointing authority concerned.

OFFICERS

2. **Chairman.** The Chairman of the Council shall be an official member of the Council, appointed by the Colonial Secretary. The staff members of the Council may nominate a leader of the Staff Side, or each Association may nominate a leader as preferred.

3. **Secretaries.** There shall be two joint Secretaries to the Council. One secretary shall be an official member of the Council, nominated by the Chairman, and one secretary shall be a staff member of the Council nominated by the Associations under whatever arrangements they determine. The Secretaries shall be responsible for arranging meetings, settling agendas, circulating papers etc. The official Secretary will be responsible for the production of minutes which will be submitted to the Associations for comment. If an agreed minute cannot be arrived at, separate wordings will be recorded.

4. **Quorum.** A quorum shall consist of not less than 3 official members and not less than 1 staff member from each Association which has not indicated that it does not desire to be represented at the meeting.

5. (1) **Meetings, etc.** Meetings of the Council may be held as often as necessary. If the Chairman or the leader or leaders of the Staff Side request the official Secretary to convene a meeting, such meeting shall be convened if at all possible within twenty-one days of such request being received. The person requesting the meeting shall at the time of the request provide both secretaries with a list of items to be placed on the agenda together, where available, with his submissions thereon in sufficient copies for distribution. Copies of these submissions will be made available by the official Secretary to all members at the time of convening the meeting.

(2) An agenda and any papers connected therewith shall be circulated to all members not less than 14 days before the meeting of Council. Business not on the agenda shall be taken only with the agreement of both the Chairman and the leader or leaders of the Staff Side.

6. The Council may draw up such standing orders and rules for the conduct of its business, not incompatible with the 1958 Agreement or this Constitution as it may deem necessary.

OBJECTS

7. **General objects.** The objects of the Council shall be to attain the greatest measure of co-operation between the Government in its capacity as employer, and the general body of civil servants in matters affecting the Civil Service, with a view to improving the efficiency of the Public Service, and securing the well-being of those employed; to provide machinery for dealing with grievances, and generally to bring together the experience and different points of view of representatives of the Civil Service.

FUNCTIONS

8. The scope of the Council shall be as described in Clause 2(1) of the 1958 Agreement as amended from time to time, and its functions shall include the following:

- (a) The provision of machinery for utilizing the ideas and experience of the staff in matters relating to conditions of service.

Annex B contd.

Appendix A contd.

- (b) The provision of opportunities for the staff to play a greater part in the formation of the policies governing the conditions under which their duties are carried out, and in determining the most appropriate methods of applying these policies.
- (c) Discussion of the general principles governing conditions of service, e.g. hours of work, remuneration, promotion, discipline, etc.; provided that:—
 - (i) The discussion of promotion shall be restricted to the general aspects of the subject and the principles upon which promotions in general should rest. In no circumstances shall individual cases be taken into consideration.
 - (ii) It shall be open to the Council to discuss the general principles underlying disciplinary action, but there shall be no discussion of individual cases.
- (d) The consideration of methods of encouraging enhanced proficiency amongst civil servants, and their further training in duties appropriate to their grades in the Service.
- (e) The consideration of methods of improving organisational efficiency and of providing opportunities for the joint study of suggestions made by the staff to this end.
- (f) The provision of a means for the joint study of proposed legislation, insofar as it has a bearing upon the position of civil servants in relation to their employment.

COMMITTEES

9. The Council may appoint standing committees, special committees or ad hoc committees as it may determine and may refer particular matters to such Committees for consideration after they have been raised in the Council.

10. Any agreement reached in any Committee shall be presented to the Council for endorsement, in accordance with the provisions of Clause 5 of the Agreement. Where no agreement has been reached on any matter requiring agreement, separate reports reflecting the differing opinions held shall be made to the Council.

11. The Council may by agreement invite observers, invite the attendance of special advisers and may appoint on committees such persons not necessarily being members of the Council as may serve the special purposes of the Council.

DECISIONS OF THE COUNCIL

12. (1) Nothing shall be held to be decided in the Council except by agreement between the Official Side and the representatives of each of these Associations concerned in the matter under consideration. For this purpose, the agreement or otherwise of the Official Side shall be notified to the Council by the Chairman; and for each of the Associations by its leader or by one spokesman nominated by the Association to the Chairman for this purpose. A notification that the Official Side or one or more Association does not desire to express agreement or disagreement; or in the circumstances that one or more Association, not being concerned, is not represented at the meeting; shall not affect any agreement reached by the other parties.

(2) Where no agreement is reached, a brief statement reflecting the differing views expressed shall be recorded in the minutes in lieu of a decision.

(3) Provisional agreement 'ad referendum' may be notified to the Council by the Chairman or by Association spokesman. In this event, the person notifying such agreement shall confirm or withdraw the provisional agreement recorded with all reasonable speed; but until confirmation or withdrawal has been notified, the matter shall be regarded as remaining undecided.

PUBLICATION OF PROCEEDINGS

13. Statements of the deliberations of the Council and any decisions or agreements reached at Council meetings may be issued under the authority of the Council to any member of the Public Service who is concerned, and shall be as full and informative as possible. No statement of proceedings in the Council shall be made public or conveyed to any member of the general public not being a public servant concerned, or to the Press, except with the agreement of the Council and the approval of the Colonial Secretary.

MINUTES

14. The Council shall keep minutes of its proceedings in such manner as it shall determine, subject to the provisions of paragraph 3 of this Constitution.

AMENDMENT OF THE CONSTITUTION

15. The constitution of the Council may be amended by agreement in the Council, subject to the covering approval of the Colonial Secretary being obtained before the amendment is brought into effect. Notice of any proposed amendment of the constitution of the Council must be given and circulated to the members of the Council at least one month before the meeting at which it is to be discussed.