



Treaty Series No. 9 (1949)

## Exchanges of Notes

between His Majesty's Government in the  
United Kingdom of Great Britain and Northern Ireland  
and the Government of the Chinese Republic  
for the Prevention of Smuggling between  
Hong Kong and Chinese Ports

[ with Annexes and Maps ]

Nanking, 12th January and 18th October, 1948

*Presented by the Secretary of State for Foreign Affairs to Parliament  
by Command of His Majesty*

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**EXCHANGES OF NOTES BETWEEN HIS MAJESTY'S GOVERNMENT  
IN THE UNITED KINGDOM OF GREAT BRITAIN AND  
NORTHERN IRELAND AND THE GOVERNMENT OF THE  
CHINESE REPUBLIC FOR THE PREVENTION OF SMUGGLING  
BETWEEN HONG KONG AND CHINESE PORTS**

*Nanking, 12th January and 18th October, 1948*

No. 1

*The Chinese Minister for Foreign Affairs to His Majesty's  
Ambassador at Nanking*

*The Ministry of Foreign Affairs,  
Republic of China,*

Your Excellency,

*Nanking, 12th January, 1948.*

I HAVE the honour to inform you that the discussions between the Chinese Maritime Customs and the Government of Hong Kong concerning the prevention of smuggling between Hong Kong and Chinese ports have resulted in an agreement, the provisions of which are annexed hereto.

I have the honour to state that the Chinese Government approve of the arrangements set forth in the Annex and to propose that, if His Majesty's Government in the United Kingdom likewise concur in these provisions, the present note together with your Excellency's reply be regarded as constituting an agreement between the two Governments.

I avail, &c.

(Sd.) WANG SHIH-CHIEH.

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ANNEX

1. The Government of Hong Kong (hereinafter called "the Government") will submit to the Legislative Council of Hong Kong legislation the objects of which shall be to restrict the loading of goods intended to be exported to China as follows:—

(a) Loading of vessels of two hundred net registered tons and upwards shall be restricted to any point within the Port of Victoria;

- (b) Loading of vessels of less than two hundred net registered tons shall be restricted to either the Junk Anchorage at West Point (being the Anchorage defined in Part I of Table S of the Regulations made under the Merchant Shipping Ordinance, 1899), such portion of the Yaumati Typhoon Shelter as the Harbour Master of Hong Kong may direct, or the Port of Taipo;
- (c) Anything hereinbefore contained in this paragraph notwithstanding, the Harbour Master in his discretion shall have the right to permit any vessel to load elsewhere in Hong Kong waters, and in any case in which such permission is given by him he shall as soon as may be so inform the Chinese Maritime Customs (hereinafter called "the Customs") and the Customs shall have the liberty in any such case by tally to check the loading of any goods in respect of which the exporter proposes to pay or has requested the assessment in Hong Kong of customs duty which would, upon importation into China of any commodity, become payable to the Customs (hereinafter called "Chinese duty").

2. The Customs shall be at liberty to establish within Hong Kong centres at which Chinese duty may be paid or assessed in advance in respect of commodities about to be exported to China. Payment or assessment of Chinese duty at any centre so established shall be entirely at the option of the intended exporter of the goods concerned and the Customs will take every care to ensure that this fact is known to any such intended exporter. The Customs will supply any person so paying Chinese duty in Hong Kong with such documents and will take such action within its own organisation as will ensure that the goods concerned are released with a minimum of delay upon arrival at their port of destination in China. The Customs will be at liberty to establish inspection centres as provided in this paragraph in such premises as it may be able to arrange adjacent to the Shelter and Anchorage mentioned in sub-paragraph (b) of paragraph 1, and at such centres and at such other centres as may be agreed to inspect goods in respect of which the exporter proposes to pay or has requested the assessment of Chinese duty in Hong Kong. The Customs shall be at liberty to maintain, for the purpose only of checking the loading of goods in respect of which Chinese duty has been paid or assessed in Hong Kong, a staff of checkers at the Shelter and Anchorage aforesaid, which shall not, without the prior permission in writing of his Excellency the Governor of Hong Kong, exceed a total of forty persons together with a reasonable number of foremen, as may be approved by his Excellency the Governor of Hong Kong. In addition the Customs may maintain for the purpose of checking loads into vessels of two hundred net registered tons and upwards of goods in respect of which Chinese duty has been paid or assessed in Hong Kong such reasonable number of checkers and foremen as may be approved by his Excellency the Governor of Hong Kong. Checkers and foremen will be at liberty to go on board any vessel where necessary for the purpose aforesaid but their duties shall be in the nature of tallying only and shall be carried out in such manner as not to interfere with or hinder the loading of cargo; and more detailed examination must be made in the Customs' centres when duty is being assessed. Every person engaged in checking cargo on behalf of the Customs shall be provided with an identification card to which shall be annexed his photograph, such card to be authenticated by the signature of the local Commissioner of Customs or his Deputy. Nothing in this agreement shall be construed as authorising any officer or other employee of the Customs to enter upon any private premises without the consent of the owner thereof.

3. The Government will instruct the Harbour Master to assist the Customs as far as possible by refusing clearance of vessels from Hong Kong for any port in China save those ports on a list to be agreed to between the Customs and the Harbour Master, but such instructions shall be discretionary only and may be varied or revoked at any time either generally or in specific instances. Where sufficient evidence is forthcoming that vessels which were cleared from Hong Kong for a port in China failed without sufficient justification to proceed to such port, proceedings for penalty will be normally instituted when such vessel returns to Hong Kong. Vessels of less than two hundred net registered tons clearing from Hong Kong for a port in China will be advised, unless the Customs otherwise requests, to call at one of the Chinese Customs' island stations in the vicinity of Hong Kong. Such legislation as may be necessary for the carrying into effect of this paragraph will be submitted by the Government to the Legislative Council of Hong Kong in due course.

4. The Government hereby grants to the Customs liberty to enter upon and patrol those areas in Hong Kong waters described in the Schedule appended hereto (hereinafter called "prohibited areas") and therein to stop any vessel for the purpose of examining her papers; if it is found that any such vessel which is carrying cargo has not been duly cleared from a port in Hong Kong the Customs shall, unless such vessel is allowed to proceed on her voyage, place such vessel in the custody of the nearest or most convenient Hong Kong authority. The Government will submit to the Legislative Council of Hong Kong legislation necessary for the purpose of giving effect to this paragraph, including the prohibition of the entry into a prohibited area of any cargo-carrying vessel which has not been duly cleared from a port in Hong Kong. Nothing in this paragraph shall be deemed to impose upon the Government any liability to concede to the Customs any right of search, confiscation, detention or fine or any right which it would be a breach of international law for the Government to concede or the Customs to exercise.

5. The Government will from time to time consider the question of prohibiting the use for the purpose of carrying cargo of vessels licensed as Class IV under Table T of the Regulations under the Merchant Shipping Ordinance, 1899, having regard to the needs of Hong Kong and the service rendered to Hong Kong by such vessels as cargo-carriers.

6. The Government will consider what measures may be practicable for directing that export of goods from Hong Kong to China across the northern land frontier shall take place only at Sha Tau Kok, at a point opposite Ling Tong, at the point where the Kowloon-Canton road crosses the frontier and at Lowu railway bridge and at any other points which may be agreed upon and towards the hindrance or prevention of exports at other points on such frontier.

7. Nothing in these provisions shall apply to goods which are intended to be exported to China by air; no officer shall be stationed by the Customs at Kai Tak Aerodrome and the officer at present stationed there shall be withdrawn.

8. The Customs and the Superintendent of Imports and Exports of Hong Kong will each of them supply to the other any information which they may respectively acquire which, in their respective opinions, might be of assistance to the other in the prevention and detection of the smuggling of narcotics and dutiable commodities, or of the exportation or importation, as the case may be, of prohibited exports or imports.

9. Customs arrangements in respect of goods being transported on the Kowloon-Canton railway shall as heretofore be the subject of agreement between the Government and the Ministry of Communications of the Republic of China, but payment in Hong Kong of duty due to the Customs shall by the terms of any such agreement remain optional except in so far as assistance may lawfully be given to the Customs by virtue of any Ordinance, rules or other laws relating to the said Railway for the time being in force in Hong Kong, or by contractual stipulation.

10. During the continuance of this agreement the person from time to time appointed to the office of Commissioner of the Chinese Maritime Customs in Hong Kong (and also all Departmental Commissioners in Hong Kong) shall be of British nationality and shall be persons acceptable to the Government.

11. In this agreement the word "vessel" shall include junks, lighters, boats and craft of any kind which are capable of being used for the purpose of carrying cargo.

12. This agreement shall come into force at a date not later than 20th January, 1948, to be determined and notified by his Excellency the Governor of Hong Kong and shall remain in force for the space of one year from the commencement thereof. Thereafter it shall continue in force until three calendar months after written notice of termination shall have been given by one contracting Government to the other.

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#### THE SCHEDULE .

1. Deep Bay Area: That part of the waters of Deep Bay bounded on the North by the shores of that bay and on the South by a line drawn from a point 225° distant 1.5 miles from South-West Point to a point where the frontier line meets the shore of Deep Bay as the same is delineated on the plan annexed hereto.

2. Mirs Bay Area: The waters of Starling Inlet and that part of the waters of Mirs Bay lying between the shores of Mirs Bay on the North and East and a line commencing at the northern-most point of Robinson Island, and thence to a point 000° distant 0.5 miles from the commencing point, thence 086° to a point 270° distant 1.0 miles from Albion Point, thence 126° to a point 063° 0.8 miles from the eastern-most point of Ping Chau Island, thence 180° to a point 270° distant 2.7 miles from Mirs Point, thence 135° to a point where this line meets the eastern limits of Hong Kong waters as the same is delineated on the plan annexed hereto.

照會

查關於防止香港與中國港口間之走私一事，中國海關與香港政府間商討之結果，業已成立協定，茲檢閱該項協定，照請

貴大使查照。

本部長茲謹陳述：中國政府對於所附該項協定內所載辦法，予以核准；並建議：倘英王陛下聯合王國政府對其規定亦表贊同，本照會及貴大使之覆照，即視為構成兩國政府間之協定。

本部長順回

貴大使重表崇高之敬意。

此致

英王陛下駐中華民國特命全權大使施諦文爵士閣下。

王 若 惠

中華民國 三 十 七 年 一 月 十二日於南京

附件

一、香港政府（以下簡稱「政府」）將向香港參議會提出法案，對擬予運往中國貨物之裝運，加以限制，其辦法如下：

(甲) 船隻註冊淨噸數在二百噸及二百噸以上者，其裝運將限於維多利亞港口以內之任何地點；

(乙) 船隻註冊淨噸數在二百噸以下者，其裝運將限於西環民船碇泊所（即依照一八九九年商船法所定規則中S表第一節內所指之碇泊所），或由香港港務長在油蔴地避風塘所指定之地區，或大埔港口；

(丙) 除本項上述規定外，港務長有權自由決定准許任何船隻在香港領水內其他地點裝運，惟遇有給予此項准許之情形時，該港務長應儘速通知中國海關（以下簡稱「海關」），海關得在任何此種情形下，對於凡於輸入中國國境時應向海關繳納關稅（以下簡稱「中國關稅」）之任何貨物，就其出口商擬在香港納稅或已申請在香港估定稅額者，有核對查驗其裝運之自由。

二、海關得在香港境內自由指定地點，對於行將輸往中國之貨物，預予徵收



有海關執行查驗貨物之人員，須備具身份證明書，粘附照片，並由當地海關稅務司或其代表簽字證明。本協定內任何條款，不得解釋為准許海關任何關員或雇員，在未徵得所有人同意之前，進入任何私人場所。

三、政府將訓令港務長盡力協助海關，對於由香港開往中國境內任何港口之船隻，拒絕其結關，但經海關與港務長雙方所同意之港口表內所列之港口，不在此限。又此項訓令僅具酌量施行性質，並得於通常或特定情形之下，在任何時間內予以變更或撤消。如遇有未已在香港結關開往中國某一港口之船隻，經充分證明其並無充足理由而未開往該港口之情形，則應於該船駛返香港時，重依通常程序，料以處罰。註冊淨噸數在二百噸以下之船隻，由香港結關開往中國港口時，除海關另行指定者外，應通知其向香港附近海關卡所之一停靠。為實施本項規定所必需之法案，將由政府向香港參議會及時提出之。

四、政府特此授權海關自由進入及巡弋本協定所附錄說明內所述香港領水內各區域（以下簡稱「禁止區域」），並在各該區域內，飭令任何船隻停泊，以查驗其文書；如查有裝運貨物之任何船隻，未在香港一港口內辦理結關手續，除准予繼續其航程者外，海關應將該項船隻交由最近使之

中國關稅或預予估定稅額。中國關稅應在上述任何地點預予繳納抑預予估定稅額，悉由有關貨物之出口商自行抉擇，此項辦法並應由海關曉諭該有關出口商知悉。海關對於在香港繳納中國關稅之任何貨商，應給予完稅憑證，並在其本身組織內採取措施，務使有關貨物於運至中國境內之目的港口時，得儘先放行。海關依本項之規定，得在由其擇定儘可能毗鄰第一項(乙)款所指避風塘及碇泊所之場所內，自由設立檢查處所，並在各該處所及雙方同意之其他處所，自由檢查出口商擬在香港繳納中國關稅或已由請估定稅額之貨物。海關專為查驗已在香港繳納中國關稅或估定稅額貨物之裝運事宜，得在上述避風塘及碇泊所自由派駐檢查員；此項檢查員，在未得香港總督書面允許之前，不得超過四十人，惟得另雇適當數額之伏役頭目，其數額須經香港總督之同意。此外，海關為查驗已在香港繳納中國關稅或估定稅額貨物裝入註冊淨噸數二百噸及二百噸以上船隻之裝運事宜，可另行派駐適當數額之檢查員及伏役頭目，其數額須經香港總督之同意。檢查員及伏役頭目於必要時得為上述目的自由登臨任何船隻，但其職務應僅限於核對性質，不得干涉或阻碍貨物之裝運；其詳細之檢查，並應於估定稅額時，在海關檢查處所執行之。所

香港當局看管。政府將向香港參議會提出爲實施本項規定所必需之法案，該項法案，包括禁止不在香港一港口內辦理結關手續之任何運貨船隻駛入一禁止區域之措施。但本項規定不能認爲政府負有任何義務，給予海關任何搜查、沒收、扣留或科罰之權利，或任何依照國際法政府不能讓與或海關不能承受執行之權利。

五、政府對於依照一八九九年商船法內 T 表領有第四類執照之船隻，將視香港需要及該項船隻在運貨方面對香港之服務情形，隨時考慮禁止其爲裝運貨物之目的而使用。

六、政府將考慮何種措施係屬切實可行，俾規定由香港經由北面邊界輸往中國之貨物，僅限於沙頭角，蓮塘對面之一地點，廣九公路經過邊界之地點及羅湖鐵路橋以及其他經雙方商定之地點出口，並防止或制止輸出物品在該邊界上其他地點出口。

七、各條款之任何規定，不適用於擬經由空運輸往中國之貨物；啓德飛機場不得駐紮關員，現時駐紮該處之關員應予撤退。

八、海關及香港進出口監理員任何一方，應將此方可能獲得，並依此方意見認爲在防止及查察麻醉藥品及應納稅商品或禁止出口或進口物品之輸出

或輸入（視情形而定）之私運方面，對彼方有所資助之任何消息，供給彼方。

九、關於海關管理廣九鐵路貨運辦法，仍依前例，由政府與中華民國交通部另以協定規定之；但依任何該項協定之規定，在香港向海關繳納關稅一節，應仍總由有關商人自行抉擇，惟政府仍得依照香港現行有關該鐵路之任何法令、規章或其他法律，或依雙方議定之辦法，對海關予以合法協助。

十、在本協定有效期間，隨時派駐香港充任中國海關稅務司之人員（以及在香港擔任各部門事務之稅務司），應為英籍，並應為政府所能接受之人員。

十一、本協定內所稱：「船隻」字樣，應包括民船、駁船及可能用於裝運貨物之任何種類之船隻。

十二、本協定自香港總督決定並通知之日起發生效力，此一日期，不得遲於一九四八年一月二十日。本協定自生效之日起一年期內繼續有效。本協定於生效一年後仍繼續有效，直至締約一方政府將廢止之書面通知遞交他

方之日記三個月後爲止。

### 說明

一、急水門區：本區海面，北面以急水門海岸爲界，南面則自南頭南西角向正極北二百二十五度伸出一、五哩處爲起點，至邊界綫至急水門海岸相交處爲終點，劃一直綫爲界，上述界綫一如附圖所示。

二、大鵬灣區：本區海面包括沙頭角海面，及位於大鵬灣北岸及東岸之海面，其界綫自魯濱遜島極北角爲起點，向正極北零度伸出半哩，由此據點向正極北八十六度伸長至距南澳嘴一哩，其方位爲正極北二百七十度處，轉向正極北一百二十六度，至距平洲極東十分之八哩，其方位爲正極北六十三度處，再由此據點伸向正極北一百八十度，至距大鵬角二、七哩，其方位爲正極北二百七十度處，然後伸向正極北一百三十五度直至香港領水東面邊界綫相交處爲止。上述界綫一如附圖所示。

No. 2

*His Majesty's Ambassador at Nanking to the Chinese  
Minister for Foreign Affairs*

*British Embassy,*

*Nanking, 12th January, 1948.*

Your Excellency,

I HAVE the honour to acknowledge the receipt of your note of to-day's date, in which you informed me that the Chinese Government approve of the provisions annexed thereto with regard to the arrangements for the prevention of smuggling between Hong Kong and Chinese ports, and I have the honour to inform your Excellency that His Majesty's Government in the United Kingdom likewise approve of the said provisions the text of which is annexed hereto.

2. With regard to the proposal contained in the second paragraph of your Excellency's note, I have the honour to add that His Majesty's Government in the United Kingdom consider that note together with the present reply as constituting an agreement between the two Governments.

I avail, &c.

(Sd.) RALPH SKRINE STEVENSON.

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No. 3

*His Majesty's Chargé d'Affaires, a.i., to the Political Vice-Minister  
of the Chinese Ministry of Foreign Affairs*

Sir, Nanking, 18th October, 1948.

WITH reference to the exchange of notes between his Excellency the Minister for Foreign Affairs, Dr. Wang Shih-chieh, and His Majesty's Ambassador, Sir Ralph Stevenson, made on the 12th January, 1948, constituting an agreement between the Chinese Government and His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland concerning the prevention of smuggling between Hong Kong and Chinese ports, I have the honour to inform your Excellency that His Majesty's Government accept the map relating to the Deep Bay area initialled by the Director-General of Chinese Maritime Customs and the Hong Kong Colonial Secretary on the 4th October, 1948, a copy of which is enclosed in this note.

His Majesty's Government accordingly propose that (I) the copy of the map enclosed in this note shall be substituted for that part of the plan annexed to the Schedule of the Annex to the notes exchanged on the 12th January, 1948, which corresponds to the area delineated on the said copy and (II) the said plan and schedule, modified only as far as may be required by such substitution, shall be the basis for the legislation by the Government of Hong Kong referred to in paragraph 4 of the said annex.

I have the honour to propose that, if the Chinese Government likewise concur in the above arrangement, the present Note together with your Excellency's reply to that effect shall be regarded as constituting an agreement on this subject between our respective Governments.

I avail, &c.

(Sd.) L. H. LAMB.

*The Political Vice-Minister of the Chinese Ministry of Foreign Affairs  
to His Majesty's Chargé d'Affaires, a.i., at Nanking*

照會

接准

貴公便一九四八年十月十八日照會內開：

「關於一九四八年一月十二日外交部部長王世杰博士閣下與英國大使施禮文爵士間爲成立中國政府與英王陛下大不列顛及北愛爾蘭聯合王國政府間關於防止香港與中國港口間走私協定之換文，本公使代理館務茲謹向

貴次長聲述：英王陛下政府接受一九四八年十月四日由中國國務院署長與香港輔政司所草擬關於急水門區之地圖。該圖一份，隨附於后。

英王陛下政府爰建議：(一)本照會所附之地圖，應替代一九四八年一月十二日換文附件說明內所附地圖中相當於本附圖內所劃區域之部分，及(二)原附圖及說明在由於上述替代所需之限度內，加以修改後，應作爲香港政府爲成立原附件第四項所訂法案之基礎。



本公使代理館務茲謹建議：如中國政府同意上述辦法，本照會及貴次長同意之覆照，應認爲構成兩國政府間關於此事之協定。」

等由，本政務次長代理部務茲謹聲述：中國政府同意

貴公使來照所述辦法之內容，並對

貴公使所建議來照及本照會（隨附來照所指地圖一份）應認爲構成兩國政府間關於此事之協定一節，可予接受。

相應照覆，即請

查照爲何。

本政務次長代理部務順向

貴公使重表敬意。

此致

英王陛下駐中華民國大使館代理館務藍來訥公使閣下

English text of No. 4

*The Ministry of Foreign Affairs,  
Republic of China,*

*Nanking, 18th October, 1948.*

Sir,

I HAVE the honour to acknowledge receipt of your Note of the 18th October, 1948, reading as follows:

[As in No. 3]

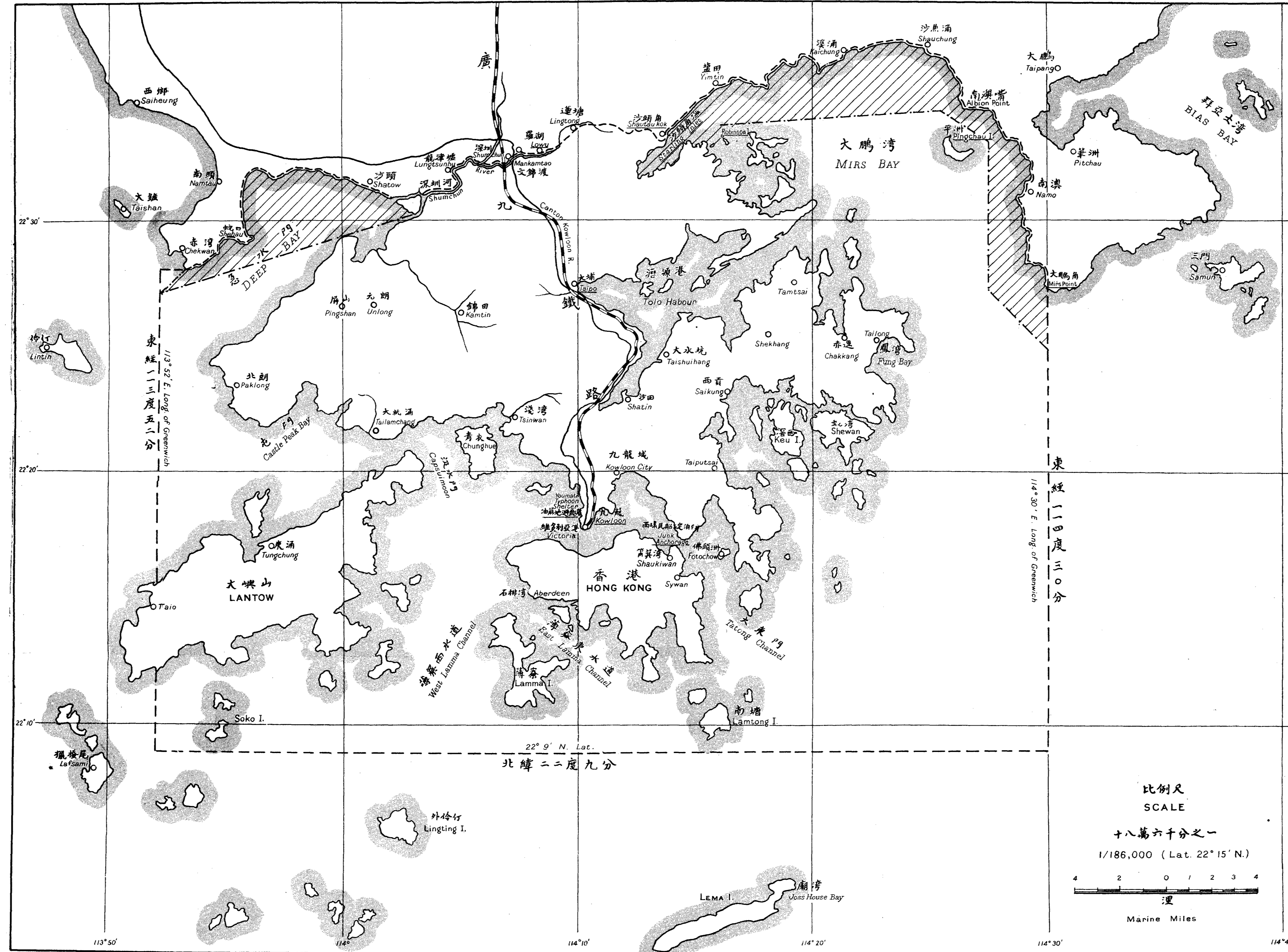
In reply I have the honour to inform you that the Chinese Government concur in the terms of the arrangement set forth in your Note and agree with your proposal that your Note and this reply, to which is annexed a copy of the map referred to in your Note, be regarded as constituting an agreement between our respective Governments in this matter.

I avail, &c.

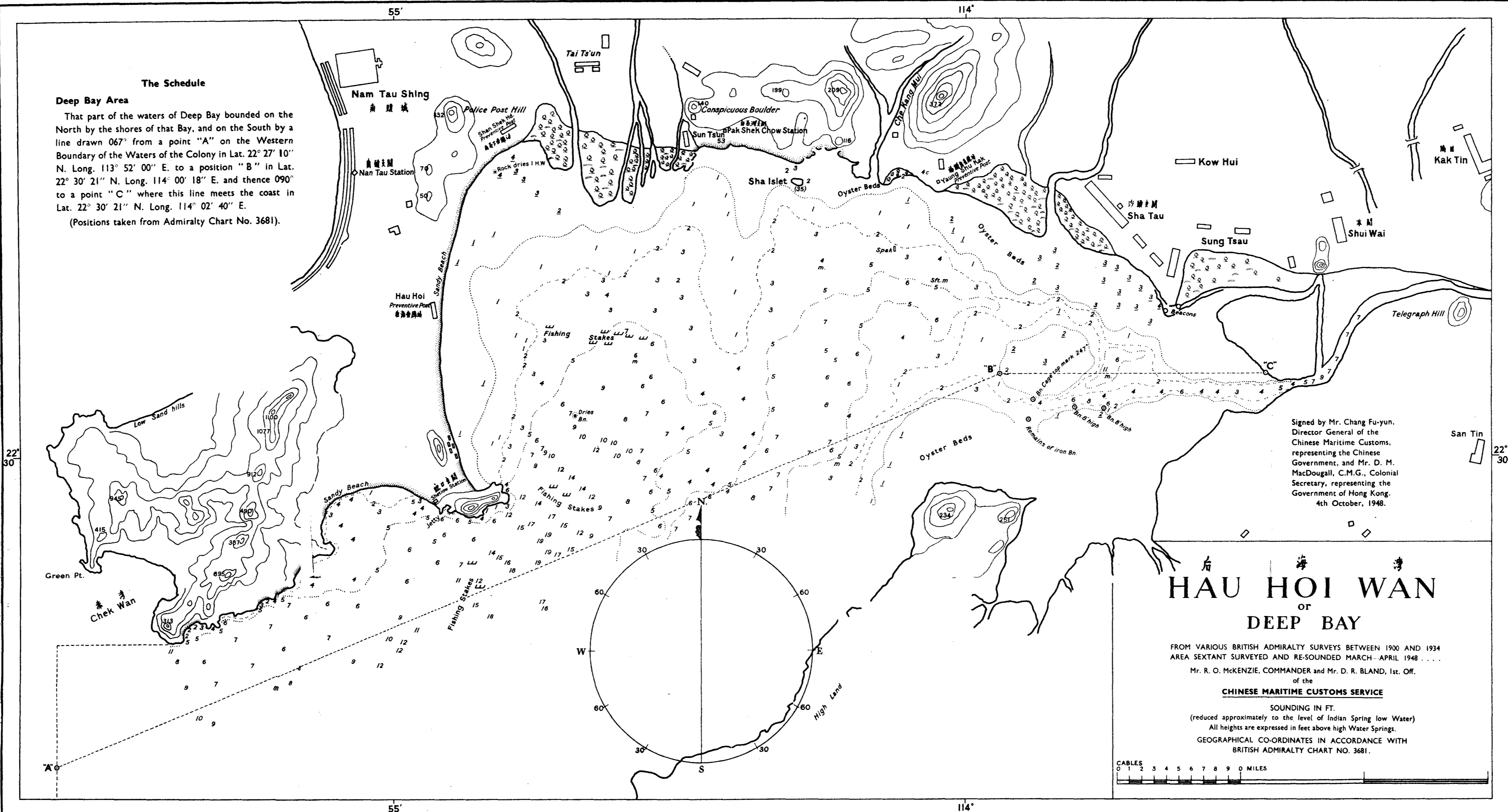
(Sd.) LIU SHIH-SHUN.

# 香港領水區域畧圖

## SKETCH MAP OF HONGKONG TERRITORIAL WATERS



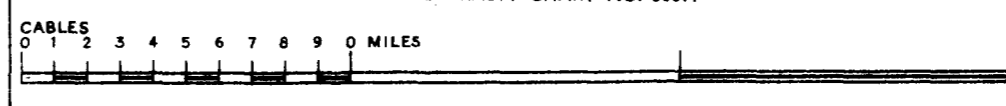
**The Schedule**  
**Deep Bay Area**  
 That part of the waters of Deep Bay bounded on the North by the shores of that Bay, and on the South by a line drawn 067° from a point "A" on the Western Boundary of the Waters of the Colony in Lat. 22° 27' 10" N. Long. 113° 52' 00" E. to a position "B" in Lat. 22° 30' 21" N. Long. 114° 00' 18" E. and thence 090° to a point "C" where this line meets the coast in Lat. 22° 30' 21" N. Long. 114° 02' 40" E.  
 (Positions taken from Admiralty Chart No. 3681).



Signed by Mr. Chang Fu-yun,  
 Director General of the  
 Chinese Maritime Customs,  
 representing the Chinese  
 Government, and Mr. D. M.  
 MacDougall, C.M.G., Colonial  
 Secretary, representing the  
 Government of Hong Kong.  
 4th October, 1948.

后海灣  
**HAU HOI WAN**  
 OR  
**DEEP BAY**

FROM VARIOUS BRITISH ADMIRALTY SURVEYS BETWEEN 1900 AND 1934  
 AREA SEXTANT SURVEYED AND RE-SOUNDED MARCH-APRIL 1948  
 Mr. R. O. MCKENZIE, COMMANDER and Mr. D. R. BLAND, 1st. Off.  
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**CHINESE MARITIME CUSTOMS SERVICE**  
 SOUNDING IN FT.  
 (reduced approximately to the level of Indian Spring low Water)  
 All heights are expressed in feet above high Water Springs.  
 GEOGRAPHICAL CO-ORDINATES IN ACCORDANCE WITH  
 BRITISH ADMIRALTY CHART NO. 3681.





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