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**BERETNING FRA KOMMISSIONEN
TIL RÅDET OG EUROPA-PARLAMENTET**

**Det Særlige Administrative Område Macao:
Årsrapport 2003**

SAR Macao høstede de første fordele af den tostrengede strategi for liberalisering af spilleindustrien og økonomisk diversificering og oplevede dermed en stærk økonomisk vækst i 2003 (+ 15,6 %). Turistindustrien bidrog i væsentlig grad til dette gode resultat med et rekordantal besøgende på 11,9 mio.

Sideløbende hermed søgte Macao at opnå yderligere økonomisk integration med det kinesiske hovedland, bl.a. gennem undertegnelse af aftalen om et tættere økonomisk partnerskab, en frihandelsaftale, som vil sikre adgang for Macaos varer og tjenesteydelser til markedet på det kinesiske hovedland forud for Kinas gennemførelse af WTO-bestemmelserne. Der blev også med nabobyen Zhuhai oprettet en grænseoverskridende industrizone, som vil blive klar til brug i 2004-2005. Det blev tillige godkendt, at der skal bygges en bro, som skal forbinde Macao med Hongkong og Zhuhai.

På den politiske front fortsatte SAR Macao konsolideringen af sine institutioner, og der opnåedes gode resultater med de forebyggende foranstaltninger mod SARS-epidemien, som ikke ramte selve Macao på trods af, at der konstateredes tilfælde hos de nærmeste naboer. Vedtagelsen af en lov om den nationale sikkerhed til gennemførelse af artikel 23 i grundloven blev udskudt.

Forbindelserne mellem EU og Macao var præget af støt udvikling og venskab. Den samlede bilaterale handel faldt en smule til 991 mio. EUR, men EU forblev Macaos næststørste handelspartner og udenlandske investor. Tilbagetagelsesaftalen mellem EF og Macao vil træde i kraft i juni 2004, hvilket formentlig vil føre til yderligere kontakter på migrationsområdet.

Europa-Kommissionen glæder sig over dynamikken i Macaos økonomi og over de skridt, der er taget med henblik på at diversificere de økonomiske strukturer. Den vil overvåge, at oprindelsesreglerne i den nyoprettede industrizone og i forbindelse med partnerskabsaftalen bringes i overensstemmelse med WTO-reglerne. Kommissionen nærer stadig visse bekymringer med hensyn til krænkelse af den intellektuelle ejendomsret i Macao og i Pearl River Delta-området, og den opfordrer Macaos regering til at øge sine bestræbelser, hvad angår håndtælingen af den intellektuelle ejendomsret.

Europa-Kommissionen glæder sig over den problemfri videreførelse af programmet for det retlige samarbejde mellem EU og Macao og vil fortsat undersøge mulighederne for at udvide samarbejdet med Macaos myndigheder i forbindelse med nye EF-bestemmelser og -ordninger vedrørende finansiel bistand.

Bilaget indeholder Kommissionens analyse in extenso.

BILAG

1. INTRODUCTION

The European Commission continues to attach great importance to the evolution of Macao SAR and in particular to the implementation of the “One country, two systems” principle. As in the Commission’s previous annual reports, this report aims to assess the developments in the Macao SAR and in its relations with the European Union.

2. RE-AFFIRMATION AND IMPLEMENTATION OF THE “ONE COUNTRY, TWO SYSTEMS” PRINCIPLE

– Re-affirmation of the principle

In his last report on the work of the government delivered at the opening session of the National People’s Congress in March 2003, the then Premier, Zhu Rongji, re-affirmed China’s adherence to the principle of “One country, two systems” in accordance with the Basic Law of the Macao Special Administrative Region. He also stated that “Maintaining prosperity, stability and development in Hong Kong and Macao is an unshakable goal” of the PRC, and that the Mainland should “continue to implement the principle of ‘One country, two systems’ and act in strict accordance with the Basic Laws of the Hong Kong and Macao Special Administrative Regions”, and “make greater efforts to encourage exchanges and cooperation between the hinterland and Hong Kong and Macao in economic, trade, education, scientific, technological, cultural and other fields”.

During his visit to the Macao SAR, the Chinese Vice President, Mr Zeng Qinghong, said on 17 October that the “‘One country, two systems’ principle is a vital force which is totally in accordance with the reality of Macao” and “can provide Macao’s compatriots with concrete advantages and benefits”. He reaffirmed that the new team of Central Government leaders would continue to stick to the principle of “One country, two systems”, with Macao people ruling Macao and a high degree of autonomy as the basic underlying policy. He added that the Central Government “will fully support the SAR Government led by the Chief Executive, Mr Ho Hauhua, and people from all walks of life in Macao in order to promote together the long term stability, prosperity and development of Macao”.

– Implementation of the principle

In 2003, Macao SAR celebrated the tenth anniversary of the promulgation of Macao Basic Law. Throughout the year, developments in the implementation of the “One country, two systems” principle confirmed that Macao SAR will continue to consolidate its own economic, social, legal and judicial systems.

In the economic field, the signing of the Closer Economic Partnership Arrangement (CEPA), the approval of a cross-border industrial zone and a number of other economic cooperation measures taken by the Central Government contributed to establishing closer links between the Mainland and Macao SAR. Macao also reinforced its links and cooperation with neighbouring Guangdong province in the fight against criminal activities. The two regions agreed to reinforce their liaison mechanism, joint police actions, exchange of information, and

border controls. They also reached consensus on how to deal with drug trafficking and commercial crimes. An information exchange mechanism on terrorism has also been agreed.

3. LEGAL, JUDICIAL AND ADMINISTRATIVE DEVELOPMENTS

Four years after the establishment of the Macao SAR, legal and judicial development is still hindered by the lack of qualified bilingual legal experts both in the administration and in the courts. As the Commission's last report noted, this continues to create delays in the Government's legislative work and in the work of the Legislative Assembly and the courts.

– Legal and legislative developments

In its report published in April, the Macao SAR Government acknowledged that only 50% of its short and medium term plans for laws and regulations had been achieved. During the debate in the Legislative Assembly, several legislators deplored the fact that legal reform and legislative work were still lagging behind the overall evolution of Macao SAR. The Secretary for Administration and Justice admitted that many problems had been encountered in legal and legislative development. The Secretary explained that the Government had difficulty in reconciling the lack of qualified legal experts with the need to guarantee the quality of drafting for laws and regulations.

The fact that most laws and regulations only exist in Portuguese has also caused inconvenience to many ordinary Chinese-speaking residents, who make up more than 97% of Macao's population. Thus, not only an increasing number of ordinary citizens but also some members of the Legislative Assembly are of the view that the Chinese language should be used more often for laws, regulation drafting and for judgments at all three levels of the courts of justice.

In his policy address for 2004 delivered in November 2003, the Chief Executive confirmed that the Macao Government will do its utmost to speed up the legislative work whilst taking into consideration the need to guarantee the quality of the legislation. He promised to create a consultative body on legal reform in order to find consensus on a comprehensive reform of the legal system.

– Judicial developments

The lack of qualified bilingual judges and judicial auxiliary workers has also entailed delays and difficulties for the people of Macao.

Concerns were raised both by the President of the Court of Final Appeal and by the Chairman of the Bar Association in their respective speeches delivered at the opening ceremony of the judicial year at the end of October 2003.

The President of the Court of Final Appeal listed four issues to be addressed in the work of the Macao courts, namely the necessity:

- to improve programming and reduce delays in court judgments;

- to keep the right balance between civil cases and criminal cases;
- to actively promote the use of the Chinese language in the courts; and
- to study ways and means of solving litigation other than through the courts.

Summarising the functioning of Macao SAR's courts since the handover, the President of the Court of Final Appeal acknowledged that there is still room for improvement by learning from experience and upgrading quality.

The Chairman of the Bar Association expressed his concerns over the delays in dealing with judicial cases by the Court of First Instance.

– **Administrative developments**

The main achievement in the administrative field is the amendment of the income tax regulation (known as professional tax in Macao). The amended regulation means that 17 000 civil servants now have to pay income tax as from October 2003. However, the Macao Government compensated for the inclusion of civil servants as tax payers by raising the tax threshold and reducing the tax rate. Other necessary administrative reforms, such as the reform of the civil service, are still at the consultation stage.

4. ARTICLE 23 OF THE BASIC LAW

The Macao SAR Government announced in October 2002 that it was planning to publish draft legislation on national security (enacting Article 23 of the Basic Law) during the course of 2003. However, the shelving of the controversial National Security Bill in Hong Kong probably slowed down the Macao SAR Government's timetable for introducing similar draft legislation. In his policy address for 2004, Macao's Chief Executive made no reference to Article 23. Answering questions raised by journalists after the Policy address, the Chief Executive was quoted as saying that "most probably next year will still not be the right time to legislate on the issue". As to when the draft legislation would be finalised and when would be the best timing, he said that it should be decided by the new Chief Executive and the second term of the Macao SAR Government.

Macao currently has no national security laws. The Portuguese legislation on the matter became invalid when Macao reverted to the Chinese administration on 19 December 1999. Macao's criminal code only includes a legal framework on internal security. Legislating on Article 23 of the Basic Law does not appear to meet with the same kind of opposition in Macao as in Hong Kong.

5. SEVERE ACUTE RESPIRATORY SYNDROME (SARS)

The spread of SARS in early February found Macao better prepared to prevent an outbreak of the disease than its neighbouring countries and territories. Macao's health authorities issued guidelines for preventing SARS as early as February and the Government adopted strict precautionary measures at the beginning of March. These measures included mandatory health declarations at entry ports and body temperature screening for all incoming and departing passengers at airports, seaports and the Zhuhai land crossings. After Macao reported

its first and only SARS case (with no fatality) the territory introduced supplementary measures such as quarantine for families and contacts of suspected and confirmed SARS cases and body temperature checks at the entrance of all public buildings and tourist sites. The mandatory health declarations and the temperature screenings at all points of entry were still in force on 31 December 2003.

The WHO has praised Macao for its preventive actions and its capacity for managing the crisis. The situation could easily have escalated out of control as Macao, with a total population of 444 000 inhabitants, has only 2 major hospitals and limited intensive medical care units. Although Macao luckily escaped a major outbreak, its economy suffered heavily during the second quarter of 2003, due to its proximity to and inter-dependence with hard-hit areas, like the southern part of Guangdong province and Hong Kong. The consequences of SARS on Macao's economy are analysed in the economic section of this report.

6. THE ECONOMY

Macao's economy has entered a high growth cycle since the liberalisation of the gaming regime in 2002. Following sustainable recovery in the past few years from the depression in the late 1990s, investment inflows accelerated in 2003. More importantly, sources of tourists have steadily expanded with an increasing number of visitors from Mainland China, providing new impetus to growth. Despite the outbreak of SARS in the neighbouring regions in 2003, Macao's GDP growth surged by 15.6% in real terms, following a 10.1% increase in 2002. This spectacular growth was broad-based, although it was sharper in construction and machinery investments, and exports of services, namely the gambling sector. As a result, the unemployment situation improved moderately. The fiscal position also reached a very comfortable level.

The SARS outbreak in the neighbouring regions particularly affected Macao's main sources of visitors – Mainland China, Hong Kong and Taiwan, and caused short-term market disruption from March to June 2003. At the worst point, in May, tourist arrivals dropped by 37% and GDP growth for the second quarter declined abruptly to -1.3%, following 16.9% growth in the first quarter. As the epidemic was brought under control later in the year, tourism swiftly rebounded. Tourist arrivals rose by 3.1% to 11.9 million overall for the whole year, the highest annual number on record, reflecting the fast pace of growth in the latter half of the year.

The Mainland played a major role in Macao's speedy post-SARS recovery. Robust growth in tourism was mainly attributed to an influx of Mainland Chinese visitors, prompted by a favourable travelling policy. The Central Government relaxed travelling restrictions for residents of selected Chinese cities for visits to Macao and Hong Kong, starting from July 2003. The new policy was meant to boost the economies of the two SARs. Mainland China for the first time overtook Hong Kong as the largest source of visitors to Macao, accounting for about 48% of total arrivals in 2003.

The strong tourist and gaming sectors boosted tax revenue as well. Direct taxes from gambling rose sharply by 33% in the first eleven months of 2003, resulting in a record fiscal surplus. The comfortable fiscal position allowed the Government to implement a tax cut during the year to improve people's livelihoods. The income tax rate was lowered by three percentage points to a scale of 7% to 12%, reportedly one of the lowest regimes in the world.

The trade sector remained stable throughout 2003 and was not affected by SARS at all. According to Macao statistics, exports of goods recorded a year on year 9.4% increase to 2587 million USD, while imports rose by 8.7% to 2763 million USD. Textiles and garments were the largest export category, accounting for 83% of the export total.

The EU is one of Macao's most important trading partners. In 2003, the EU was the second largest export market after the US, taking up 22.8% of the export total (+7.5%), and the third largest supplier of goods after Mainland China and Hong Kong, accounting for 12% of the import total (+10.4%). According to Eurostat, total bilateral trade between the EU and Macao amounted to 991 million euro in 2003 (-1%).

In tandem with the liberalisation of the gaming regime, new hotel and casino projects got underway. Two of the three casino licensees commenced work on their investment projects. The third licensee, however, did not start construction work during the year.

As more construction and investment projects came on stream, and under a better economic environment, the unemployment rate improved from 6% in the first three quarters to 5.5% by the fourth quarter. However, structural unemployment will remain until Macao can successfully redeploy its excess manpower, especially the manufacturing workforce, to new areas of activity. It is hoped that the cross-border industrial zone (see below) will be one of the alternatives to take on these workers.

A number of important economic developments took place in 2003.

– **The Closer Economic Partnership Arrangement between Mainland China and Macao (Macao CEPA)**

Closer economic ties between Macao and Mainland China were formally forged with the signature on 17 October 2003 of the Macao Closer Economic Partnership Arrangement (CEPA). This free trade arrangement encompasses three major areas, including trade in goods, trade in services and trade and investment facilitation. Six annexes were concluded concurrently, stipulating details on rules of origin, definition of Macao service suppliers, administrative procedures and specific areas for liberalisation in services. The terms and conditions are similar to those under the Hong Kong CEPA, which was signed earlier in June 2003.

For trade in goods, a total of 273 products from Macao under Mainland tariff codes have been given tariff free access to the Mainland with effect from 1 January 2004. The arrangement covers 93% of the products exported by Macao to Mainland China in 2002. For trade in services, Beijing has agreed to grant concessions on market access in the same 18 service sectors to Macao as to Hong Kong. Some additional concessions have been granted to take account of the distinctive circumstances of Macao, which were not included in the Hong Kong CEPA, including concessions for legal services and real estate agency services.

The business community generally welcomed the arrangement, as it would strengthen the competitiveness of Macao's products in the Chinese market and help to promote Macao as a gateway for foreign investors to enter the vast domestic market of Mainland China.

The EU will closely monitor how the CEPA is implemented, notably with regards to the compliance with WTO rules.

– **Cross-Border Industrial Zone**

The proposal to establish a cross-border industrial zone between Macao and Zhuhai was approved by the State Council of the PRC in late 2003. As a strategic move to meet the challenge of textile quota liberalisation in 2005, the SAR Government intends to deploy the industrial zone as a new platform to diversify its narrow industrial base and absorb its excess manufacturing workforce. The signing of CEPA has also enhanced the attractiveness of an industrial zone.

The industrial zone will be built on reclaimed land. The first stage of the cross-border industrial zone will cover 0.4 square kilometres in total, of which 0.29 will be in Zhuhai and the remaining 0.11 in Macao. It is anticipated that the industrial zone will be operational in 12-18 months.

The EU is concerned about whether the origin rules will be properly observed for production activities within the industrial zone. Technical implementation of customs controls, jurisdiction, taxation and the proportion of Macanese and Mainland Chinese labourers are also of interest.

– **Hong Kong-Zhuhai-Macao Bridge**

The building of a bridge connecting Macao, Hong Kong and Zhuhai was approved by the State Council in August. It was agreed that the governments of Guangdong, Hong Kong and Macao would set up a Hong Kong-Zhuhai-Macao Bridge Advance Work Co-ordination Group with Hong Kong as the convenor and press ahead with the advance work for the construction of the Bridge.

Although various bridge proposals had been put forward in the early 1990s by the private sector, including the Macanese business sector, the bridge was not considered seriously until lately. The change in attitude of the Hong Kong SAR Government is crucial to the development. It is believed that the bridge will be beneficial to the development of Macao, facilitating passenger and cargo traffic to and from Macao and bringing the various areas of the Pearl River Delta closer. The tourist and gaming sectors would be the main beneficiaries.

7. INTERNATIONAL ROLE OF MACAO

Macao's international role stood out in 2003 in particular through its long and traditional links with Portuguese speaking countries.

– **Forum for Economic and Trade Cooperation between China and Portuguese speaking Countries 2003**

Given its unique geographical location and historical connection to the Portuguese culture, Macao serves as a natural bridge linking China to the Portuguese-speaking countries. The Chinese Central Government chose Macao SAR to organise the first forum for economic and trade cooperation between China and the Portuguese speaking countries in October 2003. China and seven Portuguese-speaking countries, including Angola, Portugal, Guinea Bissau, Mozambique, the Cape Verde Islands, East Timor and Brazil, were represented, and an "Economic and Trade Cooperation Action Plan" was signed at the forum.

The Action Plan established the mode of cooperation between the participating countries, covering areas such as inter-governmental cooperation, investment and enterprise cooperation, trade, agriculture and fishing, construction and infrastructure, natural resources and human resources. It was also agreed that a permanent secretariat would be set up in Macao. The second forum is scheduled to take place in Macao in 2006. The Action Plan formally established Macao's platform role linking the two sides.

– **The Conference of the Presidents of the Supreme Courts of Portuguese-speaking countries and regions**

In October 2003, Macao also hosted the Fifth Conference of the Supreme Courts of Portuguese-speaking countries and regions. Participants in the Conference included delegations from Angola, Brazil, Cape Verde Islands, Guinea Bissau, Mozambique, Portugal, San Tomé and Príncipe and East Timor. This was the first time that Macao SAR had hosted and participated in the Conference. The Chief Executive of Macao SAR stressed that the fact that the Conference was being held in Macao was a clear demonstration of the implementation of the “One country, two systems” principle in the judicial field. The topic of the Conference was “Administrative and Financial Autonomy of Courts services as a means of safeguarding and strengthening the independence of the judicial power”.

– **The International Chinese Businessmen Association**

More than 500 ethnic Chinese businessmen from 15 countries and regions met in Macao on 22 October 2003. The convention discussed the opportunities provided by the Mainland/Macao CEPA (Closer Economic Partnership Arrangement) for ethnic Chinese businessmen and environmental protection industries.

The success of the conference confirmed the will of the Macao SAR Government to continue to play an active role in the international field. In his Policy Address for 2004, the Chief Executive said that Macao should act not only as the level playing field for trade with Western Guangdong Province, but also as the level playing field for international Chinese businessmen and economic and trade cooperation between China and Portuguese-speaking countries.

8. EU-MACAO RELATIONS

– **EC-Macao Readmission Agreement**

An agreement between the European Community and the Government of the Macao Special Administrative Region (SAR) on the readmission of persons residing without authorisation was signed on 13 October 2003 in Luxembourg by the Italian Minister of Foreign Affairs, Mr Franco Frattini, the European Commissioner Responsible for External Relations, Mr Chris Patten, and Ms Florinda Chan, Secretary for Administration and Justice of the Macao SAR. This was the second such agreement signed between the European Community and a third country or territory. The first was signed with Hong Kong SAR in November 2002.

The Readmission Agreement will enable Macao and the EC to ensure, on a reciprocal basis, the rapid and effective identification and return of persons illegally entering or remaining in their respective territories. The conclusion of the agreement highlighted the importance that

the EU attaches to the fight against illegal immigration. It also paved the way for reinforcing EU-Macao relations in other areas of mutual interest.

– **Intellectual Property Rights**

Consistent with its obligations under the TRIPs Agreement, Macao has upgraded its legislative framework and enforcement structures for the protection of intellectual property. While approving the continued efforts of Macao, the EU is still concerned with regards to the current levels of piracy and the difficulties for local collecting societies to collect copyrights in Macao. The EU encourages Macao to further its co-operation on intellectual property with its neighbouring countries and with mainland China in order to fight more efficiently the growing levels of piracy and counterfeiting in the region

– **European Parliament**

In a unanimous resolution adopted by the European Parliament (EP) on 8 April 2003 on the first and second annual reports of the Commission on the Macao Special Administrative Region, the EP reiterated its support for the full implementation and upholding of the Basic Law of the MSAR under the “One country, two systems” principle. It was also pleased to note that, three years after the handover, both the Central Government in Beijing and the Macao SAR Government continued to attach great importance to this principle and that the Macao Government continued to administer the SAR, internally and internationally, in an autonomous way, as set out in the Basic Law.

The EP welcomed the launch of the EC four-year cooperation programme in the legal field, which has as its overall objective the consolidation of the Macao Legal System and it fully endorsed the EU’s decision to grant visa-free access to Macao SAR passport-holders. Finally, it welcomed the decision of the MSAR Government, expressly supported by the Government of the PRC, to assert and consolidate Macao’s position as a centre for China’s links with the countries whose official language is Portuguese.

9. CONCLUSION

The European Commission notes that, as a result of the clear economic policy defined by the SAR Government, Macao witnessed record economic development in 2003. The liberalization of the gambling industry has proven to be very successful in spite of the fact that the two new licence holders have not yet started to operate in Macao. The early preventive measures taken by the Macao Government helped to limit the spread of SARS in Macao SAR and demonstrated the SAR Government’s ability to deal with a crisis situation.

Thanks partly to the encouragement and help of the Chinese Central Government, Macao SAR has increasingly underlined the value of its role as a bridge between China and Portuguese-speaking countries. Macao SAR continues to make steady progress on several fronts. The European Commission welcomes the Macao SAR Government’s commitment to the reform and improvement of its public administration, and to the legal and social protection system. The European Commission continues to follow with interest the further consolidation and development of Macao SAR.