

# abstracts



## «Macau's Civil Aviation Legislation»

José Tomás Gouveia Enes Baganha

(pp. 549)

*The abovementioned document is considered the first systematized approach, although partial, to the Legal System, applicable to the activities of the civil aviation in the Territory, having in view its presentation to those who are potentially interested: jurists belonging to organizations and concerns directly involved in this area of the economic activity, law experts belonging to organizations related with civil aviation, such as insurance companies and banks, or other individuals interested in these matters in a sporadically way such as lawyers, magistrates, lecturers, law students, etc.*

*The article presents Macau's frame as an entity of International Law on Air Traffic, according to legal rules, describing the constitutional scope within which Macau, although it is nota sovereign state, on one hand started the negotiation and the celebration of air transportation agreements, and on the other hand established the bases of its civil aviation legal system along with the respective insertion in the international commercial aviation system.*

*It is also explained the genesis of the legislative structural options of the legal system and the most important aspects of the legal regulation of the civil aviation activities are stated comparing them with the main objectives not only with those of the Convention on International Civil Aviation, commonly known as Chicago Convention (1944), but also with those of Warsaw Convention (1929) and the respective protocols.*

*In the last part, the article expounds the guidelines of the regime on the air carrier's civil responsibility, having always as a basis the evolution of the solutions successively adopted, within the scope of international air traffic concerning the civil responsibility.*

*As we are dealing with a text dating back to January 1996, at the time of its publication it doesn 't represent the «state of art» of the subject, not only because an ordinance was already published (regulation n.º 38/96/M of the 22 nd February regarding the insurance policy necessary to the issue of air navigation certificate), but also because, meanwhile, at an international level important initiatives were taken, the consequences of which in the juridical area would justify an in depth study of the subject.*

## **The Social Issues Clause in the International Trade, namely within the scope of the commercial exchanges between the European Union and Asia**

José António Pinto Belo

(pp. 569)

*Due to the statement that there should have a yes regarding fair trade and a definite no to the disloyal competition, the need or no-need of the introduction of clauses on social issues in the commercial agreements between developed countries and the developing ones has been causing a vehement debate. The focal point of the governments' preoccupations is unemployment which rich and poor countries have to face. The solution of this problem demands from the countries a sound co-operation so that new ways can be found and through which the social and the economic issues shall develop harmoniously. Thus it will be possible to achieve social justice, to fight poverty and to generate equal opportunities for all the human beings wherever they live.*

## **Quality as a Competitions's Factor**

António C. M. Sousa

(pp. 575)

*Macau, in the transition period, faces the huge challenge of maintaining its entity and identity beyond the 21th century. The likely procedure to be followed, bearing in mind several political, cultural, social and economic factors, implies the existence of models of development, to which no guarantee of validity is offered. However, there is some evidence to prove that the upgrading of human resources plays and will play a crucial role in the process of achieving the aforementioned objective. According to this perspective, it is made a brief analysis of the options that can be made by the «traditional» manufactures to keep competition up within a context of regional and global competition. It is also discussed the scenario for the future of Macau, being proposed new industries based on high technology; within this and other contexts it is presented the possibility of introducing in Macau, at a sectorial level, inventories of qualifications and skills to render easier the development, planning and management of human resources.*

*Bearing in mind Macau's reality it is stressed the role played by innovation in competition, and the bases that interlink innovation with creativity and human resources are summarized.*

## **The Economic Cooperation between Macau and Zhuhai**

Lei Qiang

(pp.591)

*Bearing in mind the co-operation among Macau, Hong Kong and the Pearl River Delta Region it has been analyzed the question of the liaison among Macau, Zhuhai and the Delta Region. On one hand due to the political limitations created in China, Zhuhai enterprises are facing many difficulties since they need capital to invest: on the other hand, in Macau, the*

*real estate market has been undergoing a draw back since the last year, and so the possibility of lessening the economic stagnation and of increasing the economic development through the collaboration of both parts has been a matter of concern. The author points out the causes behind this situation as well as the possible measures to be taken having in view the improvement of the whole situation and that of the economy of this region.*

### **The strengthening of intercontinental relations through information and financial resources**

Vítor do Rosário

(pp. 599)

*The successful implementation of any policy should use effective instruments that render possible the achievement of the foreseen objectives.*

*The setting up of a Euro Info Centre in Macau, a subnet of the Euro gabinete da Caixa Geral de Depósitos in Lisbon as well as the use of the funds of the Community pro gramme, European Community Investment Partners through Macau's department of Banco Nacional Ultramarino, S. A. to promote the circulation of information and to increase the co-operation among companies were some of the instruments used to strengthen the relation between Macau and the European Union, which is one of the objectives of Macau's Government policy.*

### **Europe and China in Macau's Perspective**

Etienne Reuter

(pp. 603)

*At present the People's Republic of China is an economic partner that cannot be relegated to a second position let alone be ignored. In fact China is in itself a huge market and has been taking measures of a diplomatic and commercial nature which confer to this country the referred economic position. Trade and co-operation agreements have been made, hence the necessity of improving some aspects and overcoming all kinds of difficulties.*

*Due to the aforementioned measures and initiatives, Macau has been acting as a go-between for PRC and Europe (EC). The EC recognizes the importance of the role played by Macau and Hong Kong, but actually it was in Macau that most was invested regarding the political and trade areas.*

*The author believes that in a near future, the People's Republic of China will be the greatest power in the world and consequently this nation cannot remain isolated from the rest of the world as it has done before. Besides it will be very difficult to recede from the economic policy adopted, as everybody believes in the motto «One country two systems».*

### **The order of the day: compulsory inclusion in the convocation**

Augusto Teixeira Garcia

(pp. 611)

*The present study analyses the problem of the compulsory inclusion of the order of the day in the convocation of the general assemblies of limited companies and joint-stock companies.*

*After having decided what is the order of the day, it is analysed the precept of article 181 of CCom., and we come to the conclusion that, so that the convocation of the assemblies of limited societies can be valid, three requisites should be observed: form (published advertisements); time (publication of advertisements fifteen days in advance); presentation of the issues to be dealt with (the order of the day). Then an attempt is made to explain the reasons for the existence of these requisites, focussing on those that generate the order of the day, which is the key point of this study.*

*One comes to the conclusion that such requisites can be strengthened by the statutes, but cannot be lessened, forming the minimum scope for the convocation of the general assemblies of limited companies.*

*What is stated in article 181 of CCom., though in a supplementary way, is also valid for the convocation of assemblies of joint-stock companies due to the remission of article 38 of LSQ.*

*Since the regime of article 181 of CCom. is supplementary as for the convocation of the assemblies of joint-stock companies, it is raised the issue whether the partners are able to regulate in a different way the matters of the convocation or whether they are liable to some limitations. Usually is pointed out as a limitation the fact that partners cannot consider as indispensable the indication of the order of the day, due to the statement resulting from the joining of article 38 of LSQ with paragraph 1 of the same precept.*

*It is analysed the systematic argument resulting from paragraph 1 of article 41 of LSQ to present a new hypothesis of interpretation of legal data, discussing the dominant interpretation.*

*Both interpretations, one that can be designated as traditional, and the other one that is based on the systematic element are also analysed, being considered as likely hypothesis of interpretation of law. It was also considered the necessity of overcoming the problem by using another type of arguments, that can only be those relating to the interests underlying the requisites of the convocation itself, and in particular those that explain the necessity of indicating the matters to be treated (the order of the day).*

*It is also explained the inconsistency that results from the wording of paragraph 1 of article 41 of LSQ due to the intention of the legislator who wanted to imitate article 181 of CCom. not bearing in mind the systematic implication resulting from that fact.*

## **Communication Issues and Cultural understanding in Macau**

Sheng Yan

(pp. 639)

*Macau is a multilingual and multicultural territory, where the Western and Eastern cultures meet, especially the Sino-Portuguese culture. In this Territory we can find three communities with different cultures: the Chinese, the Portuguese and the Macanese whose ancestry is Portuguese.*

*From a bilingual and bicultural point of view this article describes mainly the way of thinking and feeling and the exchange of information among the aforementioned three communities presenting some characteristics and*

*rules of the interchange of the Portuguese and the Chinese cultures, and at the same time states openly the author's opinion regarding some polemical issues. In fact he gives us his views which are opposite to traditional attitudes towards monolinguisism and monoculture.*

*This article comprehends four parts: 1 — The only culture ora biculture ?; 2 — The only language or a bilanguage/; 3 — The national language or a dialect?; 4 — The classical characters or the simplified ones?*

*This article aims at drawing the attention for the discussion of these issues, through which it is made an attempt to reach a consensus as far as the preservation and development of the multilingual and multicultural specificity of the Territory is concerned.*

### **The Sino-Portuguese encounter in Macau**

Wu Zhiliang

(pp. 655)

*The Chinese and Portuguese navigations in the fifteenth century, in spite of their nearly similar characteristics, had very different motivations hence the Chinese navigations didn 't proceed beyond the Eastern African Coast and the Portuguese ones reached the South China Sea. Within this conjuncture, the Sino-Portuguese encounter, which would last for over 400 years, took place in Macau.*

*On one hand the establishment of the Portuguese in Macau is a consequence of the experience of forty years of trade activities, often clandestine, in the coastal zones of the Empire, and of the progressive awareness of a correct and realistic understanding of China; on the other hand it is a consequence of the mandarins' insight, namely of those from the province of Guangdong where the territory of Macau is historically and geographically located, into the financial advantages resulting from the opening of Macau to foreign trade and into the importance that the Portuguese presence should represent in the implicit strengthening of the maritime defense of the province, which was constantly disturbed by the pirates. This management policy of foreign trade was accepted in the end by the Imperial Court after having analised the pros and cons, and has lasted for centuries, contributing for the well-being of Macau and for the common interests of the Chinese and the Portuguese.*

### **Macau's Culture and its Historical Statute**

Huang Hongzhao

(pp. 685)

*Macau's harbour existence dates back from over four hundred years. Throughout its history, Chinese and Western cultures have met and interlinked in the Territory, originating Macau's culture which has unique characteristics. Thus the first cultural contacts between China and the West, from the sixteenth to the eighteenth century, have been influenced by these characteristics of Macau's culture and its Historical Statute is of a major importance.*

