

abstracts

Macau and the Liberalisation of Services under the Uruguay Round and the World Trade Organisation

Aucendina Diogo

(pp. 7)

Services under the Uruguay Round With the launching the Uruguay Round in 1987, multilateral negotiations were for the first time in the history of world trade initiated on liberalization of services. Macau, meanwhile, joined the GATT in 1991 which propelled it directly into the negotiations arena. To undertake its new responsibilities, the Territory needed to organise internal procedures with a view to drafting its schedule of ideal commitments on trade in services which, together with all others from Uruguay Round participating countries, constitutes nowadays an integral part of the General Agreement on Trade in Services (GATS) in force since January 1995.

Under the auspices of the World Trade organisations negotiations proceeded over the most sensitive sectors of services, in respect to which consensus had failed to be achieved. This was namely the case of financial services. Macau, whose initial schedule of commitments covered tourism and financial services, would undertake a new schedule of commitments in 1997, under which its first offer was replaced but only in respect of the sector being renegotiated.

GATS institutionalized a set of regulations and practices favourable to the gradual liberalization of services. The new negotiating round is expected to begin in the year 2000 — the millennium round — with the objective of increasing, in the services area, the level of commitments secured up to now. As a result, Macau will be required to establish a working schedule based on those objectives that may be identified as best serving the Territory's economy.

Investment flow and the international conventions of labor

José António Pinto Belo

(pp. 37)

The idea of attributing a juridical foundation to the international conventions of labor and establishing its own system does not gain much support. Now the chance of having this realized is small, though the collective convention of international firms will be a fundamental

means of regulating and resolving certain social problems that happen to the workers of these firms.

We could think that the formation of collective conventions of labor shall only be possible, step by step, if the economy becomes more globalized and allows a high flow of work force.

The consideration about the conflict of Laws between the Macau SAR and Mainland China

By Ceng Zhongshu

(pp. 47)

On the basis of “one country, two systems”, Macau enjoys a high degree of autonomy, including independent judicial power. But as a capitalist local government, the special administrative region maintains a relationship with the socialist central authorities. Owing to their differences in social, political and judicial systems, Macau will certainly face conflicts of laws with Mainland China.

Due to the historical reason, Macau belongs to the continental legal system originated in the west, while the socialist China uses written law with its own tradition and characteristics. These differences in legal tradition and in the essences of their ideologies cause a series of conflicts in their civil laws, criminal laws and administrative laws.

To resolve these conflicts, many legal experts in China suggest enacting an inter-regional conflict law and a unified entity law. But these solutions are not practical since the two legal regions have laws very different from each other, and the socialist legal viewpoint adopted by China is different from the one adopted in the SAR. Another recommendation is to establish a judicial institute other than the Peoples' Supreme Court in China, and the Court of Final Appeal in the SAR. But this is neither applicable because it would obstruct the practice of final adjudication power in the SAR and not correspondent to the legal system in Mainland China. Since the methods mentioned above do not conform to the reality in China and Macau, an agreement for conflicts of law might be a better alternative.

To consider this kind of agreement, jurisdictions and application of laws of the two different legal regions, should not be ignored. It is very important to decide either the court in China or the court in Macau should try any particular civil case or criminal case. And it is of equal importance to know either China law or the SAR law should be applied to the case. By reaching an agreement to define the jurisdictions and application of laws, courts in two sides can have a better understanding and cooperation to deal with civil cases, which involve properties and people from two different legal regions.

As for criminal case, apart from the regulations in Basic Law, negotiation by the institutions concerned on both sides is also a good way to eliminate any conflict of laws. Current practice of “dependency” is a principle for China and Macau to decide their limits of criminal jurisdiction. For instance, when a crime is committed in Macau, the

jurisdiction belongs to Macau judicial authority and Macau laws should be applied, no matter who the suspects, the defendants or the victims are — Macau residents or visitors from China. But when a crime or a series of crimes is committed in both sides, or by a group of suspects including Macau and China residents, judicial institutes from both sides should negotiate who is going to carry out its jurisdiction.

Democratic State, Human Rights and the Principle of Ombudsman
By Jorge Carlos Fonseca (pp. 71)

The author studies the history of ombudsman. The first Ombudsman was created in the 1809 Swedish constitutional reform, then extended to Finland and Denmark in 1919 and 1955 respectively, and in 1962 to New Zealand and Norway. Until recently the same post was named the Superintendent of Justice (Provedor de Justiça) in Portugal, the Defender of People (Defensor del Pueblo) in Spain, Mediator (Médiateur) in France and other French speaking countries, the Parliamentary Commissioner in Britain and the European Superintendent (Provedor Europeu) in countries of the Commonwealth. The ombudsman emerged in the East European countries and the Latin-American countries, just after the decline of the communist and military regimes, and then in Africa, Asia, Greece and Belgium.

Furthermore, the author defends the important role of an ombudsman as an independent and autonomous power and as a moderator between the citizens and the government. And also serves as an institution with real utility which is necessary for further affirmation of a law State and most important of all a State of the people. The ombudsman is not just a superintendent of justice but is a defender of the society when faced with the state, a superintendent of citizenship.

Macau and the Nationality Laws of Portugal and of the People's Republic of China

Tam Peng Chun (pp. 85)

Macau is a territory with various races and cultures, where different communities coexist. Such situation has given rise to questions concerning the nationality. In this article, the author Makes a research on some important features of the nationality laws, applicable in that territory at present and in future.

The article begins with the indication that the nationality law, presently applicable in the said territory, is the Portuguese Law No. 37/81, published on 3rd October, with changes introduced by Law No. 25/94, published on 19th August. An examination is then made on some aspects of this law, namely the original acquisition, the derivative acquisition and the loss of the Portuguese nationality.

In the second part of the article, an account is given on some important contents of the nationality law of the People's Republic of China, which

will become applicable in the future Macau Special Administrative Region with the observation, in particular, that this law does not admit dual nationality.

Finally, the above-mentioned nationality laws are reproduced, to facilitate reference.

The role of civil servants in the modernization of public administration

By Dr. Wu Zhiliang

(pp. 107)

This paper aims to study the role of civil servants in the modernization of public administration. In the first part, the author states that people from different sectors criticize the sluggishness of the localization of civil servants and the quality of the localized staff. But the author thinks that most of the local staff who have been promoted to senior positions possess the essential capacities. Any of them hold degrees of master or Ph.D. and are born in Macau. They know the community well and are ready to contribute themselves to the society.

In the second part, the foreign civil service system is analyzed with its four characteristics being pointed out: 1. Rules and regulations, 2. Merit and punishment, 3. Professionalism, and 4. Political neutrality. In Hong Kong the civil service system has undergone a series of changes since 1989. Until recently there is a new proposal of reform, which suggests to abolish the permanent employment and pension system.

In the third part, the author traces the civil service reforms in Macau back to 1980s. Then he comments on the recent amendment to the "general rules for civil servants of public administration". Several ideas are presented: 1. Streamlining and clarifying the structure of the public services, 2. Introducing a system of examination, evaluation and discipline judgement in recruitment and promotion, 3. Revising the salary and welfare system, and 4. Cultivating a culture of public administration.

In the last part, the author concludes that the localized civil servants should be more responsible, more ambitious and have a sense of belonging. They should be acquainted with the people and the problems they are facing. All these constitute an indispensable condition for the modernization of public administration.

Modernization of public Administration in Macau — a new driving force?

By Jorge Manuel Morais Costa

(pp. 123)

The author states that the application of modern techniques in public management and the necessity for computerization are determinants for the reconstruction and modernization of government departments.

Projects carried out by the Public Administration of Macau are being studied: like the reconstruction of government departments, the esta-

blishment of norms for public management, the human resources evaluation and the computerization of departments.

The relationship between the government and the citizens is being studied and emphasised.

The author also points out some of the measures in breaking the bureaucracy of the government departments. "The reduction of intervention by the government"; "The promotion of a new administrative culture"; "Keeping the citizens better informed of the facts of the territory of Macau"; "Bringing about new definitions to the relationship between the government and the public"; "Modernization of public management"; "Introduction of new information technologies"; "Rationalization of the structure of government organs" and "Simplification of the administrative procedures".

At last, the author raises the necessity for cost control and evaluates the results of the reforms, thinking that it is time to adopt some new styles of management and learn how managers could achieve their goals with the help of their staff.