



## U.S.-Macau Policy Act Report

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### I. SUMMARY

Macau maintained its distinct character and enjoyed strong economic growth during the period of this report. Cooperation between the United States and Macau remained broad, effective, and mutually beneficial. Over the past year, the Macau government has reiterated its support for the global anti-terrorism campaign and drafted additional anti-terrorism and money laundering bills; taken more steps to open and reposition its economy; and, continued to project its own identity through official interaction with the rest of the world. Macau residents continue to enjoy basic human rights and a unique way of life distinct from the People's Republic of China (PRC), although Macau's civil society and democratic infrastructure remains weak. The PRC has respected its commitments regarding Macau's high degree of autonomy. Macau officials continue to run Macau and make decisions pursuant to Macau's own identity and interests.

### II. BACKGROUND

Macau's status since reverting to PRC sovereignty in December 1999 is defined in the Sino-Portuguese Joint Declaration (1987) and the Basic Law. Macau's constitution promulgated by China's National People's Congress (NPC) in March 1993. The Joint Declaration and the Basic Law specify that Macau's social and economic system, lifestyle, rights, and freedoms are to remain unchanged for at least 50 years. Under the concept of "one country, two systems" articulated in these documents, Macau enjoys a high degree of autonomy except in defense and foreign affairs. Macau officials, rather than PRC officials, run Macau through the exercise of separate executive, legislative, and judicial powers. Macau maintains its own separate currency, customs territory, immigration and border controls, and police force.

In recognition of Macau's high degree of autonomy, the United States continues to accord Macau a special status distinct from the rest of China under U.S. law and policy. For example, the sanctions imposed on China after the June 1989 violence in Tiananmen Square (section 902 of P. L. 101-246) do not apply to the Macau Special Administrative Region (MSAR). The U.S. government supports Macau's autonomy by strengthening bilateral ties through the promotion of bilateral trade and investment, law enforcement cooperation, academic and cultural links, and high-level dialogue and visits (See Macau Policy Act of 2000, 22 U.S.C. 6901 note).

This report covers developments affecting U.S. interests in the period from April 2003 through March 2004.

### III. U.S. INTERESTS IN MACAU

U.S. interests in Macau include enlisting Macau's support in the fight against terrorism; protecting American citizens; supporting the maintenance of Macau's free market economy and unique way of life, including respect for civil liberties; advancing U.S. commercial interests; and, working with Macau to combat IPR infringement, illegal textile transshipments, money laundering, and other transnational crimes. The extent of Macau's high degree of autonomy also serves as an important indicator of China's respect for its international commitments.

There are nearly 980 American citizen residents in Macau, engaged in activities ranging from business to academia to missionary work. Approximately 56,642 Americans traveled to Macau in 2003 as tourists. U.S. investment in Macau, while small in the past, is expected to increase in coming years as the result of the 2002 awarding of two gaming concessions to consortia with U.S. interests. Though trade with Macau represents a small portion of U.S. trade, the United States was Macau's second largest trading partner after China. U.S. exports to and imports from Macau in 2003 were USD 54.6 million and USD 1.4 billion, respectively.

The U.S. Consulate General in Hong Kong performs a full range of services and operations in Macau under a March 25, 1997 U.S.-PRC Agreement on the Maintenance of the U.S. Consulate General in Hong Kong.

### IV. SIGNIFICANT DEVELOPMENTS IN U.S. RELATIONS WITH MACAU: April 1, 2003 – March 31, 2004

#### A. Anti-Terrorism Cooperation

Since the September 11 attacks, senior Macau officials have pledged full cooperation with U.S. and global efforts against terrorism. Macau's legislature passed an anti-terrorism law in April 2002, consistent with the requirements of UN Security Council Resolution 1373, that criminalized violations of UN Security Council resolutions, including anti-terrorist resolutions, and strengthened anti-terrorist financing provisions. The government has drafted additional legislation, which government departments are now reviewing, that will give the government expanded authority to designate terrorists and freeze their assets without first obtaining a court order and allow prosecution of persons who commit terrorist acts outside of Macau.

Macau has applied six of 12 major international anti-terrorism conventions and protocols. Because Macau is not a state, implementation of international treaties formally occurs via its sovereign, the PRC. After the PRC becomes a party to such treaties, it directs Macau to implement them. The conventions and protocols that Macau has not yet applied are the Convention on the Protection of Nuclear Material, the Suppression of Unlawful Acts against the Safety of Maritime Navigation, the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, and the Convention on the Marking of Plastic Explosives for the Purpose of Detection. China signed the Convention for the Suppression of the Financing of Terrorism on November 13, 2001 and is in the process of ratifying it. Macau intends to apply the Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, to which the PRC is a party, following resolution of a legal technicality regarding the PRC's accession to the protocol.

Macau's financial regulatory authorities continue to direct financial institutions to conduct account searches for terrorist funds, using lists of individuals and entities designated by the U.S. under relevant authorities, as well as the UN 1267 Sanctions Committee's consolidated list of individuals and entities associated with the members of al Qa'ida, the Taliban, and Usama bin Laden. No terrorist funds have been found. The Macau government has responded quickly and cooperatively when asked by U.S. law enforcement agencies for assistance on anti-terrorism matters.

## **B. Economic and Commercial Developments**

Macau's economy grew strongly in 2003, with real GDP up 13.4 percent in the first three quarters, compared to 8.2 percent growth in 2002. Rising activity in its two main sectors, gaming and tourism, drove this performance. Tourism benefited by a surge in tourists from China. Public finances remained sound, with a budget surplus, and foreign exchange reserves rose 13.8%. Unemployment declined from 6.3% to 5.4% by January 2004. Macau has lost jobs due to the relocation of labor-intensive industrial processing to neighboring China, but new tourist infrastructure is creating new employment. The pataca, Macau's currency, remained linked to the U.S. dollar through a currency board system.

During this reporting period, Macau and China negotiated and signed the Closer Economic Partnership Arrangement (CEPA), a free trade agreement granting Macau manufacturers and service suppliers preferential access to the China market. Beginning January 1, 2004, Macau-origin goods in 273 categories are subject to tariff-free treatment and Macau service companies enjoy preferential access to 18 mainland service sectors. Both parties were committed to making the arrangement WTO compliant, and as a result, U.S. and other foreign firms with a significant presence in Macau are eligible to take advantage of CEPA concessions to enter the mainland market. In December 2003, Macau and China agreed to develop a cross-border industrial project that the two sides will build on reclaimed seashore. The park will be able to import inputs from abroad duty free, employ Chinese laborers to process the goods, and take advantage of CEPA to export to China duty free.

In his November 2003 Policy Address, Chief Executive Edmund Ho announced a continuation of tax cuts and job creation measures, including a one-year extension of a previously-implemented tax package of a 25% income tax reduction, a modest property tax cut, and tax exemptions for manufacturers and restaurants. The government plans USD 230 million in infrastructure investment in 2004, and hopes that this will create 8,000 jobs.

After the government ended the 40-year-old gaming monopoly of the STDM Company in February 2002, the government awarded concessions to three consortia, including two with significant U.S. investment. A third U.S. gaming company is in negotiations with STDM for a sub-concession. The first U.S. casino is expected to open by the end of April 2004. The restructuring of the gaming industry remains the centerpiece of Macau's efforts to improve its international reputation and become a Las Vegas-like gaming, convention, and family-oriented holiday destination. The Legislative Council is considering a bill that would allow casinos to lend money in the form of chips. By July 2004, the administration hopes to implement and update other regulations regarding casino lending, which will impede the ability of organized crime groups to penetrate the casinos. The possible new investment of USD 1.5-2.5 billion in the medium term (a sizable percentage of Macau's GDP) will increase jobs and income and dramatically raise the U.S. business profile in Macau.

Macau-origin textiles and apparel continued to enter the United States under quotas separate from those of China. Under the terms of a September 2000 bilateral Memorandum of Understanding, our two governments cooperate in enforcing textile quotas and preventing illegal transshipment. The United States continued periodic visits by U.S. Customs Textile Production Verification Teams (TPVT) to ensure compliance with Macau's bilateral textile commitments. The most recent TPVT visit took place in July-August 2003, when a team inspected 25 textile and garment factories. The visit uncovered one confirmed case of illegal textile transshipment, involving approximately 5,000 dozens of garments.

The protection of intellectual property rights remains a priority issue on the U.S.-Macau bilateral economic agenda. Macau's progress since 1999 in strengthening IPR laws, tightening controls over DVD and VCD manufacturing, and stepping up street-level IPR enforcement resulted in Macau being removed from USTR's Special 301 list in 2002. Macau's new Customs Service continued to work with U.S. industry associations and maintained high tempo operations to combat piracy; for 2003, the government seized 145,387 pirated discs and 479 stampers and sealed five optical disc production lines, two of which were used for making stampers. As a result of these enforcement actions, virtually all illicit optical disc manufacturers in Macau have been shut down or moved their operations to other jurisdictions. There are two licensed lines in operation – one producing blank compact discs and the other producing stampers, with another expected to be licensed soon.

## **C. Export Controls**

Macau maintains its own border and customs controls. A Foreign Trade Decree governs the licensing and regulation of trade through Macau. This decree gives Macau Economic Services (MES) and other government departments broad authority to regulate the import or export of sensitive products ranging from firearms to CD manufacturing lines. In addition, under Article 12 of the decree, the Macau Chief Executive may unilaterally impose a prior licensing requirement for any strategic good. In November 2003 the Chief Executive exercised this authority by prohibiting the import and export of items and materials controlled under the Chemical Weapons Convention. In addition, MES officials are drafting a law that would cover items and materials included under other international conventions. Enforcement of licensing requirements and inspection of incoming goods are the responsibility of the Macau Customs Service.

As a practical matter, Macau's ability to maintain international export control standards remains limited. The Customs Service, established in November 2001, is still developing expertise in export control policy and those officers now policing the airport, border, and harbor have limited technical competence with which to identify sensitive goods. Moreover, there is currently no system in place to regulate trade in dual-use commodities. In May 1999, U.S. Department of Commerce regulations established Macau as a separate export control designation. However, the Macau Policy Act stipulates that U.S. export control laws, regulations, and practices shall apply to Macau in the same manner and to the same extent that they apply to the PRC.

The U.S. government is helping Macau improve its export control regime by providing training to Macau law enforcement officials on export controls through programs at the U.S.-sponsored International Law Enforcement Academy (ILEA) in Bangkok (see Law Enforcement Cooperation section) and by encouraging Macau's participation in regional export control conferences. Macau authorities have expressed interest in additional international export control training from the United States, Japan, United Kingdom or other partners.

## **D. Law Enforcement Cooperation**

Law enforcement cooperation between the United States and Macau continued to deepen during this reporting period. U.S. law enforcement agencies assigned to the U.S. Consulate General in Hong Kong worked with their Macau counterparts on issues that included drug trafficking, money laundering, illegal textile transshipment, alien smuggling, and intellectual property rights protection. For example, the Macau Judiciary Police gave extensive assistance to the U.S. Drug Enforcement Administration (DEA) in two important International Impact/Priority Target drug investigations and routinely exchanged intelligence with the DEA. Macau authorities allowed U.S.

Immigration and Naturalization Service personnel to be stationed at Macau international airport as U.S. Immigration Control Officers.

Macau's free port, lack of foreign exchange controls, and significant gambling industry create an environment that can be exploited for money laundering. Although the gaming monopoly has ended, organized crime groups continue to be associated with the gaming industry through their control of VIP rooms and various criminal activities. The forthcoming expansion of international gambling establishments has the potential to increase the amount of counterfeit U.S. currency circulated in Macau. While Macau has improved its reporting on counterfeit currency activity through ongoing training and relationship building with the U.S. Secret Service, reporting activity by Macau authorities needs to improve further.

Macau's anti-money laundering legal framework is in line with international standards, but enforcement has been weak. The government continued over the past year to take additional steps to combat money laundering. The government prepared a money laundering draft law that specifies the creation of a Financial Intelligence Unit and includes provisions on due diligence and banker negligence. The obligations of reporting suspicious transactions will extend to lawyers, notaries, accountants, auditors, and offshore companies. The bill redefines money laundering to cover all forms of serious crimes and makes legal persons liable for money laundering. In addition, the increased attention paid to financial crimes in Macau after the terrorist attacks of September 11 led to a sharp increase in the number of suspicious transaction reports, which continued throughout 2003. The Monetary Authority continued to provide guidance for banks, money changers, and remittance agents on record keeping and suspicious transaction reporting for cash transactions over USD 2,500. Macau government officials attended anti-money laundering training sessions offered by the United States and international bodies such as the Asia/Pacific Group on Money Laundering. The FBI gave a seminar regarding typologies and investigation procedures related to terrorist financing. DEA has been coordinating with the U.S. Department of Justice to conduct a comprehensive money laundering/asset forfeiture/terrorist financing training seminar for Macau and Hong Kong to be held in 2004 or 2005.

The police boosted hiring of finance majors and ex-bankers, which will enhance its capacity to combat money laundering. Macau officials involved in legislative, judicial, prosecutorial, and law enforcement crime fighting efforts continued to attend a variety of crime-fighting programs at the U.S.-sponsored International Law Enforcement Academy (ILEA) in Bangkok in 2003. INS in Hong Kong conducted quarterly fraudulent document training/recognition sessions with Macau Police/Immigration and commercial airline carriers.

Law enforcement agencies in the United States and Macau cooperate closely and routinely. Cooperation is on a case-by-case basis because there are no formal bilateral agreements on law enforcement cooperation.

#### **E. Political Developments**

Chief Executive Ho is a strong advocate of the principle that Macau people rule Macau and that Macau must maintain its unique way of life and freedoms.

Macau's democratic infrastructure remains weak, although Hong Kong University and Macau University polls show the Chief Executive had about an eighty percent approval rating over this reporting period. The ability of the legislature to initiate legislation is limited, although it plays a role in shaping legislation. There is little public pressure for democratization. Pursuant to Macau's Basic Law, the number of directly elected legislators will increase from ten to 12 in 2005, while the number of legislators will also increase by two to 29. After 2009, the selection of the Chief Executive may be changed by two-thirds endorsement of the Legislative Assembly and approval by the NPC Standing Committee. Changes in the method for forming the Legislative Assembly require a two-thirds endorsement of the assembly, agreement by the Chief Executive, and notification to the NPC Standing Committee. Macau's civic organizations are not well developed. There are no political parties and only one civic group organized specifically to deal with political issues. The ability of Macau citizens to change their government is significantly restricted, and, unlike Hong Kong's, Macau's Basic Law does not posit "universal suffrage" as an ultimate goal in choosing the Chief Executive or the legislature.

Although work had been underway to draft national security legislation, as required by Article 23 of Macau's Basic Law, in November, Chief Executive Edmund Ho announced that 2004 would not be the proper time for the government to propose Article 23 legislation. Ho, whose term in office expires on December 20, 2004, indicated that any decision regarding Article 23 legislation would be deferred until the next term. Ho indicated that the government would continue drafting the legislation and would conduct public consultations in due course. The U.S. government has urged Macau to undertake widespread public consultation on these laws as they are drafted to ensure that they are consistent with Macau's legal tradition and the International Covenant on Civil and Political Rights, as reflected in the Basic Law.

During this reporting period, Macau continued to establish its own identity through interaction with the rest of the world. Due to the SARS outbreak, official overseas travel was cancelled for several months in 2003, including planned visits by the chief executive to Germany and Brazil, which may take place later in 2004. Sixty-three countries provide visa services to Macau residents either through their Hong Kong consulates or offices in Macau.

#### **F. The Judiciary**

Macau continues to enjoy an independent judiciary. Courts are free from political interference. On several occasions, including in 2003, the courts handed down verdicts against the Macau government. In one case, civil servants successfully sued the government regarding employment issues. The Chief Executive appoints both local and foreign judges to Macau courts on the recommendation of an independent commission, which reviews professional qualifications. The Government instituted a rigorous postgraduate training program for magistrates who received legal training outside of the SAR. The judiciary is relatively inexperienced (the first law school opened in the early 1990s), and the lack of locally trained lawyers has been a serious impediment to the administration of justice.

#### **G. Cultural, Educational, Scientific, and Academic Exchanges**

The Institute of International Education (IIE) office in Hong Kong provides educational advisory services and conducts outreach programs for schools and Macau students who wish to pursue studies in the United States. In January, the Consulate assisted IIE staff with an educational seminar at the Macau Public Library. The Department of State International Visitor Program supports a wide variety of professional exchanges for candidates sponsored by the Consulate General. During the reporting period, nine individuals from Macau, including journalists, government and law enforcement officials, traveled to the United States on study tours.

#### **H. The Nature and Extent of Macau's Participation in Multilateral Forums**

Macau's UN reports are transmitted through the central authorities in Beijing. SAR government officials have said that Beijing does not alter Macau's reports. Information on anti-terrorism measures Macau has taken under United Nations Security Council Resolution 1373 was incorporated into the PRC-wide report. In May 2001 Macau joined the Asia-Pacific Group (APG), a regional anti-money laundering forum. In September 2003, Macau hosted the APG Ministerial meeting. Macau has full, partial, associate and participatory memberships in a large number of multilateral forums and bilateral agreements.

#### **I. Determinations under Section 203**

Section 203(a)(2) of the Macau Policy Act stipulates that whenever the President determines that Macau is not sufficiently autonomous to justify treatment under a particular law or provision of the United States different from that accorded the PRC, the President may issue an order suspending the application of such laws or provisions to Macau. No determinations under section 203 have been required.

### **V. COMPLIANCE BY THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA AND THE GOVERNMENT OF THE REPUBLIC OF PORTUGAL WITH THEIR OBLIGATIONS UNDER THE JOINT DECLARATION**

#### **A. PRC Organizations and Officials in Macau**

Since the 1999 handover, PRC official organizations in Macau, including the Ministry of Foreign Affairs and the Central People's Government Liaison Office, have maintained a low public profile and have not interfered in areas over which Macau exercises autonomy.

Between 500 and 600 People's Liberation Army (PLA) soldiers are stationed in Macau, primarily as a symbolic presence to underscore Chinese sovereignty. The remainder of the 1,200-strong Macau garrison resides just across the Chinese border in Zhuhai. Although the Basic Law states that the Macau SAR government may "when necessary" ask the central government to allow the garrison to assist in maintaining public order or disaster relief, Chief Executive Ho has said that, in keeping with the Basic Law the garrison will play no role in internal security. The garrison has maintained a low profile, with soldiers generally wearing civilian clothing when off base and not engaging in business activities.

#### **B. Post-handover Macau SAR-PRC Agreements**

Macau and the PRC have an Agreement for Mutual Service of Judicial Documents in Civil and Commercial Proceedings between PRC and Macau courts, which took effect September 2001. Macau and the PRC are still negotiating an Agreement on Service of Documents in Criminal Proceedings. Macau's Secretary for Security announced in March 2000 that Macau and the PRC would discuss a prisoner transfer agreement, but no agreement has been concluded to date.

[End]



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