

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

RESTRICTED
C/RM/S/48
30 August 1994
Limited Distribution

(94-1695)

COUNCIL

TRADE POLICY REVIEW MECHANISM

MACAU

Report by the Secretariat

In pursuance of the CONTRACTING PARTIES' Decision of 12 April 1989 concerning the Trade Policy Review Mechanism (BISD 36S/403), the Secretariat submits herewith its report on Macau.

The report is drawn up by the Secretariat on its own responsibility. It is based on the information available to the Secretariat and that provided by Macau. As required by the Decision, in preparing its report the Secretariat has sought clarification from Macau on its trade policies and practices.

Document C/RM/G/48 contains the report submitted by the Government of Macau.

NOTE FOR ALL DELEGATIONS

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SUMMARY OBSERVATIONS

(1) Economic Environment and Sectoral Development

1. Proximity to Hong Kong and China has played a key rôle in the development of the small enclave of Macau. The territory's industrial take-off in the 1960s relied strongly on its attraction for Hong Kong enterprises that encountered shortages of land and labour at home and origin-based restrictions in export markets, particularly for textiles and clothing. With many cultural and institutional similarities - including an open trade and investment régime, a stable and fully convertible currency, and a common language - Macau was an attractive locational alternative, just 60 km across the Pearl River Delta. While gambling-related tourism has for many years dominated the economy, clothing has emerged as the mainstay of the manufacturing sector, accounting for up to 90 per cent of merchandise exports at the end of the 1970s. The industry is made up mainly of small, self-financed firms working under subcontracting arrangements.

2. Industrial diversification in the 1980s, with non-textile products reaching 30 per cent of merchandise exports in 1985, proved short-lived. The main production alternatives, toys and artificial flowers, have been shifted in recent years to lower-cost locations across the border with China. Manufacturing employment has fallen from 45 to 25 per cent of the active population in the past decade, with the clothing sector, still locked in by origin requirements under the Multifibre Arrangement, cementing its "traditional" rôle. Internal quota allocation is based mainly on past performance and, thus, tends to favour entrenched interests.

3. With the phasing-out of the MFA and the eventual loss of scarcity rents on its major markets, the clothing industry is heading for difficult adjustments. Some 90 per cent of its exports go to only two destinations, the United States and the European Union, with the major part covered by bilateral restraints. In the

European Union, Macau has lost market share since the mid-1980s, pressed by low-cost competitors, in particular China, and suppliers with more favourable access conditions under preferential trade agreements. Exports to non-MFA markets such as Japan have exhibited no real growth in recent years.

4. Recent policy actions have been aimed at upgrading the territory's resource base, improving the conditions for industrial diversification, and helping businesses exploit the locational advantages of one of the world's most dynamic regions. Large private and public investments in this context, including the upgrading of port facilities and the construction of an international airport, have underpinned economic expansion; real GDP growth exceeded 6 per cent a year in the period 1991-93.

5. Despite the surge in public investment, the authorities have kept taxation low and the budget in surplus. Fiscal revenue has been buoyed by receipts from land leases and the thriving gambling sector, which accounts for one-third of total government income. However, resource constraints, related in particular to land and labour, have fuelled inflationary pressures. Given Macau's currency peg to the Hong Kong dollar and thus, indirectly, the U.S. dollar, the monetary authorities have had no scope for tightening but have rather been required to tolerate the expansionary effects of strong foreign asset inflows. Higher inflation than in the United States, peaking at about 9½ per cent in 1991, has translated into real currency appreciation and, consequently, adjustment pressures on price-sensitive activities.

6. Macau's current economic momentum is founded largely on private service activities which have ensured, despite an increasing deficit in merchandise trade since 1991, a strong surplus in the territory's goods and services balance.

(2) Institutional Framework

7. Macau's current legal status is that of a "Chinese territory under Portuguese administration". According to its Organic Statute, promulgated by the Portuguese Parliament, executive authority is vested in the Governor, who is appointed by the President of Portugal. He is assisted by up to seven Secretaries. The Governor also has legislative powers on any issues that are not under the exclusive competence of, or have been delegated by, the Legislative Assembly. Of the Assembly's current 23 members, eight are elected by direct and universal suffrage, eight by indirect suffrage by constituencies representing various interest groups, and seven are appointed by the Governor. Basic regulations are currently under revision with a view to streamlining procedural requirements and replacing remaining Portuguese legislation by local law.

8. The main agency involved in the preparation and implementation of trade-related policies is Macau Economic Services, which operates under the purview of the Secretary for Economic and Financial Affairs. Trade-related legislation is normally drafted by administrative units, submitted to the Secretary and, after approval, promulgated by the Governor in the form of decree-laws. The private sector participates in the policy formulation and co-ordination process through the Economic Consultative Council.

9. After more than four centuries of Portuguese administration, Macau will become a Special Administrative Region of China in December 1999. Under the Sino-Portuguese Joint Declaration of 1987 and the Macau Basic Law, promulgated in 1993 by China's National People's Congress, the territory is to have full autonomy in the administration of its affairs, with the exception of defence and foreign policy, for the following fifty years. It will maintain the status of a free port and will be exempt from all taxes imposed by the central government. Macau succeeded to GATT in 1991; as a separate

customs territory, it may continue to conclude and participate in international agreements governing economic, trade and financial relations and will be a member of the future WTO under the name "Macau, China".

(3) Trade Policy Features and Trends

10. Owing to its free-port tradition since the sixteenth century, free market principles are deeply ingrained in Macau's political and economic fabric. The territory does not participate in any preferential trade agreements; all trade enters and exits duty-free. (However, this access is not bound and, even after the Uruguay Round, only one-fifth of Macau's duty-free tariff rates - all agricultural items and 10 per cent of industrial tariff lines - will be bound.) There are no origin or local content requirements, provisions for safeguard actions, export subsidy, credit or insurance programmes. Nor is there any evidence of significant technical barriers to trade; where standards or technical regulations are seen as necessary, Macau relies as far as possible on internationally recognized requirements and on type approval granted by competent foreign bodies. Portuguese law on anti-dumping and countervailing measures, though gazetted, has not been implemented and the territory has therefore no active legislation in this field. Confident of the disciplinary effects of free competition, Macau has no means of discouraging collusive business practices such as price cartels and bid-rigging.

11. Macau does not levy a general sales tax, but raises consumption taxes on alcoholic beverages, soft drinks, tobacco and tobacco products, motor vehicles, fuels and cement. Their rates have remained unchanged since 1986 and do not in general differentiate between individual sources of supply. The only exception are wines and other liquors imported from Portugal, which bear half the regular rates; these preferences are scheduled for elimination, although without any stated timeframe.

12. An additional charge of 25 per cent is levied on various alcoholic beverages and all motor vehicles if these are not imported directly from the country of origin. Designed to reduce the territory's dependence on indirect trade via Hong Kong, the charge tends to strengthen the exclusive position of, and may translate into significant monopoly rents for, local distributors. These effects are amplified by an import prohibition, mainly on environmental grounds, on second-hand cars, motorcycles and trucks.

13. All imports and exports are currently subject either to licensing, trade declaration or prior authorization requirements. Licences and trade declarations (for perishable goods) are normally issued immediately, free of charge. Apart from textile exports subject to MFA restraints and trade in gold and platinum, prior authorization is confined to products considered sensitive for health, safety, environmental or technical reasons. Cases in point are chemicals, pharmaceuticals, arms and ammunition, fuels, radio transmitting equipment, motor vehicles, and endangered species of wild flora and fauna. Currently, legislation is in draft to implement Macau's commitments under the Vienna Convention and the Montreal Protocol concerning trade in CFC-containing products.

14. Government procurement of goods, services and works is normally effected through public tendering, administered by Committees comprising three representatives of the entity involved. Direct purchases (single tendering) of a significant scale are normally confined to special circumstances and must be authorized either by the responsible Secretary or, depending on the value, by the Governor. In the case of single or selective tendering, consultations with at least three specialized firms registered in Macau are required. In 1993, approximately P 1.13 billion (US\$140 million) was spent on goods, services and construction projects.

15. Macau's framework for investment incentives, designed to encourage industrial modernization and diversification, relies mainly

on tax breaks and on subsidized loans for the construction or purchase of premises and new equipment. However, the incentives have to date been little used. Their importance as an industrial development instrument is dwarfed by the Government's influence on the use of land. Some 95 per cent of Macau's territory of 18 square kilometres is government-owned and industrial land is allocated among investors through leases whose conditions are negotiated case-by-case. Revenue from land leases, half of which is reserved for the post-1999 Government, has risen tenfold since 1988.

16. Basic public services such as broadcasting, telecommunications, water, electricity and transport are provided by private monopoly operators under government concessions. Prices are predominantly cost-oriented and do not normally differentiate between users. The telecommunications concession is under review with a view to limiting the scope of the current monopoly to the provision of network facilities and simple voice transmission. Macau has not notified any State trading activities under the relevant GATT provision.

17. In most areas of industrial property, protection is currently provided through the extension of the Portuguese Industrial Property Code to Macau. The Paris Convention applies to the territory via Portugal's membership; legal action to defend industrial property rights are in principle left to the owner or his licensee. Implementation of the Uruguay Round Agreement on Trade-Related Aspects of Intellectual Property Rights appears to require major changes to domestic legislation.

(4) Trade Policies and Foreign Trading Partners

18. Macau's economic progress has been spurred by external impulses, in particular the prohibition, until recently, on casino gambling in surrounding regions and the operation of the MFA quota régime. However, the territory's favourable business climate and its ability to

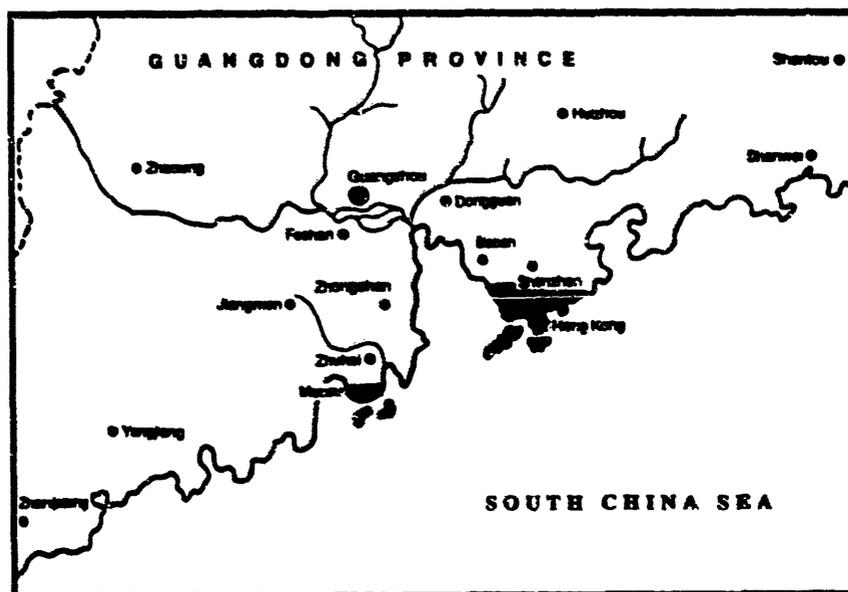
attract foreign investment and entrepreneurial talent, rest mainly on its long record as a free trader with a laissez-faire government, rather than on formal incentives or constraints.

19. Macau is preparing for the transfer of sovereignty in 1999 and, coincidentally, the economic challenges resulting from the phasing-out of the MFA. The authorities have thus sought to encourage industrial diversification, encourage gateway services for neighbouring regions, and promote the territory as a commercially independent entity. Given Macau's small, open economy and its dependence on events in China and Hong Kong, the territory would benefit greatly from a liberal trading environment, based on stable, rule-based co-operation within the multilateral system.

I. THE ECONOMIC ENVIRONMENT

(1) Major Features of the Economy

1. Macau is one of the smallest entities among the GATT contracting parties, with a population of less than 400,000 and an area of 18 square kilometres. Located about 100 kilometres south of the Chinese city of Canton, the territory comprises the Macau peninsula together with two small islands, Taipa and Coloane. Hong Kong lies 64 kilometres east of Macau across the Pearl River Delta.



2. Macau's export-driven economy has expanded rapidly in the last two decades. Available estimates show real annual GDP growth of over 16 per cent between 1971 and 1981, and 7.5 per cent for the period 1982 to 1992. In 1992, GDP reached US\$5.1 billion (US\$13,575 per capita), 80 per cent of which derived from exports of goods and services (Table I.1). Over 70 per cent of Macau's workforce is currently employed in the private service sectors.¹

Table I.1
Major features of Macau's economy

Area	18 sq. km.	Unemployment rate (1990-93)	2.5 per cent
Population (mid-1993)	387,760	Inflation (consumer prices, 1993)	6.7 per cent
Population growth (1980-90)	3.4 per cent	GDP (1992)	US\$5.1 million
Labour force growth (1981-91)	4.4 per cent	GDP per capita (1992)	US\$13,575
Employment (1993)		Merchandise exports f.o.b. (1993)	US\$1,787 million
Manufacturing	46,230	Merchandise imports c.i.f. (1993)	US\$2,025 million
Services	117,720	Exports of goods and services /GDP (1992)	80 per cent
Of this: Public sector	15,680	Imports of goods and services/GDP (1992)	47 per cent

Source: Macau Statistics and Census Department.

¹GDP statistics on a production basis are not currently available. In the early 1980s, 45 per cent of the active population was employed in manufacturing and 40 per cent in private services.

3. Tourism, in particular gambling-related activities, has been a major factor in Macau's economic momentum.² Organized gambling has existed in the territory for 150 years, based on a licensing system to raise revenue for the administration. It contributed between 30 and 50 per cent of total government receipts over the last decade. Since 1962, the monopoly concession has been held by the privately-owned STDM (*Sociedade de Turismo e Diversões de Macau*), following a decree by Portugal that Macau, as a tourist city, be allowed to operate western gambling. STDM is obliged, under its franchise agreement, to pay to the Government 30 per cent of its gambling turnover, progressively increased from 26 per cent in 1987. STDM is required by its franchise conditions to help develop the territory's infrastructure. It has financed the construction of a new maritime terminal, for which it holds an exclusive operation franchise and is participating in the funding of the Macau International Airport and a second bridge to Taipa island.³ The authorities have thus been able to keep taxation low and the public budget in continuous surplus in spite of major development projects in the last several years (Table 1.2).⁴

Table 1.2
Government budget, 1988, 1992 and 1993

	1988		1992		1993 ^a	
	P million	Per cent	P million	Per cent	P million	Per cent
Spending	2,827.0	-	8,894.0	-	8,284.4	-
Receipts	2,941.4	100	10,699.8	100	10,666.8	100
Concessions ^b	1,067.6	36	3,666.7	34	4,745.3	47
Property income ^b	368.3	13	3,526.0	33	2,550.1	25
Consumption tax	171.3	6	340.7	3	378.1	4
Profit tax	141.2	5	339.8	3	489.3	5
Property stamp tax	124.6	4	334.7	3	362.8	4
Export-related fees ^c	87.4	3	85.6	1	80.8	1
Income tax	73.2	2	198.1	3	192.8	2
Other sources ^d	908.7	35	2,208.2	21	1,267.6 ^e	12

- a Concessions of exclusiveness for exploring, gambling, telecommunications, electricity, water supply and others; gambling accounted for 98.5 per cent of total revenue from concessions in 1993.
- b Receipts from land concessions.
- c Levied for the issuance of certificates of origin and export licences.
- d Includes revenue from stamp and tourism taxes, fines, government capital income, and revenue raised by statutory bodies.
- e Not comparable with previous years since autonomous agencies are excluded.

Source: Macau Statistics and Census Department, *Yearbook of Statistics 1992*.

4. Industrialization started later in Macau than in other East Asian economies. The emergence of domestic manufacturing in the 1970s was mainly due, on the supply side, to spill-over from Hong Kong, whose businesses experienced increasing land and labour shortages and, on the external

²About 7½ million visitors arrived in 1993, ten times more than in the early 1980s. The number of hotel beds increased from 5,740 in 1982 to 16,320 in 1993.

³The franchise held by STDM applies only to the operation of jet-foils and high-speed ferries.

⁴Direct taxes include 15% income tax, urban housing tax, salaries tax, profit tax and business tax on enterprises.

front, trade restrictions introduced by major importing countries. Clothing producers from Hong Kong made the first significant investments in Macau's manufacturing sector.⁵ Throughout the 1970s, clothing remained the dominant industrial activity, representing up to 90 per cent of merchandise exports.

5. During the 1980s, manufacturing became more diversified, both through backward integration of clothing into textiles production and the establishment of other industries. These appear to have been spurred by Hong Kong's loss of GSP preferences for toys and artificial flowers, particularly in the United States, and the operation by France of quotas on Hong Kong-made radios and television sets.⁶ Non-textile products reached 31 per cent of total merchandise exports by the middle of the decade. However, their dynamism proved short-lived with the relocation of manufacturing activities to the Special Economic Zone of Zhuhai across the Chinese border (Box I.1).

Box I.1: Economic integration in the Pearl River Delta

Since the introduction of China's "open door" policy in 1978, trade and investment flows have burgeoned within the Pearl River Delta. Beginning with sub-contracting agreements and compensation trade, and later with joint ventures, the principal investors in the southern China region have been from Hong Kong and Macau where labour and land have become increasingly scarce and costly. With the opening of a Special Economic Zone in Zhuhai, on Macau's doorstep, in 1985 an additional factor entered the locational equation.

In 1992, Macau-based investors accounted for US\$706 million of approved foreign investment agreements and US\$123 million in utilized foreign direct investment in Guangdong Province, whose economy has been growing at double-digit rates in recent years. Guangdong contributes some 10 per cent to China's total exports. The relocation process in the Delta region has also been mirrored in a ten-fold increase since 1985 in Macau's temporary exports and re-imports; almost entirely in trade with China. Transit trade from China through Macau grew from US\$6 million in 1983 to US\$107 million in 1993; and the number of vehicles crossing the border with China increased from 413,600 in 1985 to 1.17 million in 1993.

Correspondingly, Chinese investors have a growing presence in Macau, controlling some 50 per cent of the banking and financial sector, 40 per cent of building, construction and property, and 45 per cent of tourism (excluding gambling). The number of Chinese-owned companies is reported recently to have reached 200, with total assets of about US\$5 billion.

⁵In 1990, Hong Kong-based investors are estimated to have accounted for 60 per cent of the investment stock in Macau's manufacturing sector (Cremer 1991).

⁶In the 1980s the restrictions by France were applied under EC Council Regulation No. 288/82. The origin of the measures on radios dates back to the mid-1940s; sometimes they were maintained as a régime without quantitative limits, at other times quotas were enforced (BISD 30S/129).

6. Financial services have developed rapidly since the early 1980s, buoyed by a booming industrial sector and encouraged by regulatory changes.⁷ Eight new banks opened in 1983 alone. At the end of 1993, 20 banks were operating in Macau, of which 14 were incorporated abroad.⁸ The *Banco Nacional Ultramarino* (BNU) acts both as the issuer of pataca banknotes and the clearing bank for the local currency, while the Bank of China (BOC), with one branch and one subsidiary in Macau, acts as the clearing bank for Hong Kong dollars. In 1990, the BOC accounted for 40 per cent of Macau's import and export letters of credit.⁹ The insurance sector comprises 20 companies, three of which have head offices in Macau.

7. In order to promote Macau's status both as an independent trading entity and a service centre for the surrounding region, the authorities embarked on major infrastructural projects toward the end of the 1980s (Table I.3). The first stage of a new port to handle container and oil tanker traffic has been completed, and an international airport is expected to be operational by 1996. Other infrastructural facilities have been modernized, including the telecommunications network.¹⁰

Table I.3
Major infrastructural projects in the Pearl River Delta

Location	Project	Technical features	Cost US\$ billion	Timeframe
China/Macau/ Hong Kong	Motorway bridge from Zhuhai to Hong Kong across the mouth of the Pearl River	6 lanes, 49.4 km long	1.7	1995-2000
China/Macau/ Hong Kong	Motorway Guangzhou-Shenzhen-Zhuhai-Macau			1994-1996
China/Macau	Express train link Guangzhou-Zhuhai-Macau	147 km		1993-1996
Macau	International airport (Taipa)	150 ha (reclaimed land)	0.924	1996
Macau	Bridge to airport and Taipa Island	3.9 km	0.081	Feb. 1994
Macau	Second construction stage of Ka Ho port		Under study	
Macau	Passenger ferry terminal		0.100	1993
Macau	Reclamation of land (Nam Van Lakes)	130 ha (reclamation area: 50 ha)	1.4	1999

Source: GATT Secretariat, based on Galli (1993) and information provided by the Government of Macau.

⁷A new banking ordinance was published (in 1982) and the monetary institutions underwent changes leading to the establishment of the Monetary and Exchange Authority (Box I.2).

⁸Offshore banks may operate tax-free apart from the payment of an annual fee.

⁹Cremer (1991).

¹⁰The number of telephone lines installed in Macau increased from 15,000 in 1981 to 152,500 in 1993.

(2) Recent Economic Performance

8. Large-scale private and public investment projects, underpinned by a booming tourist industry and strong demand for business services, have been the mainstay of Macau's recent economic expansion. In the three years since 1990, the share of investment in GDP rose from 20½ to 31 per cent (Table I.4).

9. The investment boom collided with land and labour shortages and thus fuelled inflationary pressures which the monetary authorities were unable to contain (see below). Real interest rates turned negative and, led by price increases for non-tradeables, inflation peaked at nearly 10 per cent in 1991; it has abated since to less than 7 per cent.

Table I.4
Performance of Macau's economy

	1982-89	1990	1991	1992	1993
	(Annual percentage change)				
Real GDP ^a	7.7	5.0	3.3	12.1	5.2 ^b
Real GDP per capita	3.2	1.9	-1.6	5.8	1.2 ^b
Real consumption	7.7	4.5	7.5	6.3	4.6
Private	6.9	4.0	6.2	7.7	5.3
Public	14.5	7.4	14.2	-0.6	1.1
Real investment	11.5	7.2	23.2	30.0	12.1
Private	11.2	2.7	25.0	33.3	7.8
Public	13.4	44.4	12.7	8.7	46.9
Real exports	8.1	5.0	0.5	6.4	4.1
Goods	7.7	-2.2	-6.7	-1.7	-5.1
Services	8.6	14.1	8.3	14.0	11.4
Real imports	9.5	5.4	9.0	6.9	6.5
Goods	9.6	4.9	9.6	7.1	6.2
Services	7.9	11.5	2.0	5.4	11.0
	(Index December 1990 = 100)				
Effective exchange rate	-	99.0	100.4	103.1	104.0
	(Annual percentage change)				
Money supply (M ₂)	-	25.5	-	20.2	7.1
Consumer price index	6.4 ^c	8.0	-	7.7	6.7
Tradeables	5.4 ^c	5.6	7.5	4.6	3.2
Non-tradeables	8.6 ^c	10.1	12.3	11.3	10.1
Administered prices	0.5 ^c	12.4	6.8	4.3	6.4
	(Per cent)				
Interest rates (short term) ^d	-	8.1	4.30	4.5	3.75
	(Per cent of GDP)				
Gross domestic investment	19.0	20.4	24.7	28.6	31.0

a 1982-1992 GDP estimates are under review.

b September 1993 forecasts.

c 1983-89 figures.

d Average 3-month interbank rate, December.

- Not available.

Source: Macau Statistics and Census Department, Macau Economic Services and Macau Monetary and Exchange Authority.

10. Given Macau's monetary environment - with the pataca (P) pegged to the Hong Kong dollar and, indirectly, to the U.S. dollar, and the absence of capital controls (Box I.2) - it is impossible for the territory to pursue an active monetary policy. Interest and exchange rates are aligned with those in the United States and the money supply is driven by Macau's (and Hong Kong's) dynamic external sector, resulting in higher monetary growth than in the United States. This has encouraged higher inflation rates which, in turn, have translated into real currency appreciation in recent years.

Box I.2: Monetary institutions and arrangements

With the establishment of the *Instituto Emissor de Macau* (IEM) in January 1980, most of the functions normally entrusted to a monetary authority - which had previously been shared by various public sector bodies and the *Banco Nacional Ultramarino* (BNU) - were concentrated in one government-controlled organization. The BNU, a Portuguese State-owned bank with a long tradition in Macau, retained its rôle as issuer of currency and as the government's banker, now however, under the direction of the IEM. The IEM was transformed in mid-1989 into the Monetary and Exchange Authority of Macau (AMCM, *Autoridade Monetaria e Cambial de Macau*). Under its enabling legislation, the AMCM is required, inter alia, to:

- (i) assist the Governor in the formulation and conduct of Macau's monetary, financial, exchange-rate and insurance policies;
- (ii) ensure internal monetary stability and external solvency of Macau's currency within this general policy context;
- (iii) guide and co-ordinate money, financial, exchange and insurance markets subject to the Governor's directives;
- (iv) issue guidelines for operations in foreign currencies and foreign assets with a view to maintaining a sound local currency; and
- (v) act as the central depository of gold reserves, foreign currencies and other foreign assets.

The BNU is required to surrender to the AMCM the foreign exchange equivalent of the pataca banknotes issued. Since 1977 the pataca has been pegged to the Hong Kong dollar, which is also legal tender in Macau and accounts for around one-half of the money stock. There are no exchange controls. Nor are there any restrictions on capital flows or controls on the use of payments or invisible receipts, apart from the obligation to sell through the banking system 40 per cent of foreign exchange proceeds. Settlements between residents and non-residents may be made and received in any currency. Interest rates are not regulated and there are no withholding tax requirements on interest paid on deposits, whatever the currency or residence of the depositor.

(3) Foreign Trade

11. Since 1991 Macau's merchandise trade has been in deficit as exports declined in real terms and imports, particularly of consumer and capital goods, rose in response to strong domestic demand. However, high and rising tourism revenue, particularly in the gambling sector, has continued to ensure a huge and growing surplus on the services balance (Table I.5). Foreign exchange reserves have increased threefold since 1990 and stood at 7½ months of imports of goods and services at the end of 1993.

Table I.5
Macau's external sector 1980, 1985 and 1990-93
(US\$ million)

	1980	1985	1990	1991	1992	1993
Merchandise exports (f.o.b.)	531.4	901.3	1,679.9	1,664.9	1,766.1	1,743.2
Merchandise imports (c.i.f.)	538.7	777.0	1,679.0	1,941.8	2,192.5	2,285.2
Trade balance	-7.3	124.3	20.0	-276.9	-426.4	-542.0
Services exports	-	508.8	1,492.1	1,786.7	2,269.5	2,740.4
Services imports	-	73.3	137.1	157.2	180.9	226.7
Foreign exchange reserves ^a	49.6	110.5	513.8	652.4	1,302.3	1,567.6
in months of imports of goods and services	1.1	1.6	3.4	3.7	6.6	7.5
Memorandum: Exchange rate (Patacas per US\$)	5.33	8.02	8.03	8.01	7.97	7.96 ^b

a Foreign exchange reserves held by the Macau Monetary and Exchange Authority as at the end of the year.

b End of year; 1993: January-November.

Note: Exports and imports in 1980 are taken from Macau's foreign trade statistics, figures for other years are based on GDP estimates or forecasts (1993).

Source: Estimates provided by the Government of Macau.

(a) Commodity pattern of trade

12. Macau's exports exhibit both high product and market concentration. The share of textiles and clothing in total exports increased from less than one-fifth in the late 1950s to 58 per cent in 1970 and an all-time high of 90 per cent in 1979.¹¹ Artificial flowers, first produced in Macau in the late 1970s, reached close to 4 per cent in 1983 and toys nearly 12 per cent in 1985 (Table I.6).

¹¹Macau's principal exports in the 1950s were fish and traditional crafts such as firecrackers, matches and incense. Sit et al. (1991).

Table I.6
Merchandise exports by broad category, 1983-93
(US\$ million and per cent)

Commodity	1983	1985	1987	1989	1990	1991	1992	1993	1993 (US\$ Mn)
Total exports (US\$ Mn)	760.4	902.8	1,395.1	1,641.4	1,694.4	1,655.3	1,749.1	1,686.2	1,686.2
Share in total (%)	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	
Agriculture	2.9	2.6	2.0	2.0	1.7	2.2	3.1	6.0	101.9
Food	2.0	1.8	1.4	1.1	1.0	1.3	1.9	4.0	68.2
Raw materials	0.9	0.9	0.6	1.0	0.8	0.9	1.3	2.0	33.7
Mining	0.3	0.2	0.1	0.1	0.1	0.1	0.1	0.2	3.3
Ores	0.2	0.1	0.1	0.0	0.0	0.0	0.0	0.0	0.6
Non-ferrous metals	0.0	0.0	0.0	0.1	0.0	0.0	0.1	0.1	2.2
Fuels	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.5
Manufactures	96.8	97.2	98.0	97.8	98.2	97.7	96.7	93.7	1,580.3
Chemicals	0.8	0.6	0.8	1.0	1.3	1.2	1.4	1.4	24.4
Textiles	15.7	11.9	10.3	8.1	8.0	10.0	9.4	9.1	152.8
Iron and steel	0.1	0.1	0.1	0.1	0.1	0.0	0.1	0.2	3.3
Other semi-manufs.	2.0	3.6	3.6	4.8	4.2	4.3	4.5	4.8	80.3
Office machinery	0.5	1.0	0.7	0.5	0.4	0.2	0.5	0.2	3.9
Other non-elec. mach.	0.3	0.3	0.4	0.6	0.6	0.9	1.3	1.3	22.6
Telecom. appliances	3.0	2.5	1.7	0.5	0.3	1.0	0.5	1.4	23.7
Other electrical mach.	0.8	1.4	0.4	0.2	0.2	0.4	0.3	0.4	6.9
Automotive products	0.0	0.1	0.1	0.1	0.1	0.2	0.2	0.2	3.7
Other transport equip.	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.2
Furniture	0.6	0.6	0.4	0.3	0.2	0.1	0.1	0.1	1.6
Travel goods & bags	1.4	1.6	1.2	1.0	0.8	0.8	0.3	0.1	1.2
Clothing	57.5	56.7	63.1	63.7	65.3	65.1	66.6	63.4	1,068.9
Footwear	0.1	0.2	0.5	0.7	1.1	1.3	0.9	1.3	21.1
Other misc. manufs	11.5	9.7	6.3	5.3	5.2	5.3	5.0	5.2	87.9
Toys	7.5	11.5	9.9	10.5	11.0	7.0	5.8	4.9	82.7
Artificial flowers	3.7	2.8	2.4	2.7	1.8	0.1	0.0	0.0	0.2
Other	0.1	0.0	0.0	0.0	0.0	0.0	0.1	0.0	0.7

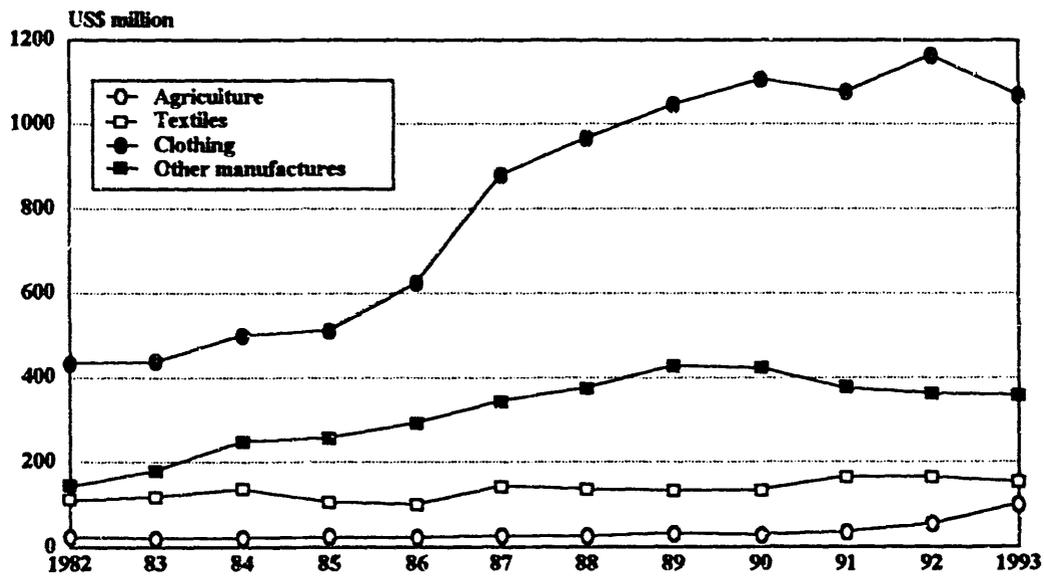
Source: UNSTAT, Comtrade Database.

13. Textiles and clothing continue to weigh heavily in Macau's export basket, accounting together for over 70 per cent of total merchandise exports in 1993 (Chart I.1). Remaining exports primarily consist of miscellaneous manufactured goods, including toys, footwear and electronics. Apart from electronics, these products have performed poorly in the last few years as manufacturing has been relocated to China where production costs are considerably lower.¹²

14. Imports are considerably more diversified. After a surge in the early 1980s, textiles remained in the order of 40 per cent of merchandise imports throughout the 1980s (Table I.7). They have since given ground to clothing, telecommunications equipment and other manufactures. Food accounts for some 10 per cent of merchandise imports, and fuel for less than 5 per cent (Chart I.2). Reflecting Macau's recent investment boom, imports of capital goods increased at an annual average rate of over 26 per cent between 1988 and 1992, about 2½ times faster than total imports.

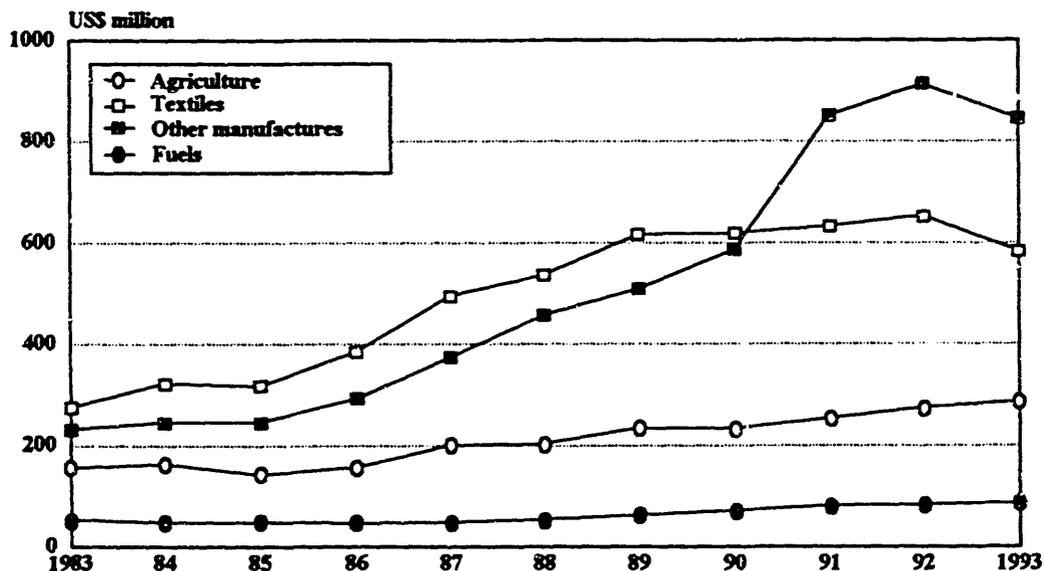
¹²In 1992 the export share of toys was less than 5 per cent, while electronic products and footwear contributed some 2½ and 1 per cent, respectively. Exports of artificial flowers were close to nil.

Chart I.1
Exports by broad product category, 1983-93



Source: UNSTAT, Comtrade database.

Chart I.2
Imports by broad product category, 1983-93



Source: UNSTAT, Comtrade database.

Table I.7
Merchandise imports by broad category, 1983-93
(US\$ million and per cent)

Commodity	1983	1985	1987	1989	1990	1991	1992	1993	1993 (US\$ Mn)
Total exports (US\$ Mn)	724.3	762.5	1,132.7	1,449.6	1,526.7	1,838.4	1,946.8	1,894.3	1,894.3
Share in total (%)	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	
Agriculture	21.5	18.7	17.7	16.1	15.3	13.8	14.1	15.2	287.2
Food	14.3	12.2	9.5	10.9	11.8	10.2	10.8	12.1	229.4
Raw materials	7.3	6.4	8.3	5.2	3.4	3.6	3.3	3.0	57.8
Mining	8.1	7.3	5.4	6.2	5.8	5.4	5.4	9.2	174.2
Ores	0.3	0.4	0.8	1.0	0.7	0.6	0.6	4.2	80.4
Non-ferrous metals	0.4	0.5	0.4	0.9	0.4	0.4	0.5	0.3	6.1
Fuels	7.4	6.5	4.3	4.3	4.7	4.5	4.3	4.6	87.7
Manufactures	70.1	73.7	76.7	77.6	78.9	80.6	80.4	75.4	1,429.2
Chemicals	3.9	4.4	4.7	5.4	5.9	5.1	5.0	4.4	83.7
Textiles	38.1	41.6	43.7	42.5	40.5	34.4	33.5	30.8	584.0
Iron and steel	1.5	1.4	1.2	1.6	1.6	1.6	1.3	2.1	39.2
Other semi-manufs.	6.3	7.0	6.2	7.8	8.1	7.3	7.3	7.8	148.3
Office machinery	0.4	0.8	0.6	1.9	1.3	1.1	0.7	0.8	14.5
Other non-elec. mach.	2.7	2.8	4.0	3.0	4.1	5.5	5.9	5.1	96.3
Telecom. appliances	2.3	1.4	2.1	2.6	2.0	3.0	4.1	5.3	100.6
Other electrical mach.	4.7	2.7	3.8	2.9	4.2	4.4	3.9	3.2	61.5
Automotive products	1.5	2.5	1.7	2.2	2.1	2.0	3.1	3.4	64.5
Clothing	2.3	1.7	1.8	1.1	1.6	5.2	5.7	4.5	84.7
Other misc. manufs	6.3	7.4	7.1	6.5	7.5	11.1	9.9	8.0	151.8
Other	0.3	0.3	0.1	0.1	0.1	0.2	0.2	0.2	3.7

Source: UNSTAT, Comtrade Database.

(b) Regional pattern of trade

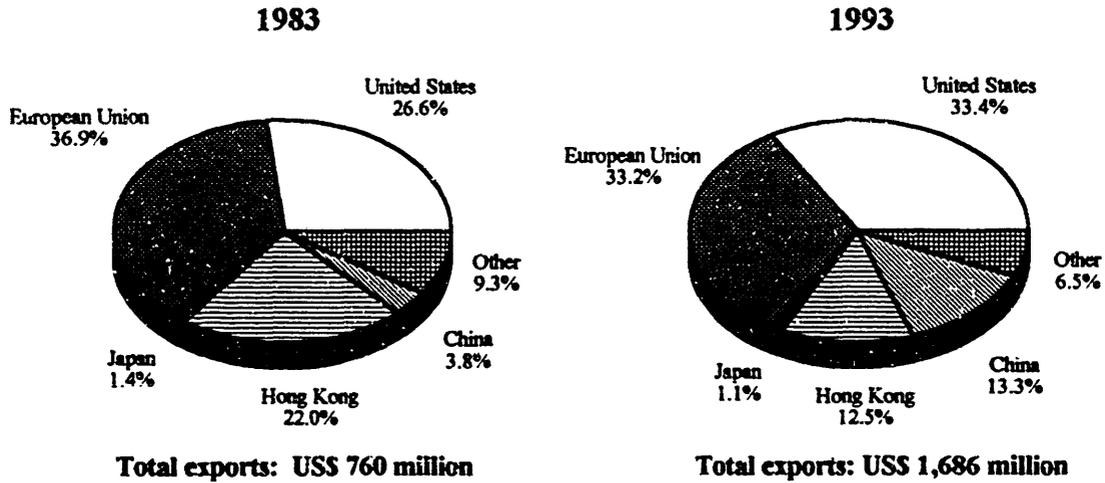
15. Macau's major export destinations are the United States and the European Union, followed by Hong Kong and China. Contrasting with the United States, which increased its share from about one-quarter to one-third between 1983 and 1993, the EU's share has stagnated. The share of sales to China rose more than threefold to 13 per cent in the same period (Chart I.3). While in 1960 half of Macau's exports went to Portugal and Portuguese overseas territories, this share had shrunk to 38 per cent by 1970, 3 per cent by 1980 and less than 1 per cent in 1993.¹³

16. The major suppliers of merchandise are Hong Kong, China and Japan.¹⁴ As on the export side, Hong Kong's rôle appears to have declined significantly over time; however, the data needs to be interpreted with care, given Hong Kong's entrepôt functions and the statistical difficulties in separating transit from domestic trade. The importance of Japan and the European Union as suppliers to Macau is shown in the statistics to have increased sharply since 1983, reaching import shares of 16 and 11 per cent, respectively, in 1993 (Chart I.4).

¹³Before its accession to the EC in 1986, Portugal operated a preferential tariff system under which imports from its ex-colonies, including Macau, were granted full or partial duty exemptions. The decline in the territory's exports to Portugal is attributed by the authorities to a variety of factors: import surcharges and other restrictions introduced by Portugal from the mid-1970s in response to balance-of-payments problems; the increasing attraction of other destinations (United States, other EC member States); and strong competition from Portuguese textiles and ceramics producers.

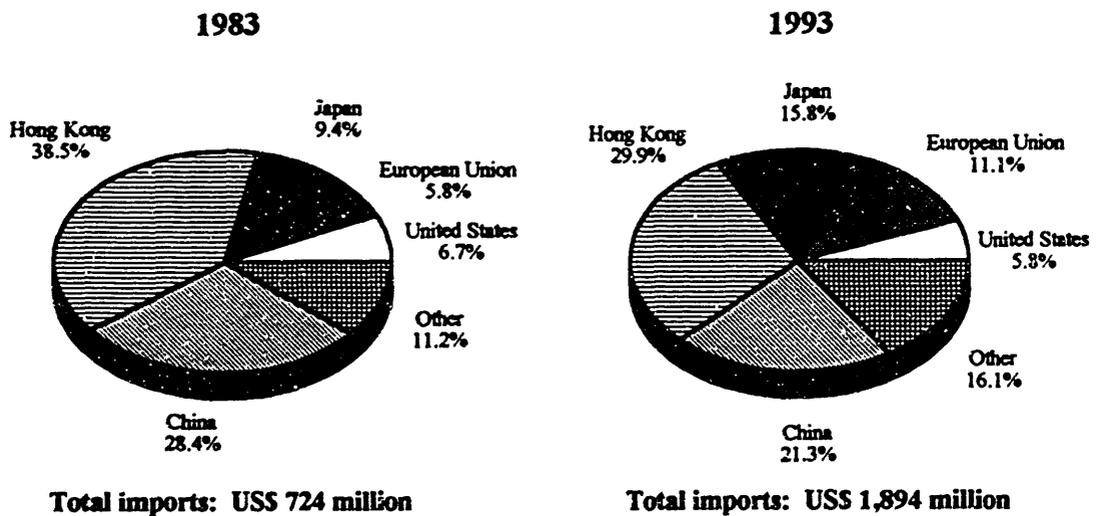
¹⁴China also provides all of Macau's raw water and 10 per cent of its electrical power.

Chart L.3
Direction of exports, 1983 and 1993



Source: UNSTAT, Comtrade database.

Chart L.4
Origin of imports, 1983 and 1993



Source: UNSTAT, Comtrade database.

(4) Outlook

17. With world trade in textiles and clothing increasingly subject to competitive forces, the mainstay of Macau's manufacturing sector is heading for significant changes (Chapter IV(2)). The new trading environment is likely to spark off structural reorganization towards more skill-intensive segments, including producer services. This may require considerable education and training efforts; it may also lead to reductions in manufacturing production and employment. However, at the same time, the proximity to booming economic zones in China offers promising new business opportunities, including in the transport, banking and insurance sectors, which may spur demand for Macau's emerging gateway services.

18. The territory's continued economic momentum for more than two decades, though partly based on artificial policy incentives under the MFA quota system and restrictions on casino gambling in surrounding regions, owes a lot to the entrepreneurial spirit and the flexibility of its business sector. Much depends now on it developing a capacity for strategic decision-making in a more liberal policy environment.

II. TRADE POLICY REGIME: FRAMEWORK AND OBJECTIVES

(1) Institutional Structure

(i) Historical background

1. Macau was established as a Portuguese trade base in the 16th century.¹ Given its distance from Lisbon, it was long administered autonomously by the local Portuguese community under a mixed system of Portuguese and Chinese jurisdiction.² Since the 1930s Macau's political status was changed under subsequent revisions of Portugal's Constitution, from an "overseas possession" in 1933, to an "overseas province" in 1951 and an "autonomous region" in 1971. Following the April 1974 Revolution in Portugal, a new constitution, enacted in 1976, declared Macau a "Chinese territory under Portuguese administration". Negotiations with China on the transfer of sovereignty began in 1986, culminating in a Joint Declaration signed on 13 April 1987. Under the Declaration, Macau is to become a Special Administrative Region (SAR) of China on 20 December 1999. A Joint Sino-Portuguese Liaison Group has been established as an information exchange and consultation forum during the transition period.

2. China is committed, after it resumes sovereignty, to granting Macau full autonomy in the administration of its affairs, with the exception of defence and foreign policy, for 50 years. Under the Macau Basic Law, passed by China's National People's Congress in 1993, the SAR of Macau will remain a separate customs territory with its own foreign trade régime, and will be exempt from all taxes imposed by the central government. Between the signing of the Joint Declaration in April 1987 and the transfer of sovereignty in 1999, half the revenue from the leasing of land is reserved for the future Government of Macau.³

(ii) Current setting

3. Macau's current political status and institutional structure are embodied in the Organic Statute, promulgated by the Portuguese Parliament on 17 February 1976 and revised in 1990.⁴ It gives Macau substantial political autonomy and guarantees the present system until the transfer of sovereignty on 20 December 1999. An amendment to the Organic Statute in 1990 increased the policy-making powers of the Macau authorities, enabling them to legislate on matters which were previously reserved for the Portuguese Parliament, and allowed for the establishment of an independent judicial system in Macau.

4. Executive authority is vested in the Governor, who is appointed by the President of Portugal on the basis of consultations with representatives of Macau's population. The Governor represents the Portuguese Organs of State in Macau (Parliament and Government, but not the Courts) and is responsible for the whole of the public administration of the territory. Executive functions are delegated to a maximum of seven Secretaries, who are selected by the Governor but appointed by the President

¹In 1557 the Portuguese settled in Macau. The Diocese of Macau was founded in 1576 and the Roman Catholic Church, particularly the Jesuits, used Macau as a base for missionary activities in China and Japan.

²Oliveira *et al.* (1993).

³Some 95 per cent of land in Macau is government-owned.

⁴In addition, Macau's constitutional framework is made up of certain parts of Portugal's Constitution which apply either directly or indirectly through the Organic Statute.

of Portugal.⁵ The Governor has the right to determine their powers and areas of competence. There are currently seven Secretaries, with the following portfolios: Security; Economic and Financial Affairs; Judicial Affairs; Health and Social Affairs; Transportation and Public Works; Administration, Education and Youth; and Communication, Tourism and Cultural Affairs.

5. The Governor is assisted by a Consultative Council, whose advice on draft laws, regulations and other matters relating to the administration of the territory is required, but not binding. The Council is chaired by the Governor and has ten members who hold a four-year term of office. Five members are appointed by the Governor, two by the municipalities and three by electoral colleges representing business interests; labour interests; and professional, welfare, cultural, educational and sporting interests.⁶

6. Macau's Legislative Assembly is empowered to enact laws and assess the annual accounts of the administration. It may refer legislation for vetting to the Portuguese Constitutional Court and may pass a no-confidence vote on government policy.⁷ The Assembly comprises 23 deputies with a mandate of four years. Seven deputies are appointed by the Governor, eight are elected by direct and universal suffrage, and eight by indirect suffrage.⁸ The Governor is vested with his own legislative power over matters which are not the exclusive responsibility of the Legislative Assembly, or when the Legislative Assembly authorizes him to legislate.⁹

7. Macau's trade-related legislation is made up of laws, decree-laws and regulations. Laws are enacted by the Legislative Assembly and decree-laws by the Governor; both are considered primary legislation and have the same legal status. Bills before the Legislative Assembly generally need to be approved by majority vote; they are then sent to the Governor for promulgation. The Governor has the right to veto, but if approved again by a two-thirds majority of the Assembly, a law must be promulgated and published.

8. Most trade-related legislation, including the regulatory framework governing investment incentives, is enacted in the form of decree-laws. Decree-laws are normally drafted by administrative units, submitted to the responsible Secretary, registered with the Governor's Office, and sent to the Secretary for Judicial Affairs.¹⁰ The drafts are then translated into Chinese and forwarded to the Consultative Council for appraisal. Decree-laws come into force after approval by the Governor and

⁵The 1990 revision of the Organic Statute increased this number from five to seven.

⁶There are two municipal government units: one for Macau City and one for the islands (Taipa and Coloane).

⁷The vote must be notified to the Governor and the President of Portugal, although no consequences are specified. There have been no such cases to date.

⁸Indirect suffrage means election by functional constituencies representing economic, labour, professional, cultural, educational and social interests. Macau does not have political parties but "civic associations".

⁹The matters on which the Legislative Assembly has the exclusive competence to legislate, if not delegated to the Governor, include the general system of concessionary grants; main elements of the tax system, including fiscal benefits; basic guidelines of Macau's public administration and the municipalities' finances; the creation of new civil service posts; and various legal and penal matters (regulations governing preventive detention, house searches, etc.).

¹⁰If necessary, the Secretary will submit the drafts to the Legislative Affairs Office for further analysis or to other entities for comment.

gazetting. The Governor may also, in his legislative capacity, issue administrative regulations based upon laws or decree-laws. The Legislative Assembly can be required to ratify a decree-law, if requested to do so by at least six of its members. In the case of non-ratification, the decree-law ceases to have effect.

9. Until the early 1990s, the judiciary of Macau was fully integrated into the Portuguese court system, and limited to trial courts or courts of first instance. Following the gradual development of a judicial system and superior courts, the Superior Court of Justice started operating in April 1993. It is mandated to handle appeals in civil, criminal, administrative, fiscal and customs duties cases. Higher courts in Portugal, namely the Constitutional Tribunal, the Audits Tribunal, the Supreme Court of Justice and the Administrative Supreme Court will retain some jurisdiction until a fully-fledged judiciary is operational.¹¹

10. In 1990, the post of a High Commissioner against Corruption and Administrative Illegality was created.¹² The Commissioner, appointed by the Governor after consultations with the Legislative Assembly, is fully independent in discharging his functions. He is mandated to prevent corruption and fraud; carry out preliminary enquiries into cases of corruption and fraud involving public entities or agents; and ensure, through informal action, justice, legality and efficiency in public administration.¹³

(iii) Forthcoming changes

11. Upon the transfer of sovereignty in 1999, the Governor of Macau will be replaced by a Chief Executive selected by a "broadly representative" Election Committee or through local consultations, and appointed by the Government of China. Like all other holders of major public offices, including the President of the Court of Final Appeal and the Attorney-General, the Chief Executive must be a Chinese national who has resided permanently in Macau for a specified period.¹⁴ His legislative capacity will be confined to issuing executive orders and administrative regulations; however, he must give his written consent before Bills relating to government policies are introduced in the Legislative Council. Like the current Governor, the Chief Executive may veto any Bill passed by the Council which, in turn, may override the veto by a two-thirds majority. Most members of the Legislative Council will be directly or indirectly elected, with a minority appointed by the Chief Executive. An Executive Council will replace the current Consultative Committee; all members will be appointed by the Chief Executive.

12. According to the Joint Declaration, the legal system of the Macau Special Administrative Region shall consist of the Basic Law, laws previously in force in Macau and laws enacted by the Macau Special Administrative Region. According to the Chinese delegation to the Joint Liaison Committee, only laws approved by Macau's legislative bodies will remain in force. The Portuguese administration is committed to localizing, adapting and modernizing the legal system, particularly those laws enacted by the Portuguese Organs of State that are still applicable in Macau.

¹¹The relevant areas include constitutional verification and financial, fiscal, administrative and criminal matters.

¹²Law 11/90/M.

¹³Oliveira *et al.* (1993).

¹⁴Principal Officers of the Executive as well as the President and Vice-President of the Legislative Assembly must have been residents for 15 years; the Chief Executive must have been a resident for 20 years.

(2) Trade Policy Formulation and Implementation

13. Macau's trade policy approach is reactive, rather than active, relying largely on market forces to determine production and trade. Government activities focus on establishing a basic regulatory framework and improving the business environment for private operators, through such measures as investment incentives, training programmes and trade promotion initiatives. Policy competence is mainly conferred on administrative services within the portfolio of the Secretary for Economic and Financial Affairs. These are Macau Economic Services; the Macau Monetary and Exchange Authority; the Finance Department; the Macau Statistics and Census Department; and the Office for Investment Promotion. In addition, the Economic and Financial Secretary is responsible for the Macau World Trade Centre, which promotes international trade, disseminates trade information and provides conference facilities.¹⁵

14. Macau Economic Services is the main agency defining, co-ordinating and supervising policy initiatives in areas related to trade and industry, including fisheries. It is mandated to:

- co-operate in the formulation and implementation of economic policies and the overall planning of economic activities;
- support economic development, industrial diversification, investment and product quality enhancement in Macau;
- administer foreign trade regulations and ensure the normal operation of commercial flows;
- foster export growth and diversification, and promote Macau's economy abroad; and
- ensure fair competition, protect industrial property rights and defend consumer interests.

15. Macau Economic Services is headed by a Director and two Deputy Directors. It is divided into six Departments - Research; Industry; Commerce; Export Promotion; Inspection of Economic Activities; Administration and Finance - and two independent Divisions: the Industrial Development Support Centre (*Centro de Apoio ao Desenvolvimento Industrial*) and Electronic Data Processing (Chart II.1). The Industrial and Commercial Development Fund functions autonomously within Macau Economic Services; it administers the finances for projects supporting Macau's economic development (Chapter III(4)(v)). The main responsibilities of the individual Departments are described in Table II.1.

16. The Marine Police, operating as Macau's Customs authority, and accountable to the Secretary for Security, supervise the import, export and transit of goods. Contraventions of legislation are reported to the Inspection of Economic Activities Department of Macau Economic Services. The Health Department, under the Secretary for Health and Social Affairs, is responsible for import and export licensing of chemical and pharmaceutical products. The Veterinary Services, within the purview of the Councils of the Municipalities of Macau (*Leal Senado*) and the islands of Taipa and Coloane, are mandated to inspect fish and meat imports.¹⁶

¹⁵The World Trade Centre is an incorporated company; 60 per cent of its share capital is owned by the Government.

¹⁶Municipal Councils are the executive bodies of Macau (*Leal Senado*) and the Islands (Taipa and Coloane) Municipalities.

Chart II.1
Organization of Macau Economic Services

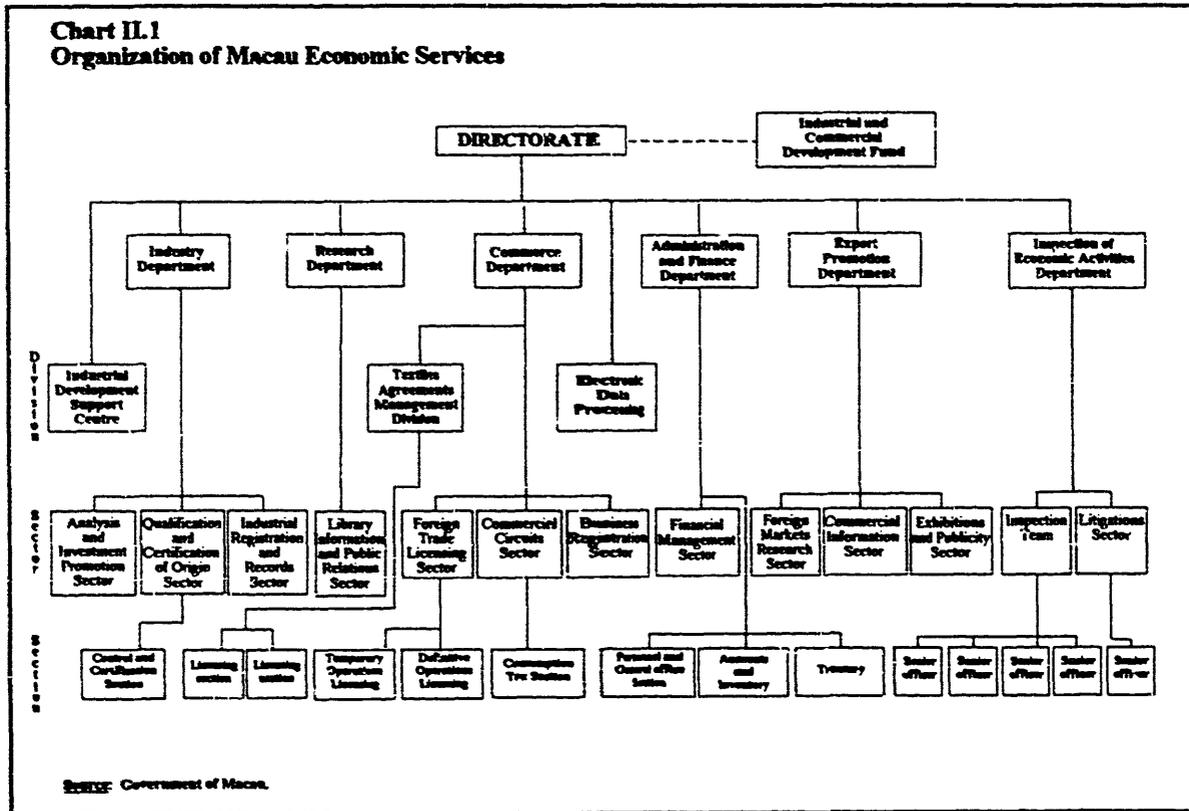


Table II.1
Division of responsibilities within Macau Economic Services

Department	Functions in trade-related areas
Industry	<ul style="list-style-type: none"> ▫ Regulation of industrial activities ▫ Guidelines for financial incentives for industry ▫ Evaluation of applications for industrial support ▫ Definition and certification of origin status for locally-produced goods
Research	<ul style="list-style-type: none"> ▫ Expert and technical support in conjunction with general economic, sector- or issue-specific policies ▫ Participation in bilateral and multilateral trade negotiations ▫ Macro-economic studies
Commerce	<ul style="list-style-type: none"> ▫ Registration of foreign trade operators ▫ Administration of bilateral textile agreements, including domestic quota allocation ▫ Registration of industrial property rights (trademarks, patents, etc.) ▫ Issuance of import and export licences ▫ Processing of applications for consumption tax exemptions
Administration and Finance	<ul style="list-style-type: none"> ▫ Collection of consumption taxes and of fees for certificates of origin
Export Promotion	<ul style="list-style-type: none"> ▫ Organization of Macau's participation in international trade fairs ▫ Market research ▫ Dissemination of trade intelligence
Inspection of Economic Activities	<ul style="list-style-type: none"> ▫ Inspection of factories to ensure compliance with registration and safety requirements ▫ Enforcement of "made in Macau" manufacturing requirements ▫ Co-operation with the Marine Police in cases of customs contravention

Source: GATT Secretariat, based on information from the Government of Macau.

17. Until recently, the private sector participated in the formulation and review of Macau's trade policies through the Economic Services Advisory Board and the Textiles Industry Advisory Board. The industry representatives on both Boards were proposed by the relevant associations and appointed by the Governor. The Boards were replaced in February 1994 by an Economic Consultative Council, composed of the Governor, the Secretary for Economic and Financial Affairs, senior government officials and 16 individuals from outside the Government, all of whom are directly appointed by the Governor as proposed by the business associations.¹⁷ The Council's main tasks are to co-ordinate policy objectives between government agencies and the private sector, provide advice on economic developments and policies, and promote the exchange of information among domestic industries and with foreign institutions. The Economic Consultative Council meets twice a year in plenary; an Executive Committee consisting of the Secretary for Economic and Financial Affairs and five members selected from the Council convenes once every three months.¹⁸

(3) Trade Laws and Regulations

18. Macau's Organic Statute does not establish any particular framework for the conduct of trade and industrial policy. However, given the Territory's long free port tradition, free market principles are deeply embedded in its political, administrative and economic fabric. Article 110 of the Basic Law provides that, on the transfer of sovereignty in 1999, the Macau Special Administrative Region "shall maintain the status of a free port and shall not impose any tariff unless otherwise prescribed by law". An overview of main laws and regulations currently affecting foreign trade is given in Table II.2.¹⁹

19. Macau's jurisprudence (deriving from Portugal) relies on the precedence of international over domestic legal norms.²⁰ Thus, international obligations, if ratified and published officially, can be successfully invoked in legal proceedings. GATT provisions have not yet been gazetted; the Territory's free-port tradition suggests, however, that this is of limited importance to traders and investors.

¹⁷The government officials are the Directors of Macau Economic Services; Public Works; Labour and Employment; Tourism; the President of the Macau Exchange and Monetary Authority; the President of the Office for Investment Promotion; the Coordinator of the Planning and Co-operation Office; and a Representative of the Macau Security Forces.

¹⁸The Council has set up two committees covering: (i) industrial policy, technological development and professional training; and (ii) economic promotion and co-operation abroad.

¹⁹Decree-Law 50/80/M is under revision with a view to speeding up administrative procedures, eliminating licensing except for goods subject to prior authorization or to the consumption tax, and revoking certain legislation, including the 1974 Decree on fees on trade in gold.

²⁰The Organic Statute does not expressly regulate the domestic legal status of international law.

Table II.2

Basic trade-related legislation in Macau

Subject	Date	Legislation	Content
Foreign trade	30.12.80	Decree-Law 50/80/M and subsequent revisions	Framework legislation governing all foreign trade operations. ^a
Export quotas	12.2.91	Government Decision 40/GM/91	Allocation and utilization of export quotas.
Trade controls	29.9.86	Law 45/86/M	Regulates imports under CITES.
	Forthcoming		Regulates trade in substances harmful to the ozone layer.
Trade in gold	29.5.74	Provincial Decree 19/74	Regulates export and import charge on gold. ^a
Government procurement	19.2.69	Decree-Law 48871	Framework legislation governing public works contracts.
	15.12.84	Decree-Law 122/84/M (amended by Decree-Law 30/89/M)	Financial régime governing procurement of works, goods and services.
	6.7.85	Decree-Law 63/85/M	Tender guidelines for goods and services.
Labelling (prepared foods)	17.8.92	Decree-Law 50/92/M	Labelling regulations for prepared foods.
Industrial policy	15.6.85	Decree-Law 49/85/M	General principles governing the administration's rôle in the industrial sector.
	9.11.85	Decree-Law 95/85/M	Industrial licensing requirements.
Investment incentives	8.2.86	Law 1/86/M (amended by Decree-Law 35/93/M)	Fiscal incentives for industrial investors.
	21.12.87	Decree-Law 71/87/M	Interest rate subsidies for investment credits (acquisition or construction of industrial plants).
	30.11.92	Decree-Law 77/92/M	Extension of interest rate subsidies to all manufacturing investments, including purchases of equipment (replaces Decree-Law 71/87/M).
Consumption taxes	26.7.86	Law 7/86/M	Basic framework regulation. ^b
Industrial property protection	24.3.59	Macau Industrial Property Code (Decree-Law 30679; amended by Decree-Law 40/87)	Extension of the Portuguese Industrial Property Code to Macau. Regulates industrial property rights (trade marks, patents, utility models, industrial designs and models). ^b
Copyright protection	27.4.66	Decree-Law 46980	Extension of the Portuguese Copyright Code.
	25.11.85	Law 4/85/M	Prohibits the sale of illegal reproductions of audio and video cassettes.
Pharmaceuticals	19.9.90	Decree-Law 58/90/M	Regulates import, export, wholesale and retail sale of medicines and pharmaceuticals.
	19.9.90	Decree-Law 59/90/M	Registration of pharmaceutical products.

^a Scheduled for abolition from 1 January 1995.

^b Under revision.

Source: GATT Secretariat, based on information from the Government of Macau.

(4) Trade Policy Objectives

20. As a small trading entity with an open economy, Macau has a strong interest in maintaining and developing an effective framework of rules and disciplines for international trade. Accordingly, Macau's recent succession to the GATT and its envisaged membership in regional co-operation initiatives such as APEC (Chapter II(5)(ii)) are both aimed at safeguarding and furthering the Territory's international economic links and affording it a say in relevant policy fora.²¹ These initiatives are expected to position and promote Macau as a reliable and independent trading partner with direct access to, and influence on, world markets. They are complemented by large-scale infrastructural projects, including a proposed international airport and larger port facilities.

21. From a general economic perspective, modernization and diversification of Macau's industrial base and the development of industrial services are considered priorities. Current initiatives are designed to support Macau's rôle as the supplier of business network services, including transport and telecommunications, to other regions in the Pearl River Delta. The authorities are also studying the establishment of a Productivity and Technology Centre to encourage professional training and the transfer and implementation of new technologies, and of a venture capital company devised as a self-supporting institution with equity participation in manufacturing and service industries.

(5) Trade Agreements and Arrangements

(i) Multilateral agreements

22. Macau became a GATT contracting party on 11 January 1991 under Article XXVI:5(c), following a declaration by the Government of Portugal that Macau was fully autonomous in the conduct of its external commercial relations. Macau is also a party to the Arrangement Regarding International Trade in Textiles (MFA) and a member of the International Textiles and Clothing Bureau (ITCB) which co-ordinates the interests of exporting countries in the MFA context.²² In July 1993, Macau acceded to the Customs Co-operation Council.

23. In the Uruguay Round, Macau participated actively in the negotiations on textiles and clothing and showed strong interest in such areas as rules of origin and dispute settlement. In the market access negotiations, it made a commitment to bind 22 per cent of its tariffs at zero rates. In the services area, Macau submitted a comprehensive schedule of sectors to be covered by the new disciplines of the General Agreement on Trade in Services (GATS).

24. The Basic Law stipulates that from December 1999 the Macau Special Administrative Region may conclude and implement agreements with countries, regions and international organizations in such fields as economic relations, trade, finance, shipping and communications, and may establish economic and trade missions abroad. As a separate customs territory, Macau will be a member of the future WTO, under the name of "Macau, China".²³ In international organizations or conferences limited to States, representatives of the Territory may participate as members of the Chinese delegation;

²¹In addition, Macau has been an associate member of the Economic and Social Commission for Asia and the Pacific (ESCAP) since 1991 and the Asian and Pacific Development Centre since 1993.

²²The ITCB has observer status in the GATT Textiles Committee.

²³GATT document, L/6807, 14 January 1991.

furthermore, Macau may continue to participate in international agreements to which China is not a signatory.

(ii) Trade preferences, regional trade agreements and co-operation initiatives

25. Macau is a recipient of GSP benefits in major export markets, including the United States and the EC. However, less than 10 per cent of its total exports, US\$148 million in 1993, actually benefit from GSP treatment. The share has declined in recent years, apparently due to the relocation of non-textiles manufacturing to adjacent Special Economic Zones in China.

26. In March 1993, Macau formally submitted its request to join the forum for Asia Pacific Economic Cooperation (APEC).²⁴

27. Macau's only trade and co-operation agreement is with the European Communities. The agreement, effective 1 January 1993, does not accord tariff or trade preferences to either party.

²⁴APEC member Governments are committed to strengthening the multilateral trading system, assessing the prospects for, and obstacles to, increased trade and investment flows within the Asia-Pacific region, and identifying common economic interests. APEC members are Australia, Canada, China, Chinese Taipei, Hong Kong, Papua New Guinea, Japan, Republic of Korea, New Zealand, the United States and the ASEAN countries (Brunei Darussalam, Indonesia, Malaysia, the Philippines, Singapore and Thailand).

III. TRADE POLICIES AND PRACTICES BY MEASURE

(1) Overview

1. Macau's trade régime is largely free of Government involvement. The territory does not operate any quantitative restrictions, apart from its obligations under bilateral MFA agreements, and maintains no tariffs on imports or exports. There are no export subsidy, credit or insurance programmes. Customs procedures and licensing requirements are straightforward and there is no evidence of significant technical barriers. Government procurement practices are non-discriminatory. The scope of regulated industries is essentially confined to basic services, including transportation, electricity, water, and telecommunications. Prices in these areas are predominantly cost-oriented.

2. Scarcity-related cost increases for land and labour are the most important "push" factor behind sectoral and locational adjustments in Macau's market economy. However, the Government seeks to attract non-traditional industrial activities through favourable land leases and investment incentives, principally interest rate subsidies and tax concessions; there is scope for discretion in these areas.

3. Macau applies consumption taxes on a number of products including beverages, tobacco products, motor vehicles, and fuels. The current system has a built-in preference for wines, liquors and spirits imported from Portugal and seeks to discourage indirect imports, i.e. importation via Hong Kong, through a 25 per cent tax surcharge on motor vehicles and certain beverages not imported directly from the country of origin.

(2) Measures Directly Affecting Imports

(i) Tariffs

4. Macau, declared a free port through a Portuguese Royal Decree in 1845, has never applied customs duties or any other customs fees on imports.

5. During the Uruguay Round negotiations, Macau undertook to bind all its agricultural tariffs and 10 per cent of its tariffs on industrial products at zero rates. The authorities consider the resulting level of bindings, 22 per cent of all 6,192 tariff items, as adequate; while they do not see tariff bindings as an important issue for traders and investors, given Macau's open-market tradition, the current level is expected to leave the territory with some leverage for future trade negotiations.

(ii) Other taxes and charges

6. Macau has no general sales tax.

7. Consumption taxes are levied on alcoholic beverages, soft drinks, tobacco, fuels, cement and motor vehicles (Table III.1). The latest revision of these taxes in 1986 was apparently linked to the definition of a more active development policy, including fiscal benefits and interest rate subsidies, at about the same time. The tax rates have remained unchanged since 1986.

8. The excise régime is currently under review with two alterations envisaged: the introduction in January 1995 of a lower tax rate on unleaded than on leaded gasoline, and the levying of the motor vehicle tax on the retail price instead of the c.i.f. import value. In addition, the authorities intend to eliminate the preferential rates applied to wines, liquors and spirits imported from Portugal, which are half the standard rates. However, no clear timeframe exists.

Table III.1
Consumption taxes in Macau, 1994

Products	Specific rates (Patacas)	Ad valorem rates
Wine and other alcoholic beverages		
(a) Beer	1.00/litre	
(b) Chinese-type wine of the kind "Mai-Chau"	1.50/litre	
(c) Ordinary wines in 5-litre containers or in barrels produced in Portugal	1.00/litre	
(d) Ordinary wines in 5-litre containers or in barrels from other origins	2.00/litre	
(e) Port, madeira or similar wines	2.00/litre	
(f) Wines of designated origin and other wines in containers of 2-litres or less, produced in Portugal		10%
(g) Wines of designated origin and other wines in containers of 2-litres or less, from other origins		20%
(h) Vermouth and other wines flavoured with plants or aromatic substances	10.00/litre	
(i) Champagne and other sparkling wines	12.00/litre plus 5%	
(j) Whisky, vodka, liqueurs and other spirits, including brandy and cognac	20.00/litre plus 10%	
(k) Liqueurs and other spirits, including brandy, cognac and spirits produced in Portugal	10.00/litre plus 10%	
Tobacco		
(a) Tobacco not stemmed or stripped	2.00/kg	
(b) Tobacco stemmed or stripped, in cans or packets	0.50/10 cigarettes	
(c) Tobacco stemmed or stripped for pipes, cigars, cheroots or cigarillos	2.00/ounce	
Motor vehicles, motorcycles, mopeds and cycles fixed with an auxiliary engine		
(a) Motorcycles, mopeds and cycles fixed with an auxiliary motor:		on c.i.f. value
		<P10,000 >P10,000
up to 50 cc		5% 10%
51 cc to 125 cc		10% 20%
126 cc to 250 cc		20% 30%
over 250 cc cylinder capacity		35% 45%
(b) Motor cars or station wagons and public transportation vehicles catering for less than 15 passengers, excluding the driver:		on c.i.f. value
		<P35,000 >P35,000
up to 1000 cc		45% 60%
1001 cc to 1300 cc		50% 65%
1301 cc to 1600 cc		55% 70%
1601 cc to 2500 cc		70% 85%
over 2500 cc cylinder capacity		85% 95%
(c) Other vehicles - public transportation motor vehicles catering for 15 or more passengers, excluding the driver, and vehicles for driving lessons		10%
Other products		
(a) Cement	0.02/kg	
(b) Motor fuel (gasoline)	1.00/litre	
(c) Fuel oils	0.085/litre	
(d) Petroleum gases	0.05/pound	
(e) Lubricating oils	0.40/litre	
(f) Alcohol	1.50/litre	
(g) Aerated and mineral beverages flavoured with aromatic substances, and other similar non-alcoholic beverages	0.20/bottle or can	

Note: Taxes are charged on the c.i.f. value against the import licence. Taxes on domestic production are levied in respect of, and pursuant to, the relevant monthly statement of sales. The tax rates on wines and other alcoholic beverages under sub-sections (a) and (g) to (j) and on all motor vehicle categories are increased by 25 per cent if the goods have not been imported directly from the country of origin.

Source: Government of Macau.

9. Various alcoholic beverages and all motor vehicle categories bear a tax surcharge of 25 per cent if the products are not supplied directly from the originating country.

10. Tax exemptions are provided for excisable products imported directly by, and destined for the exclusive use of, the Civil Service, Consulates, companies operating under government concession, international organizations, the Diocese of Macau and religious and missionary institutes.¹ Also exempt are vehicles used for certain specified purposes, including the transportation of goods and public transport; special-purpose vehicles (ambulances, concrete-mixers and dump trucks); fuel oils used by fishing vessels; and fuel oils used by units considered to contribute to the industrial development and growth of the Territory.

11. Imports of goods subject to consumption taxes amounted to P 1.5 billion in 1992, which is about 10 per cent of total imports. Proceeds from the taxes rose from P 171 million in 1988 to P 378 million in 1993, the majority derived from the tax on motor vehicles (P 282 million).² Revenue foregone due to the exemptions listed above is estimated at P 55 million in 1993.

12. The only fees levied in the context of importation apply to animals and plants listed in the Annexes to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which are subject to a fee of 0.5 per cent of the c.i.f. value, and to gold which currently bear a charge of P 0.5 per ounce. The latter is scheduled for abolition from 1 January 1995.

(iii) Customs procedures

13. Reflecting its free port status, Macau has no laws or administrative procedures governing the valuation of goods for customs purposes.

14. The length of time needed for customs formalities is reported to range from one to twelve hours; legislation requires that imports remain in port for no longer than three days.

15. Import and export licences must be submitted to the Marine Police, which operate as Macau's customs authority, for confirmation of content and quantities. If the quantity of goods inspected is less than the amount declared, the officer in charge makes the necessary alterations and validates the licence. If the quantities exceed the amounts specified or if there is evidence of other offences, legal notices are sent to the competent authority within two days and sanctions can be imposed by Macau Economic Services. Importers affected may appeal to the Governor within ten days.³

16. Macau strengthened border controls and customs co-operation with China following charges by the United States, in 1990, that some sweater categories from China were fraudulently transhipped through Macau (Chapter V).

¹Over half of the exemptions granted on motor vehicles in 1992 went to the tourist industry and over four-fifths of the exemptions on fuels to the Power Company.

²The tobacco tax raised P 33 million, the petrol tax P 30 million and the tax on wine and other alcoholic beverages P 21 million.

³The Industry Association complains that in the event of inconsistencies between shipping and import documents, the Marine Police return the shipment and require entrepreneurs to seek a new import licence, causing delays of one to two months.

(iv) Import prohibitions, restrictions and controls

17. Macau operates no quantitative restrictions or unconditional bans on imports.

18. Imports of endangered species covered by CITES are conditionally prohibited, i.e. they are allowed only if specified criteria are met.⁴ Imports of second-hand cars, trucks and motorcycles are prohibited with the objective of reducing congestion, noise and air pollution.

19. For reasons of public health, safety and environmental protection or to ensure the proper functioning of technical systems, various products are subject to prior import authorization (Table III.2). In the case of temporary exports and imports, re-exports and re-imports, prior authorization is required for surveillance purposes.

Table III.2
Import authorization requirements

Products	Responsible agency and relevant criteria
Live animals, meat and edible meat offal	Macau (<i>Leal Senado</i>) and Islands Municipalities <input type="checkbox"/> Meat must be accompanied by an inspection certificate stating, <u>inter alia</u> , that the product is disease-free.
Chemicals	Health Department
Pharmaceuticals	Health Department
Textiles and clothing	Macau Economic Services <input type="checkbox"/> Definitive imports of clothing must be destined for domestic consumption and the importer may not be a clothing manufacturer.
Arms, ammunition, explosives	Macau Security Forces
Gold, platinum	Macau Economic Services
Radio transmitting equipment	General Post Office
Electrical supply products	Macau Economic Services <input type="checkbox"/> Subject to approval by the Electricity Company of Macau.
Fuels	Macau Economic Services <input type="checkbox"/> Importers must maintain storage facilities conforming with safety regulations.
Motor vehicles	Macau Economic Services <input type="checkbox"/> Importers must have repair facilities. <input type="checkbox"/> Models must be approved by the Senior Transport Council.
Endangered species	Macau Economic Services <input type="checkbox"/> Importers must present export or re-export licence issued by the country of origin, conforming with the CITES stipulations.
Temporary imports and re-imports	Macau Economic Services

Source: Government of Macau.

20. Imported foods for human consumption are inspected by the Veterinary Services of the Municipalities (Macau, Taipa and Coloane).⁵ Current legislation only applies to health controls on meat and fish imports; inspection of other food products is at the initiative of the Veterinary Services.

⁴The importer must submit the export or re-export licence issued by the respective country of origin (Law 45/86/M).

⁵Meat imports must carry the production date and be accompanied by an official Meat Inspection Certificate stating, inter alia, that the consignment is disease-free.

The Services test vegetables for residues of pesticides and heavy metals; the tests are carried out at the border crossing or off-loading sites. No guidelines or control procedures exist for dairy products. The authorities are revising legislation with a view to implementing controls on a wider range of foods.

21. Import, export and sale of pharmaceutical products and medicines are within the regulatory competence of the Health Department.⁶ The Department authorizes the issuance of import licences and regulates the use of medicines, pharmaceutical products, psychotropics and narcotics; Macau adheres to the guidelines set by the International Narcotics Control Board (Box III.1). Imports of pharmaceuticals must be accompanied by a product registration certificate issued by the country of origin.

22. Macau has no quarantine restrictions.

(v) Licensing and registration requirements

23. All foreign trade operations are, as a rule, subject to licensing. The only exemptions are perishable goods, where the importer is required to submit an import declaration to the Marine Police; and consignments below prescribed threshold values.⁷ Licences for products not subject to prior authorization (Table III.2) are normally issued immediately, other licences within 3 days or, in the case of temporary imports and re-imports, 10 days. All import licences, including temporary licences, are valid for three months and cannot be extended. Products imported temporarily may remain in the Territory for up to four months; this limit may be extended for successive periods of four months.

24. From 1 January 1995 an import declaration will suffice. Amended legislation will eliminate licensing requirements for all but imports subject to prior authorization and products liable to the consumption tax.

25. All foreign trade operators must be registered with the Commerce Department; registration is free of charge. There are no nationality, ownership or professional qualification requirements. However, in order to import fuels or motor vehicles into Macau, the local agent must be part of the foreign supplier's official dealership (Chapter IV(4)(vi)(c)).

(vi) Trade sanctions

26. Macau has never imposed trade embargoes. However, the authorities have sought, in informal contacts with companies, to encourage compliance with UN Security Council Resolutions.

(vii) Emergency trade measures

27. Portuguese legislation on rules and procedures for protection against unfair competition from dumped or subsidized imports has been published in Macau.⁸ However, the legislation required to make these rules applicable has never been drafted; therefore, in practice, Macau has no effective

⁶Decree-Law 58/90/M.

⁷These are P 5,000 for commercial operators and P 10,000 for private addressees. For safety and environmental reasons, importation of used construction equipment has been made subject to stricter licensing requirements.

⁸This was prior to Portugal's accession to the European Communities (Decree-Laws 46828 and 46829, 5 January 1966; Decree-Law 578/70, 24 November 1970).

legal instruments allowing for anti-dumping or countervailing actions. Nor are there any provisions to protect domestic industry through safeguard measures.

(viii) State-trading

28. Macau has not notified any State-trading activities under Article XVII of the GATT.

(ix) Countertrade

29. There are no legal provisions governing countertrade. According to the authorities, official bodies have never been involved in countertrade activities nor do they keep records of private arrangements.

(x) Standards

(a) Standardization, testing and certification

30. Given the administrative constraints of a small economic entity, Macau's policy approach towards standards, technical regulations and type-approval is highly pragmatic. The Territory has no comprehensive legislation in this area, nor does it operate standardization agencies. Domestic regulatory requirements in sensitive areas, including pharmaceuticals and certain types of telecommunications equipment, build on internationally-recognized standards. A test institute within the province of the telecommunications authorities, principally for radio-transmitting equipment, appears to be the only domestic certification body. In all other areas where standards or technical regulations are seen as necessary, Macau relies on foreign test data and type-approval.

31. Type-approval for radio-transmitting equipment is based on standards recommended by the International Telecommunications Union (ITU); certification by foreign laboratories is accepted in areas beyond the technical competence of the domestic body.⁹ Admission and classification of pharmaceuticals are based on recommendations by the World Health Organization (WHO) and/or the status of a product in major user countries (Box III.1).

32. Exporters tend to follow international standards, for example those published by the International Organization for Standardization (ISO), or the national standards of importing countries. In the case of textiles, a fabric analysis laboratory operating under the aegis of the Industrial Development Support Centre performs quality testing. A local producer of antibiotics undergoes regular inspections by the U.S. Food and Drug Administration which verifies that the production meets United States requirements.

33. Efforts are under way to install a comprehensive system of quality management and assurance in line with the ISO 9000 standards series.¹⁰

⁹Macau has applied for associate membership in ETSI, the European Telecommunications Standardization Institute.

¹⁰ISO 9000 establishes a series of international standards for quality management systems, enabling manufacturers and suppliers to establish, document and maintain effective quality levels. More than 52 countries have adopted ISO 9000 as their national quality system.

Box III.1: The pharmaceuticals market in Macau

Macau's current legislation on pharmaceuticals, established under Decree-Law 58/90/M, applies to both traditional Chinese and "western-type" medicines and their distributors. "Western" medicines are dispensed through 15 pharmacies in the territory and traditional medicines through 102 pharmacies. The Decree-Law provides that:

- (i) importers, exporters, distributors and pharmacists are licensed and registered with the Health Department;
- (ii) all imports are subject to prior authorization by the Health Department;
- (iii) applications for import licences are accompanied by the product registration certificate issued by the supplying or manufacturing country;
- (iv) prescription drugs are dispensed only through pharmacies, non-prescription drugs also through drugstores;
- (v) importation and dispensation of blood derivatives and drugs entailing particularly high risks are limited to hospitals;
- (vi) a specified range of vaccinations are only carried out at Public Health Centres; and
- (vii) blood derivatives are tested for AIDS by Macau's Health Laboratory.

Macau accepts, in principle, all medicines that have been approved for sale in the originating country. In the event of prohibitions in other countries, the Health Department contacts the World Health Organization (WHO) or other competent bodies to examine the case and review the registration in Macau. Trade and use of psychotropic and narcotic substances are controlled by the Department in accordance with UN Conventions.

The classification of individual drugs as over-the-counter products, prescription or hospital drugs is made in accordance with WHO recommendations or practices in major user countries. A list of approved drugs and substances and their classification is published in the Official Gazette.

Local manufacturers of pharmaceuticals and components of both "western" and "traditional" medicines are licensed by Macau Economic Services. Prior to marketing, their production must be registered and admitted by the health authorities.

Pharmaceuticals are not subject to price controls. The authorities do not seek to influence prescription practices or the range of products made available and dispensed via pharmacies, doctors and hospitals. Health insurances operate exclusively on a private basis; premiums and reimbursement practices are not regulated.

Under Decree-Law 95/85/M, traditional Chinese medicines must be sold only through "Chinese pharmacies" licensed by the Health Department; imports of active components are subject to prior authorization. Specific legislation for this market segment, which is considerably larger than the market for "western" medicines, is currently in preparation.

(b) Labelling

34. Labelling of most foodstuffs to inform and protect consumers has been regulated since 1992. Under Decree-Law 50/92/M, a label must normally display the name of the product, the ingredients, minimum validity period, name and address of the producer or identification number of the importer, net content, lot number, and country of origin (only if its absence would be misleading).¹¹ Labels on prepackaged foodstuffs must also contain instructions concerning conservation, use or consumption, if applicable. Legislative changes under consideration are intended to curtail current information requirements and focus on essential aspects.

(c) Environment-related initiatives

35. Macau currently maintains few environment-related requirements. For instance, there are no restrictions on car exhausts, discharge of sewage, use of chlorofluorocarbons (CFCs) or noise emissions from cars, factories and construction sites. However, draft legislation is under way in important sectors. For motor vehicles, as an example, Macau intends to implement emission standards adapted from those in the European Union, and the consumption tax on fuels will be differentiated to favour unleaded over leaded gasoline as of January 1995 (Table III.1).¹² Macau is also preparing the legal basis for trade controls to implement its commitments under the Vienna Convention and the Montreal Protocol on ozone-depleting substances.

36. The Government of Macau has drafted an Environment Basic Law intended as framework legislation for pollution control and environmental protection. Some of its regulations are under preparation by the Environment Office and will be published soon.

(xi) Government procurement

37. As a rule, individual government departments select and contract directly their suppliers of goods, services and works. The departments are subject, however, to a set of common procurement rules. The Macau Finance Department may be authorized by the Governor to centralize government purchases in special circumstances, and does so for bulk purchases such as office supplies.¹³

38. Goods, services and works are normally procured via public tender. The relevant procedures for goods and services, as laid down in Decree-Law 63/85/M, are outlined in Box III.2; the procedures for public works, spelled out in Diploma No. 555/71, are similar. Exemptions may be granted by

¹¹The Decree-Law does not cover fresh products, foodstuffs for immediate consumption that are not packaged, and beverages containing over 1.2% alcohol. Certain foodstuffs are exempt from the lot identification requirement, for example products of a validity period of 3 months and less.

¹²The recent inauguration of an incineration plant and the construction of a treatment plant for waste water are further evidence of increased attention being paid to environmental constraints. The authorities are in contact with their counterparts in Hong Kong and Guangdong Province to define a joint policy on controlling water pollution in the Pearl River Delta.

¹³Autonomous administrative entities use the conditions agreed for these purchases as benchmarks for their procurement activities.

the Secretary in charge of the purchasing entity, up to a value of P 3 million, or, if higher, by the Governor.¹⁴ The corresponding values for autonomous entities, such as the Monetary Authority, the Civil Aviation Authority and the Postal and Telecommunications Services are P 250,000. Pre-qualification tenders are carried out in exceptional cases, for example for complex public works projects whose costs are estimated to exceed P 15 million or for purchases of goods and services that involve special technologies or are expected to cost over P 7.5 million.

39. To assess price and market conditions, direct purchases (single tendering) are normally preceded by consultations with at least three suppliers in Macau. These consultations must be in writing if the estimated contract value exceeds P 15,000 for goods and services or P 150,000 for public works.

40. Public tenders are invited by advertisement in the local newspapers and in the Government Gazette. For companies to be admitted, they must either be incorporated and registered with the Commercial Registrar in Macau or submit proof of incorporation in their home country. Proposals for tender must be submitted in either Portuguese, Chinese, or, if expressly foreseen in the relevant regulations, in English or other languages. Successful bidders for public works contracts, before starting work, must also register with the Department of Public Works to obtain a public works contractor licence.¹⁵

41. Aggrieved parties may refer their case, e.g. non-observance of tendering formalities, to the head of the service or entity making the purchase or to the Committee in charge of the award process. If the complaint is rejected, an appeal may be lodged with the responsible Secretary or, finally, the case may be brought to the Courts.

42. Macau's legislation contains no prohibition on collusive business practices such as bid-rigging (Chapter III(4)(v)); open competition is considered by the authorities an effective and sufficient safeguard. If there is strong evidence of collusion, the tenders adjudicator has the right not to award contracts. However, available information suggests that there have been very few such cases, if any. The High Commissioner against Corruption and Administrative Illegality is mandated, *inter alia*, to make preliminary enquiries into cases of corruption and fraud involving civil servants (Chapter II(1)(ii)).

43. In 1993, P 750 million was spent on public works, including some large infrastructural projects such as a second bridge to Taipa Island, and P 379 million on goods and services procured by government departments, excluding autonomous entities (Chart III.1). The budget appropriation for public works for 1994 was P 500 million and for goods and services P 423 million.

¹⁴Exemptions for public works contracts exceeding P 2 million and purchases of goods and services worth over P 500,000 and P 750,000, respectively, are subject to the following criteria: (i) one company has the exclusive supply rights; (ii) it is in the interests of the Territory, given the nature of the goods, works or services required, to award directly a certain entity; (iii) the contract involves project studies, technical consultancy or supervision of public works; or (iv) security reasons are to be taken into account. For purchases below these values, a public tender may be waived if "proper justification" can be given and the interests of the Territory are safeguarded.

¹⁵In this context, the applicant must substantiate its technical and financial capacity. Foreign bidders must submit themselves to Macau's legislation and sole jurisdiction of its Courts.

Box III.2: Tendering guidelines for public purchase of goods and services.

Decree-Law 63/85/M is Macau's basic framework legislation governing public purchases of goods and services. It requires that an invitation to tender indicates

- (i) the awarding entity and the responsible department;
- (ii) the categories of goods or services to be procured and their value, if determined;
- (iii) the availability (date and place) of the tender programme and the tender specification;
- (iv) date and venue of the public disclosure session; and
- (v) the entity to receive the bidders' provisional guarantees.

The programme must define

- (i) the amount of the provisional guarantee to be lodged by bidders for their admission to tender and of the definitive guarantee to be provided by the final contractor;
- (ii) the responsibilities of the successful bidder, should he fail to provide the definitive guarantee or sign the contract;
- (iii) the right of the purchasing entity not to award a tender if deemed in the interests of the Territory;
- (iv) the format of bids;
- (v) minimum auction values in the event of equal bidding prices; and
- (vi) the body receiving complaints about deviations from tender formalities.

The specification must detail

- (i) the characteristics of the goods or services concerned;
- (ii) the legal and technical provisions of the final contract, for example a revocation clause;
- (iii) the warranty period;
- (iv) any instalments to be withheld in cases of non-fulfilment; and
- (v) the date of delivery or completion.

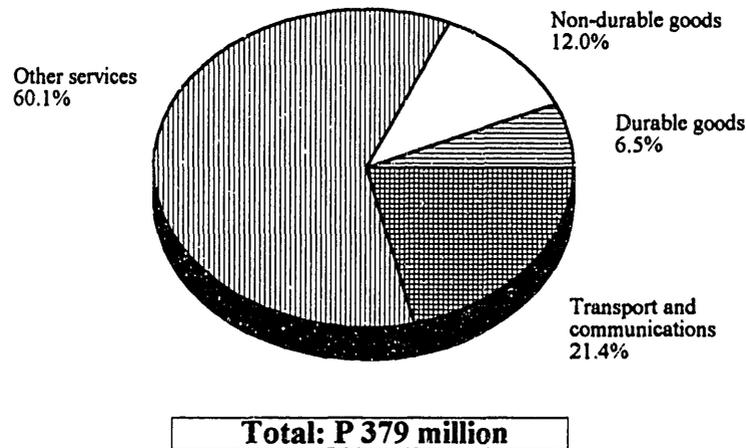
Bids must be sent or delivered, in a sealed envelope, to the entity carrying out the tendering process. The envelope must contain the proposal in a sealed wrapping and, separately, an envelope with complementary documents. Non-Portuguese citizens and companies without office in Macau must produce a declaration confirming their submission to Macau's legislation and jurisdiction.

The award procedure is administered by a Committee made up of three representatives of the entity concerned. The Committee, in public session, identifies the bidders and opens the envelopes containing the documents. The list of participants is set up, distinguishing between admitted bidders meeting the legal requirements, excluded bidders, and those requested to provide supplementary information. At a following meeting of the Committee the proposals are opened and a new list is circulated, indicating the prices offered and any further information deemed relevant. If proposals are excluded, the reasons are given. Every bidder has the right to see his competitors' proposals. The final procurement decision is made by the Committee, by majority vote, based on price, quality, delivery time and any other criteria included in the tender programme. The decision must be substantiated and, when considered necessary, preceded by a technical study.

The winning bidder is notified within 90 days following the first public session of the Committee. He is required to lodge the definitive guarantee within eight days. The other participants are then informed of the procurement decision.

The award procedure may be cancelled if the project has been postponed for at least six months; if there is strong evidence of collusion between participants; or if the price or qualities offered do not meet the specification.

Chart III.1
Public procurement of goods and services, 1993 ^a



^a Excluding autonomous entities.

Source: Government of Macau.

(xii) Other measures

44. Reflecting the openness of its trade régime and the non-discriminatory application of existing measures, Macau has no rules of origin, regulations concerning preshipment inspection or local content requirements.

(3) Measures Directly Affecting Exports

(i) Export taxes, charges and other fees

45. Apart from a charge on re-exports of gold (P 0.5 per ounce), scheduled for abolition on 1 January 1995, and a fee for issuing certificates of origin, Macau does not levy any export-related duties, taxes or charges.

46. Origin certificates for textiles and clothing exports under MFA restrictions are subject to a fee of 1 per cent of the f.o.b. value. Certificates for other purposes, including preferential treatment under GSP, are subject to a 0.1 per cent fee. In 1992, total receipts from export fees and charges were P 85.6 million. Of this, 35 per cent was channelled to the Industrial and Commercial Development Fund, 15 per cent was destined for the Macau Foundation, which provides funding for the University of Macau, and 7 per cent for the Office for Investment Promotion (Chapter III(4)(i)); the remainder accrued to the general budget. In 1993 these percentages were revised as follows: 45 per cent for the Industrial and Commercial Development Fund; 15 per cent for the Macau Foundation; 10 per cent for the Office for Investment Promotion and 30 per cent for appropriation by the Territory's Budget.

(ii) Export restrictions, prohibitions and controls

47. Given the weight of the textiles and clothing sector in Macau's economy, restrictions under the MFA currently affect nearly 60 per cent of total exports. Bilateral MFA restrictions limit trade with the European Union, the United States, Canada, Austria, Finland and Norway.¹⁶ Overall, the share of restricted products in Macau's textiles and clothing exports grew from 62 per cent in 1982 to 77 per cent in 1992. According to the authorities, approximately 4 per cent of the shipments under bilateral textiles agreements are inspected to ensure compliance with Macau's obligations; the rate is said to correspond to international practice.

48. Apart from restricted textiles and clothing categories, Macau maintains prior authorization requirements on exports of chemicals, pharmaceuticals, endangered plants and animals covered by CITES, and on temporary exports and re-exports.

49. Macau has no general policy scheme allowing for export controls on products deemed sensitive for strategic or security reasons. In one case so far, to ensure access to recent computer technologies, sophisticated computer systems for the horse-racing syndicate, the authorities undertook to prevent unauthorized re-export.

(iii) Export licensing

50. Like imports, all exports of non-perishable goods are subject to automatic licensing, except products under export restrictions and controls. All licences, including those for temporary exports and re-exports, are valid for 30 days, except in cases where Macau Economic Services decides to extend or shorten this period.¹⁷ However, products exported temporarily may remain outside the territory for six months and this period may be extended once for an additional six months.

(iv) Export assistance, promotion and marketing

51. Macau does not operate any export subsidy, export credit or export insurance programmes.¹⁸

52. The Export Promotion Department, a branch of Macau Economic Services, organizes the participation of local companies in trade fairs and trade missions around the world. The public sector support for these activities amounted to P 3 million in 1993, as compared to an industry contribution of P 350,000.¹⁹ Complementing its efforts to boost Macau's reputation as an independent and competitive trading entity, the Department also disseminates trade and marketing information.

¹⁶For details, including Macau's internal quota allocation procedure, see Chapter IV.

¹⁷For example, the period may be extended at the request of the exporter due to delays in manufacturing or shipment. For textile products under quota, Macau Economic Services may decide to shorten the period in order to meet quota utilization deadlines.

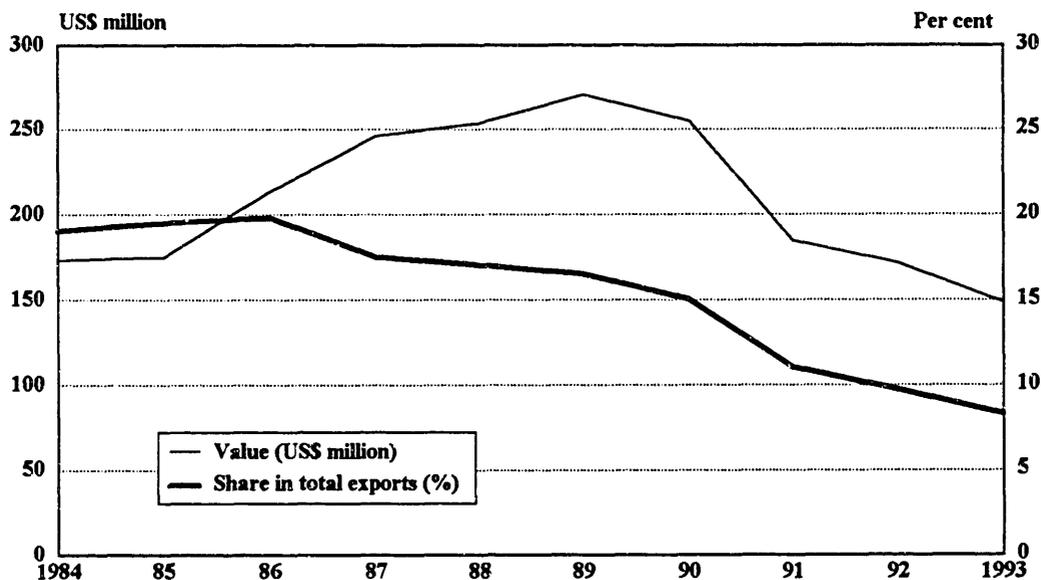
¹⁸Article 7 of Decree-Law 49/85 provides, however, framework legislation that could be used for operating an export credit insurance scheme.

¹⁹This compares with orders of some P 15 million attributed to fair participation in the same year.

(v) Measures implemented by importing countries

53. Macau qualifies for preferential treatment in all GSP donor countries. The United States and the European Union are the dominant destinations, taking 56 and 40 per cent, respectively, of the Territory's exports under GSP (1993). Overall, the share of GSP in total exports, which stood at 20 per cent in 1986, has more than halved since (Chart III.2). This is attributed by the authorities mainly to a shift of non-textile manufacturing to adjacent China. The sectoral structure of GSP-eligible exports is dominated by toys, with a share of 44 per cent in 1993, and by electronic products representing 20 per cent.

Chart III.2
Share of exports under the Generalised System of Preferences (GSP), Macau 1984-93



Source: Government of Macau.

54. Exports from Macau have never been subject to anti-dumping, countervailing or safeguard actions.

(4) Measures Affecting Production and Trade

(i) Investment-related policies

55. Macau maintains no restrictions or controls on inward or outward foreign direct investment and the use of foreign capital in existing or newly-established companies. Domestic and foreign investors are equally eligible for existing investment incentives. A low corporate tax rate (15 per cent), duty-free

imports, no restrictions on the repatriation of profits and the absence of exchange controls are further elements of a liberal investment régime.²⁰

56. Decree-Law 49/85/M establishes the legislative framework for industrial policy initiatives, with a particular focus on investment promotion, industrial modernization and sectoral diversification. The policy instruments envisaged include fiscal benefits; incentives for export diversification; Government participation in export promotion and training activities; the granting of land concessions and leases; and incentives for the renovation and modernization of industrial units.²¹ The Decree has a broad sectoral coverage, including the whole manufacturing industry and certain wholesale and repair services. According to the authorities, the incentives currently available are being extended case-by-case, taking account of a project's contribution to broadly-defined policy objectives such as industrial diversification.

Box III.3: Setting up a business in Macau

The Portuguese Commercial Code, currently being "localized" in view of the transfer of sovereignty in 1999, regulates the formation of business entities in Macau.

The first step in the incorporation procedure is to check with the Companies Registry whether the proposed name is acceptable and not similar to that of a registered company in Macau. Next, the by-laws or articles of incorporation must be drafted. The formal incorporation follows, with the signature of a public deed before a Notary. The by-laws or articles of incorporation are published in the Official Gazette. The company is registered with the Finance Department for taxation purposes.

Within three months, company documents must be submitted to the Companies Registry, and a certificate of registration is issued within four to eight weeks.

Legislation currently under consideration would, *inter alia*, simplify and speed up this process.

57. The Office for Investment Promotion, reporting to the Secretary for Economic and Financial Affairs, provides information and advice for foreign investors and screens investment proposals in view of their economic benefits to Macau. In the latter context, the Office focuses on a range of export-, environment, value-added-, and technology-related criteria. If a project is not considered positive from a technological point of view, it should at least contribute to sectoral diversification. The Office's appraisal is taken into account when assessing applications for land concessions. The Office receives 10 per cent of the revenue collected from the issuance of origin certificates; its budget was P 11.1 million in 1993.

58. In November 1991, Macau was included in the European Communities' Investment Partners facility (ECIP). In this context, concessional finance and other forms of support are offered through the *Banco Nacional Ultramarino* (Box I.2) for joint ventures between European and Macanese small- and medium-sized companies.²² The Euro-Info Centre Macau, operating since September 1992, gives

²⁰There is no accurate record of data on direct foreign investment in Macau; official estimates for 1992 put total stock in manufacturing at US\$86 million.

²¹Also in 1985, legislation regarding registration of industries was revised and government funds were provided to relocate businesses from residential to industrial premises. Between 1986 and 1992, a total of P 3.5 million was spent for this purpose.

²²To date, five applications for joint ventures have been submitted and are under study.

advice on how to set up businesses in the European Union and promotes co-operation between local and EU companies.

(ii) Subsidies

59. In the mid-1980s, Macau restructured its system of financial incentives for industrial investment. Law 1/86/M defines criteria for fiscal benefits, placing emphasis on industrial expansion through improved efficiency, introduction of new products and techniques, and positive productivity effects on existing industries. The Law was complemented by Decree-Law 71/87/M, superseded in 1992 by Decree-Law 77/92/M, providing interest rate subsidies on credits used for the construction or purchase of industrial premises and new equipment. The 1992 Decree-Law abandoned its predecessor's focus on non-traditional industries to cover the entire manufacturing sector.

60. The Governor may grant relief from direct taxes for projects considered to contribute to objectives such as industrial diversification; expansion of exports to new, unrestricted markets; increased value-added from a company's production processes; and technological modernization. Reductions or exemptions are granted on the property tax on industrial buildings, industrial tax, the complementary tax (profits tax), and the tax on property transfer.²³ In 1991 and 1992, six companies, including three clothing producers, were granted 50 per cent reductions in their complementary taxes and two companies in their property transfer taxes until 1999; the three non-clothing companies were, in addition, exempted from the industrial tax.

61. The interest rate subsidies granted under Decree-Law 77/92/M amount to 3 percentage points on loans destined for the construction or purchase of industrial premises and 4 percentage points on loans for equipment purchases. Support is given for a maximum of 5 years per project; the loan must be denominated in Patacas. In 1991 and 1992, two subsidized loans of P 21 and P 39 million were granted to non-clothing manufacturers.

62. In addition, under Decree-Law 49/85/M, the Governor may grant, on a case-by-case basis, refundable and non-refundable grants for investments in innovative products and projects or anti-pollution equipment. However, no requests have ever been submitted.

(iii) Allocation of industrial land

63. Roughly 95 per cent of Macau's land is government-owned. It is normally leased by investors for a period of 25 years with an option to renew. Given Macau's scarcity of land and the generally low level of Government interference via other instruments, the terms and conditions of these leases are important policy parameters.

²³The property tax is charged annually at a rate of 16 per cent on property income or leasing value, if assessed prior to 1 July 1988, or 10 per cent thereafter. Full property tax exemptions may be granted on income earned from new industrial property for a period of 5 years in Macau and 10 years on the islands. If the property is rented, full tax exemptions may be granted for up to 10 years in Macau and 20 years on the islands (Taipa and Coloane).

The complementary tax is raised at rates between 2 per cent and 15 per cent on the return on industrial or commercial activities. The tax exemption may reach 50 per cent.

The property transfer tax, applicable to property title transfers, is levied at a rate of 6 per cent in Macau and 4 per cent on the islands. The rates may be halved if the property is used exclusively for industrial purposes; full exemption may be granted to companies under re-organization if coupled with a transfer of ownership.

64. Applications for the lease of industrial land are lodged with the Department of Public Works.²⁴ The potential investor needs to detail the project so as to enable a comprehensive economic impact analysis. If a concession is granted, an initial premium is payable, followed by annual rents. The premium is established on the basis of a standard formula, taking into account construction cost. It currently varies between US\$17.50 per square metre on Coloane and US\$35 in Macau. Rents for industrial floors, negotiated with the investor, range between US\$2.75 and US\$4.00 per square metre and those for commercial premises and offices between US\$12 and US\$30. Macau's 1992 Budget recommended the use of public tenders as a more transparent way to grant land concessions; land for non-industrial purposes is allocated through auction. However, there are at present no concrete plans to change the system.

65. Government property income, consisting mainly of premiums from land concessions, has risen tenfold since 1988 to reach P 3.5 billion in 1992. This was 38 per cent of current government revenue, outweighing proceeds from gambling concessions.

66. Under the Sino-Portuguese Joint Declaration, half of the revenue from land leases between the signing of the Declaration in April 1987 and 1999 is reserved for the future Government of the Special Administrative Region. A Joint Sino-Portuguese Land Group has been established to deal with land leases in Macau and related issues. The total amount of new land, including reclaimed land, to be used for construction during the transitional period, originally limited to 20 hectares per year was increased to 35 hectares in 1991.

(iv) Labour-related policies

67. Macau's principal labour-related legislation, the Labour Relations Ordinance, specifies basic employment conditions for resident workers. The Ordinance bans child labour, limits the working time per day and week, and prescribes paid maternity and annual leave.²⁵ However, the Government does not interfere in the wage determination process and there is no minimum wage.

68. Current legislation governing recruitment of non-resident labour was passed in 1988.²⁶ It allows companies, subject to approval, to import non-resident labour in the event of local labour shortages; residents must not be discriminated against. Applications are to be submitted to the Labour and Employment Department and, depending on the sector in which the applicant is operating, to Macau Economic Services or the Macau Tourism Department.²⁷ They advise the Secretary for Economic and Financial Affairs, who makes the final decision based on the Governor's authorization.

69. Unskilled labour is provided by recognized suppliers, who are also responsible for accommodation and repatriation; skilled foreign labour may be recruited directly by the employer. At year-end 1992, Macau had over 21,000 registered non-resident workers, representing about 10 per cent of its total

²⁴The use of space in existing premises, e.g. subletting to other companies, is not regulated.

²⁵The Labour Relations Ordinance is based on Decree-Law 24/89/M. It does not regulate working conditions for non-residents.

²⁶Decision 12/GM/88 on unskilled labour and Decision 49/GM/88 on skilled labour.

²⁷Macau's labour policies are co-ordinated and implemented by the Labour and Employment Department, responsible to the Secretary for Health and Social Affairs. The Department is advised by the Standing Committee for Social Co-Operation representing employer and labour interests.

workforce. About 30 per cent of the non-residents, predominantly Chinese nationals, are estimated to have been employed in the construction and public works sector.²⁸

(v) Technology promotion and training policies

70. The Industrial and Commercial Development Fund provides the financing for projects which contribute to Macau's economic development, covering activities aimed at improving productivity, quality control in manufacturing, technological innovation, vocational training and export promotion.²⁹ In 1992, P 34.5 million was spent by the Fund.

71. The Industrial Development Support Centre, financed through the Fund, is responsible for the promotion of technological innovation, new product development, product and process quality improvement and technical, vocational and management training.³⁰ In 1993, the Centre was allocated funds of P 14 million. It offered 243 training courses to 4,133 trainees.

72. In addition, training programmes for industrial workers co-financed by direct and indirect contributions from industry are organized by the Professional Training Centre of the Labour and Employment Department. Since the Centre was established only in 1993, no courses were offered that year. The University of Macau and the Polytechnic Institute also provide advanced professional and vocational training.³¹

(vi) Competition policy

(a) Legislation on restrictive business practices

73. Confident of the disciplinary effects of an open market environment, Macau has no cartel law or other legislation banning collusive pricing, price maintenance, bid-rigging and similar practices.

(b) Regulated industries

74. Most basic public services, including broadcasting, telecommunications, water, electricity and transport, are provided by private companies with exclusive rights under Government concessions. The Government owns an equity interest in the telecommunications company (1 per cent), the electricity supplier (7.7 per cent), the ports management company (32 per cent), the local radio and television station (50.2 per cent) and the airport company (51 per cent).

²⁸Excluding the workers constructing the airport.

²⁹Forty-five per cent of the fees charged for issuing certificates of origin are destined for the Industrial and Commercial Development Fund.

³⁰Recent activities include the use of colour and design as well as prototype research in the area of ceramicware; assistance in disseminating ISO 9000 Standards; fabric laboratory testing; and the introduction CAD systems combined with in-house training in new manufacturing techniques.

³¹In 1988, the Government purchased the main body of the University of East Asia, now the University of Macau. The University is administered through the Macau Foundation which relies on direct Government funding (P 33.3 million in 1993) including receipts generated by the issuance of certificates of origin.

75. The share of products and services subject to administered prices in Macau's final consumption appears relatively low. The weight in the Consumer Price Index of water, electricity, transport fares, telecommunications and postal services is 5.2 per cent, based on a household expenditure survey carried out in 1981/82.

76. Many government arrangements with concessionaires provide for price controls. The Macau Power Company, as an example, is required to pay its shareholders a certain minimum return. Changes in basic parameters of the tariff system, which provides for automatic adjustments to fuel price variations, are approved only if profits fall below the minimum specified in the concessionary contract. Rates for marine passenger transport services may be adjusted annually according to fuel prices, the consumer price index and company productivity growth. Prices for telecommunication services, provided under monopoly conditions (see below), are negotiated between the Government and the operating company, *Companhia de Telecomunicações de Macau* (CTM); the investments made the level of tariffs in the neighbouring economies and an adequate internal rate of return (roughly 20 per cent) are taken into account.³²

77. The Power Company operates a two-pronged pricing system, differentiating between households and small businesses on the one hand and large consumers on the other. While the latter enjoy more favourable rates, with variations depending on consumption levels and the voltage provided, there are in principle no sector-specific exceptions. About 0.1 per cent of Macau's electricity consumers, including schools, hospitals and the press, are granted special conditions. The price of water supplied by the concessionaire is the same for all customers, although differential tariffs are permitted under the terms of the concession contract. Current prices of both water and electricity are significantly higher than in neighbouring China (Chart IV.1).

78. The telecommunications monopoly concession was granted in 1981 for a twenty-year period, subject to a revocation clause applicable from 1996. The current monopoly does not cover paging services, broadcasting or private radio networks and is no longer exercised in the equipment sector, with the exception of cellular phones (however, see below).³³ The arrangement is under review with the intention of limiting the concessionaire to the provision of network facilities and basic services (domestic and international voice transmission). Value-added and mobile services would be opened to competition. The concessionaire would be allowed, presumably under a new 15-year concession, to compete in all open market segments, subject to regulatory safeguards intended to prevent inter- and cross-subsidization.

79. Under the current régime, the telecommunications company (CTM) pays a 7 per cent government royalty on its total revenues. With a view to boosting its cellular services branch, the company has allowed retailers to sell competing equipment, subject to a mark-up equivalent to the royalty which is passed on to the Government. The scheme is to be abolished with the full liberalization of the cellular phone market on 1 November 1994.

³²CTM is majority-owned by Cable and Wireless. According to a cost comparison by the Office for Investment Promotion, published in 1992/93, a three-minute phone call to Japan cost US\$6.39 from Zhuhai, US\$4.50 from Macau, US\$3.03 from Hong Kong, US\$2.24 from Shenzhen, and US\$2.18 from Guangzhou. Local calls within Macau are free of charge.

³³The telecommunications regulator has approved some 200 private radio networks.

(c) Exclusive supply channels

80. Independent "grey" importers are not allowed to import fuels, and only dealers registered as sole agents with Macau Economic Services may import motor vehicles. Cars from producers having no agent in Macau may be imported through any registered foreign trade operator (Chapter III(2)(v)).

(d) Enforcement of intellectual property rights

81. Patents, trademarks, utility models and industrial designs are protected through the extension of the Portuguese Industrial Property Code to Macau.³⁴ The same holds in principle for the copyright area; however, apart from Portugal's Copyright Code, Macau maintains its own anti-piracy legislation on videotapes and videocassettes. The Paris Convention on the protection of industrial property (e.g. patents, industrial designs, trademarks, servicemarks, tradenames and appellations of origin) applies to Macau via Portugal's membership. Under the Convention, implemented via the Industrial Property Code, Macau's judicial system provides protection against unfair actions considered to contravene "honest" industrial or commercial practices.³⁵

82. Trademarks may be registered either with Portugal's Institute of Industrial Property and extended to Macau or directly with the Commerce Department within Macau Economic Services.³⁶ By contrast, industrial designs, patents and copyrights can, at present, be protected only through their registration in Portugal with an extension to Macau.³⁷ However, forthcoming legislation is due to establish a genuine body of Macanese legislation in this area, including the registration process. As of 1992, 8,189 trademarks, 33 patents, 18 industrial models and 1 industrial design were registered in Macau.

83. Legal action to defend industrial property rights is, in principle, left to the owner or his licensee. The Marine Police may only intervene *ex officio* and seize goods on evidence of false statements of origin and similar infringements.³⁸ The holder of an industrial property right in Macau has the legal means to prevent parallel imports and, thus, shield his market from intra-brand competition. However, the authorities are not aware of any such cases to date.

84. Under the co-operation agreement with the European Union (Chapter II(5)(ii)), Macau has requested technical assistance to ensure full implementation of the Uruguay Round Agreement on Trade-Related Aspects of Intellectual Property Rights. The authorities foresee major changes to domestic legislation following the Uruguay Round.

³⁴The Code was published in the Official Gazette of Macau on 24 March 1959. Recent changes to the Code have not yet been implemented in Macau. Penalties foreseen in Macau, as in Portugal, range from fines to prison sentences of 15 days to 6 months. Fines range from P 100 to P 10,000.

³⁵This includes mainly the creation of confusion by using trademarks that are identical or similar to protected marks or false allegations to discredit competitors.

³⁶Macau Economic Services co-operates with Portugal's Institute of Industrial Property; an agreement on trademarks has been in effect since 1985 and an agreement on patents, utility models and industrial designs since 1989.

³⁷Patent protection applies for 20 years from the date of granting. According to the authorities, this has recently prompted a pharmaceuticals manufacturer to relocate to a European country (Ireland) where, since protection is granted for 20 years from the date of application, the basic patent could no longer be enforced and, thus, production did not entail licensing costs.

³⁸Import and export licences must identify goods bearing any trademarks.

IV. SECTORAL DEVELOPMENT AND STRUCTURAL ADJUSTMENT

(1) Overall Growth Pattern

1. Macau's export-oriented industrialization was initiated by price signals and policy constraints coming from, or operating on, adjacent Hong Kong, combined with the territory's attraction as a business location. To companies experiencing labour and land shortages in Hong Kong, Macau offered significant cost advantages within a similar cultural and economic environment, including duty-free and unrestricted market access, low taxes, a stable and fully convertible currency, a common language and, in many cases, family ties.

2. Confronted with the 1962 Long-Term Arrangement on Cotton Textiles, succeeded by the Multifibre Arrangement, some manufacturers relocated (wholly or partly) from Hong Kong in an attempt to avoid restrictions on their exports of cotton textiles and, later, of man-made fibres, woollen clothing and knitted garments. In the 1970s the introduction of GSP schemes by developed countries led to additional investment in Macau in order to qualify for preferential treatment on products for which Hong Kong was ineligible, including certain electronic goods, toys and artificial flowers in the United States. Import quotas on Hong Kong-made radios and television sets in certain European markets further encouraged relocation to Macau.¹

3. Chart IV.1 suggests that for land and labour Macau's cost advantage over Hong Kong has remained intact.²

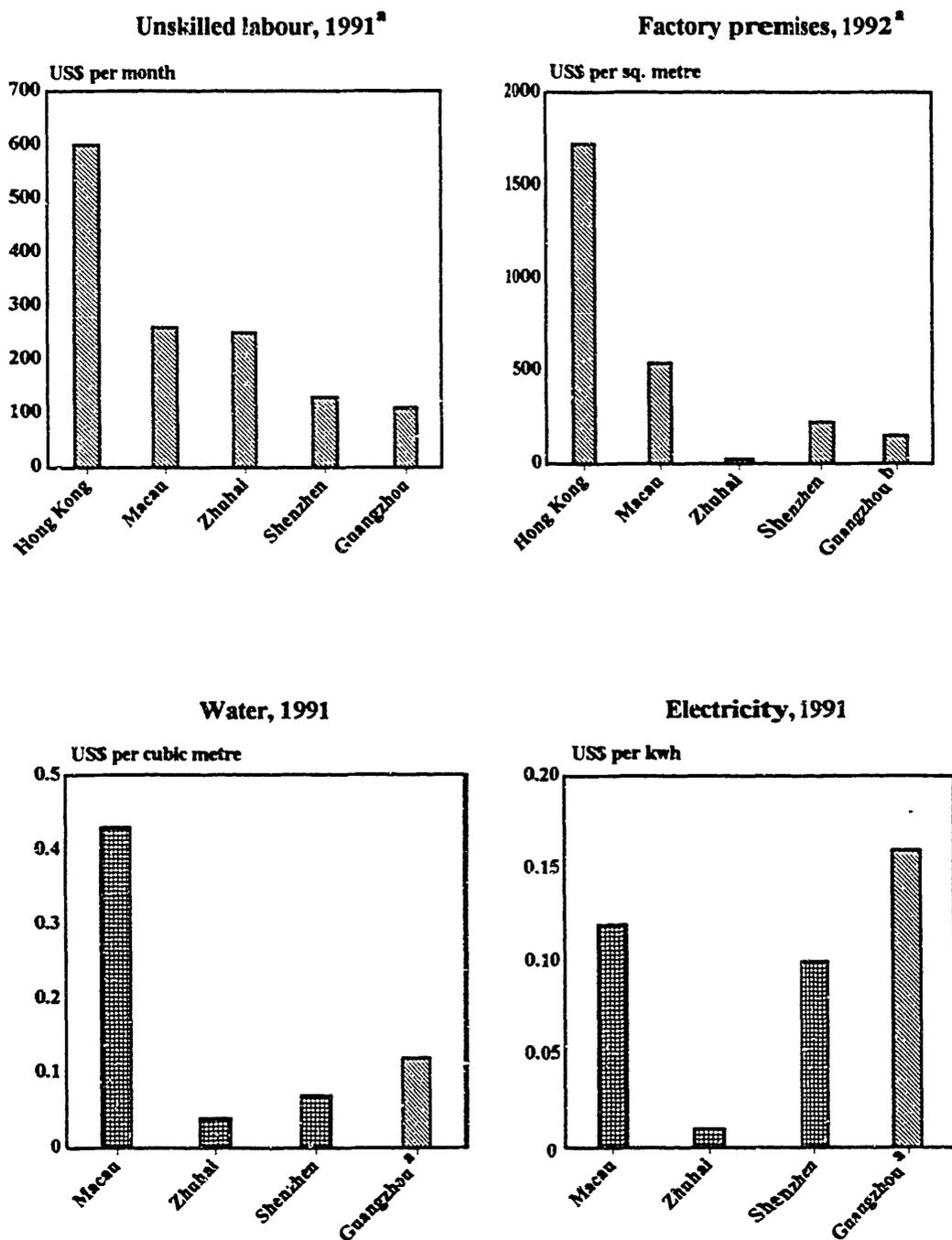
4. Since the introduction of China's "open door" policy in 1978, however, Macau has faced a low-cost competitor for manufacturing investment in its vicinity. Export-processing zones in neighbouring Guangdong Province mushroomed in the 1980s, attracting labour-intensive production activities. This apparently brought to a halt the process of export diversification in Macau, and cemented the traditional rôle of clothing production and of gambling-related tourism activities as the two mainstays of the local economy. About three-quarters of Macau's current production and export basket is made up of textiles and clothing products (Table AI.1 and Chart IV.2). While exports of artificial flowers rose from P 4 million to P 295 million between 1978 and 1984, following a production shift to China they have since fallen to virtually nil. Reflecting the relocation of GSP-eligible manufacturing activities to China, the share in Macau's total exports of GSP-covered products dropped from one-fifth in the mid-1980s to about 8 per cent at present.

¹Sit (1991), Ptak (1988) and GATT documents L/4299 and Addenda.

²In the mid-1980s labour costs in Macau were estimated to be 40 per cent and land and factory rental 30 per cent less than in Hong Kong (Sit *et al.*, 1991). This would suggest that the gap has widened since; however, such estimates are necessarily subject to considerable uncertainties and, thus, need to be interpreted with care.

Information from press articles and official sources recently compiled by Macau's Office for Investment Promotion differs somewhat from the pattern shown in Chart IV.1, indicating that monthly labour costs in Hong Kong vary from US\$820 and US\$890, as compared to US\$300 to US\$535 in Macau and US\$68 to US\$125 in Zhuhai. According to the Office, monthly factory rental varies from US\$6.40 to US\$41 per m² in Hong Kong, from US\$2.7 to US\$4.04 in Macau, and reach US\$3.20 and more in Zhuhai (January 1993). Electricity costs between US\$0.102 and US\$0.114 per kwh in Hong Kong, US\$0.115 in Macau, and between US\$0.07 and US\$0.12 in Zhuhai. Water prices per m³ are US\$0.473 in Hong Kong, as opposed to US\$0.4625 in Macau and US\$0.092 in Zhuhai (1992).

Chart IV.1
Costs of labour, factory space and public utilities in Macau and neighbouring territories



^a Maximum estimates.

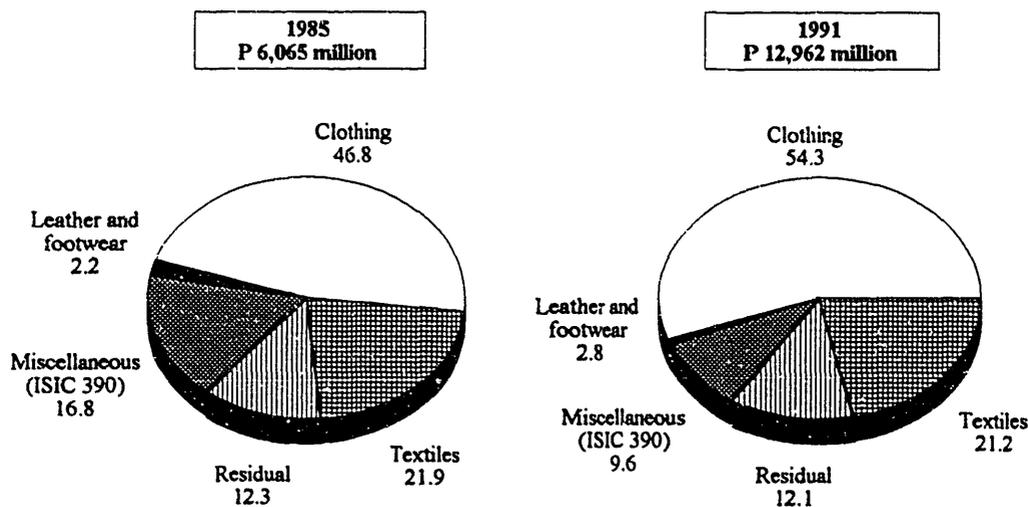
^b US\$150 per square metre and above.

Note: The shaded area shows the range of cost estimates provided for the individual regions.

Source: Faculty of Business Administration, University of Macau.

Chart IV.2 Manufacturing output, 1985 and 1991

Per cent



Source: Macau Economic Services, Industrial Survey.

5. Macau's economic growth relies increasingly on the momentum of its services sector. The proportion of the active population employed in manufacturing fell from 45 per cent in the early 1980s to 25 per cent in 1993. Since 1991 exports of services, in particular gambling-related tourism, have outstripped manufacturing exports.

6. The emergence of more advanced production within manufacturing may have been hindered by Macau's dependence on Hong Kong for international transportation, marketing and financial services; Hong Kong's continued strength as a supplier of many manufacturing inputs; and the relatively weak capital and skills base of the local economy. Most businesses are small, family-owned sole proprietorships whose production activities depend heavily on external impulses. A survey carried out in the late 1980s showed that more than 60 per cent of the small- and medium-sized enterprises - the backbone of Macau's manufacturing sector - relied on sub-contracting arrangements for more than half of their sales. A similar share of the enterprises were completely self-financed; less than one-third had contracted bank loans.³

7. The dependence on sub-contracting and the absence of an integrated manufacturing sector is likely to mean that it is less costly to relocate individual activities from Macau than from a more diversified economy with strong backward and forward links and business synergies.

³Cremer (1989).

8. In recent years, the authorities have embarked on major infrastructural projects designed to assist economic restructuring and establish independent transport connections with the outside world (Chapter I(1) and Table I.3). Important projects, including an international airport, are to become operational soon. New training and educational initiatives are designed to ease skills shortages (Chapter III(4)(v)) and, since the mid-1980s, financial incentives have been offered for equipment modernization and technological innovation. However, their use has remained limited to date (Chapter III(4)(i) and (ii)).

(2) Textiles and Clothing

9. Clothing production is Macau's dominant manufacturing activity. It absorbs about two-thirds of the territory's manufacturing workforce and accounts for the majority of its merchandise exports.⁴ However, the sector has lost momentum over time. It has suffered from stiffening internal competition for increasingly scarce and expensive land and labour, and from the emergence of dynamic low-cost suppliers on export markets. In volume terms, exports have declined since 1989, with a particularly sharp drop in 1991 when quota limits in the United States were reduced (Chapter V).

10. Temporary exports, mainly for outward-processing purposes, currently account for some 4½ per cent of Macau's textiles and clothing exports. This is significantly less than similar estimates for Hong Kong, possibly reflecting differences in the territories' business structure, including the availability of managerial expertise, and in their size and sectoral spectrum.⁵ It may be more difficult for Macau's small and less-diversified economy to reconcile outward-processing with the origin requirements imposed by MFA participants on the final products.⁶

⁴Macau's textile sector contributes about 18 per cent to manufacturing employment (1991 Industrial Census) and about 10 per cent to exports (1993); about half of the domestic industry's output is destined for local clothing production.

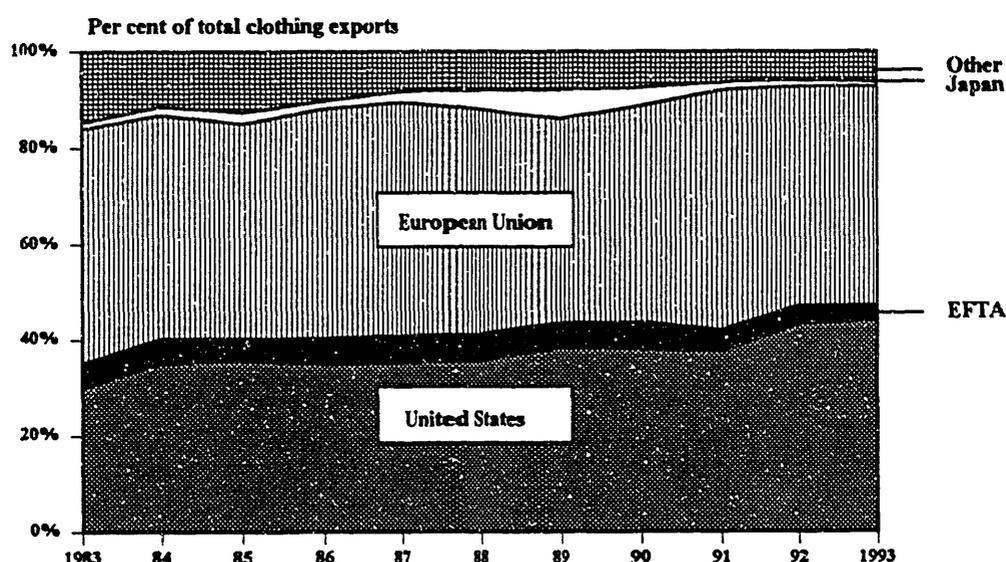
⁵In 1992 outward-processing in China, across all sectors, accounted for more than 15 per cent of Hong Kong's total exports.

⁶Though essentially based on the principle of "substantial transformation", defined as a change of tariff heading at 4-digit HS level, the interpretation and application of origin rules varies in practice from product to product and country to country. For example, the European Union and many other importers focus on the "complete manufacture or processing" with regard to the production stages of already configured clothing panels; the fact that some operations are not carried out in Macau does not necessarily lead to the loss of origin status. The origin rules operated by the United States embrace a more complex set of rules relating to production costs, timing and labour input on various stages. According to the authorities, while for the United States the making of knitted panels is considered essential for establishing the origin of knitwear comprising knitted-to-shape panels, the EU and other destinations require only the process of linking the individual panels to be carried out in Macau.

Macau expects that the standardization of origin requirements provided by the Uruguay Round Agreement on Rules of Origin will increase transparency and predictability, thus facilitate locational decisions. However, if it remains for the importing countries to specify the "essential" production stages, these advantages might prove very limited.

11. Exports to six destinations - the United States, Canada, the European Union, Austria, Finland and Norway - are restrained under the Multifibre Arrangement.⁷ The coverage of the relevant agreements ranged from less than 13 per cent of Macau's textile and clothing exports to Austria to over 90 per cent of its shipments to the European Union and the United States in 1992.⁸ The two latter destinations combined take nearly 90 per cent of Macau's clothing exports (Chart IV.3). Volume growth rates for the categories under restraint are 6.25 per cent for most categories in the United States, except for wool products (1 per cent). The European Union, having classified Macau as a dominant supplier since the early 1980s, allows 1 per cent growth for the most important items (Group I) and 2 and 3 per cent for several other categories.

Chart IV.3
Major destinations of clothing exports, 1983-93



Source: UNSTAT, Comtrade database.

12. In the period from 1982 to 1992 the value of Macau's textiles and clothing exports to restricted markets grew twice as fast as those to "open" markets. Since 1987, while the latter have grown by 2 per cent, shipments to restricted destinations expanded by 6½ per cent in value. Products under restraint accounted for 59 per cent of Macau's total exports in 1992 - 77 per cent of sectoral exports - compared to 47 per cent 10 years previously.

⁷For details see, *inter alia*, GATT documents COM.TEX/SB/1799/Add.1, 10 November 1992; and COM.TEX/SB/1873/Add.1, 22 November 1993. The authorities consider the bilateral MFA agreements as advantageous for both parties, protecting the importing country from the risk of market disruption while subjecting the exporting country to less severe restrictions than those likely to result from the imposition of unilateral restraints.

⁸Estimates by the Macau authorities.

13. Macau's performance over time has differed between its two main markets of the United States and the European Union. While the United States accounted for 44 per cent of Macau's clothing exports in 1993, up from 30 per cent in 1983, shipments to the EU fell from 49 per cent in 1983 to 45½ per cent in 1993. In spite of a rapid increase in U.S. imports from China, Macau has managed to maintain its import share in the United States, even bumping against quota ceilings in several product categories.⁹ By contrast, it has lost ground in the European Union, where quota utilization levels are reported by the authorities to have averaged 78 per cent in 1991 and 68 per cent in 1992.

Table IV.1
Macau's performance in the EU and U.S. import markets for clothing, 1982-92
(Per cent of total clothing imports)

Year	European Union's imports from:					United States' imports from:				
	Macau	China	Hong Kong	Turkey	Tunisia	Macau	China	Hong Kong	Rep. of Korea	Chinese Taipei
1982	2.8	3.2	19.1	2.7	3.9	1.3	7.8	24.1	17.3	18.9
1984	2.8	4.0	19.7	5.9	3.5	1.3	6.8	21.9	16.8	17.0
1986	2.5	4.9	15.3	7.4	3.9	1.3	10.0	19.6	14.6	15.1
1988	2.5	8.4	17.4	10.2	4.1	1.6	9.6	17.1	14.8	13.3
1990	2.1	11.0	14.7	12.4	5.4	1.6	13.7	15.5	12.9	9.6
1992	1.9	15.4	14.2	13.3	6.1	1.6	16.4	13.9	8.6	7.8

Source: UNSTAT Comtrade database.

14. These developments are difficult to interpret. They may be attributable to fiercer import competition in the EU from other dynamic suppliers that are less restrained than in the United States; or to whom the EU, unlike the United States, accords more favourable tariff treatment under co-operation or free trade agreements (e.g. Turkey and other Mediterranean suppliers).¹⁰ In addition, Macau's internal quota allocation system may have benefited established firms, rather than the most competitive entities, putting a toll on export performance in a rapidly changing environment.¹¹ Diverging exchange rate developments between the U.S. dollar, to which Macau's currency is indirectly linked (Box 1.2), and major European currencies may also have played a rôle.

15. Macau Economic Services, through the Commerce Department, allocates export quotas to individual firms and exporters within the scope of the bilateral agreements under the MFA. The relevant rules are set forth in Decision 40/GM/91 of 12 February 1991. Unlike the auction system used in Hong Kong, quotas are allocated on the basis of past performance, which is the central factor, and additional criteria related to new investment, exports to new markets and the unit value of orders received (Box IV.1).

16. Current procedures are under revision in order to speed up the quota allocation process and allow the industry to respond more flexibly to changing market conditions.

⁹Growth rates under the United States' bilateral agreements are higher for Macau than for China or Hong Kong.

¹⁰Unlike the EU, the United States grants identical tariff treatment to almost all developing country suppliers.

¹¹Given the implementation of the European Communities' Internal Market Programme and the export drive of adjacent economies, including Turkey, in the second half of the 1980s, market conditions may have changed more rapidly in Europe than in the United States.

Box IV.1: Allocation of textile export quotas

Each January an initial quota is allocated to foreign trade operators, registered exporters and manufacturers, based on their previous year's performance. The recipients are expected to use at least 60 per cent of the quota volume before the end of August; shortfalls are made subject to renewed allocation in September.

Initial quotas may be transferred between interested companies on a temporary or permanent basis. The conditions are negotiated directly between buyer and seller; the transfer must be registered with Macau Economic Services. In the case of temporary transfer, the original quota owner remains entitled to full "past performance" in the following year's allocation process. In the event of permanent transfers, he is replaced by the recipient. The transfers are thus normally made before August.

The initial quotas cover about four-fifths of the total quota volume available, with variations among product categories. The remaining 20 per cent are allocated in the form of incentive quotas and additional quotas.

Incentive quotas, introduced first in 1990, are granted conditional on a company's investment in new equipment, its export performance in new markets and similar criteria. The relevant decision is made case-by-case, normally during the first quarter of the year, and is not subject to any appeals procedure. Additional quotas are allocated biannually, in February and September, to foreign trade operators established in Macau for at least three years. Based on the price level of orders received and quota fulfilment of the individual exporters, additional quotas are not transferable. The allocation procedure is at the discretion of the Commerce Department.

Newcomers may enter the market by buying existing initial quotas and/or applying for incentive quotas.

17. Macau's position has been particularly weak in non-MFA markets where import access conditions are determined by m.f.n. tariffs rather than bilateral quota restrictions. Japan, as an example, accounted for no more than 1.4 per cent of Macau's total textiles and clothing exports in 1992, down from 2.1 per cent in 1982 (Table IV.2). The industry's current reliance on restrained markets and its poor performance under m.f.n. conditions suggests that it would need to undergo significant restructuring to compete successfully in an open, post-MFA environment.¹²

¹²The Uruguay Round Agreement on Textiles and Clothing foresees the phasing-out of the MFA by 2005. This will be accomplished by progressively "integrating" MFA products into the GATT. In a first phase, by 1 January 1995 each importing MFA participant will integrate products which accounted for not less than 16 per cent of its 1990 imports; by 1 January 1998 and 1 January 2002, respectively, an additional 17 and 18 per cent shall be integrated. All remaining products must be derestricted by 1 January 2005. In the first three phases, products shall be chosen from each of the following four categories: tops and yarns, fabrics, made-up textile products and clothing. The Agreement contains a specific transitional safeguard mechanism for products not yet integrated.

Table IV.2
Textiles and clothing exports by markets
(Per cent and P million)

	Export structure			Average annual growth	
	1982	1987	1992	1982-87	1987-92
Restrained markets	69.3	77.4	80.9	21.9	6.4
European Union	45.8	41.7	39.8	17.1	4.4
Germany	15.2	15.7	14.9	20.2	4.3
France	12.0	11.5	10.9	18.3	4.2
United Kingdom	6.9	6.8	6.8	18.8	5.6
United States	19.8	30.5	37.9	30.0	10.1
Canada	0.7	1.4	1.7	37.6	9.6
Austria	0.6	0.9	0.7	28.4	0.8
Finland	0.7	1.4	0.5	36.0	-14.8
Norway	0.2	0.3	0.4	32.8	9.5
Sweden	1.5	1.2	-	14.1	14.8 ^a
Unrestrained markets	30.7	22.6	19.1	12.2	1.9
Hong Kong	17.7	13.2	7.4	12.4	-6.1
China	2.8	2.3	6.5	14.6	29.9
Japan	2.1	2.4	1.4	21.8	-4.5
Sweden ^b	-	-	0.8	-	-
Others	8.1	4.9	3.0	7.6	-4.5
TOTAL	100.0	100.0	100.0	19.3	5.4
(P million)	(3,421.4)	(8,257.6)	(10,744.5)		

a 1987-90

b Exports to Sweden were fully liberalized as from July 1991.

Source: Macau Economic Services - Research Department.

18. The authorities consider, however, that Macau is well placed, in principle, to meet the new challenges. They count, in particular, on continued positive spillovers from Hong Kong as a major production, marketing and services centre; the proximity to China as a competitive supplier of fibres and textile materials; and the perpetuation of Macau's current free-port status after the transfer of sovereignty in 1999. Short-term growth prospects are viewed rather favourably in North America where Macau hopes to achieve higher quota growth rates during the MFA phasing-out than those accorded to major Asian competitors. In addition, though aware of the risks of trade diversion under the North American Free Trade Agreement (NAFTA) and increased competition in the United States from Central America, the authorities are more concerned about Macau's position in the EU, where it is confronted with many more preferred suppliers operating on the Union's doorstep, in particular Turkey, North African countries and Central European producers, and where its flexibility is hampered by low-quota growth, as a result of its dominant supplier status.

V. TRADE DISPUTES AND CONSULTATIONS**(1) GATT Dispute Settlement**

1. Since its accession to the GATT in 1991, Macau has not been involved in consultations or disputes under Articles XXII or XXIII.

(2) Other Cases

2. In June 1990 the United States threatened to terminate its bilateral MFA Agreement with Macau alleging circumvention of some categories of sweaters manufactured in China and transshipped through Macau. The problem was notified to the Textiles Surveillance Body under Article 8:2 in October 1990. In contacts with the U.S. authorities Macau agreed to penalize companies suspected of circumvention by the United States by freezing their exports, intensifying border controls, improving co-operation with U.S. customs and strengthening inspection of manufacturing activities. In November 1990, bilateral discussions led, *inter alia*, to the reduction of quotas on sweaters and the consequent adjustment of the aggregate and group limits.¹³ In June 1991, meetings took place to review the administrative measures implemented by Macau to prevent circumvention. The United States subsequently restored quotas for all but silk and other non-cotton vegetable-fibre sweaters to the original levels. In December 1992 the United States also agreed to partially restore the quota levels of the remaining categories (from 1 January 1993).

3. The impact of the reduced quotas is reflected in a decline in Macau's clothing exports to the United States between 1990 and 1991, from US\$422 million to US\$406 million. The loss was fully overcome in 1992 when bilateral exports totalled US\$506 million; exports of sweaters, that had fallen from US\$68 million in 1990 to US\$42 million in 1991, rebounded to US\$52 million.

¹³The TSB was notified that a mutually-satisfactory solution to the problem had been found.

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