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TRADE POLICY REVIEW MECHANISM

MACAU

MINUTES OF MEETING

Chairman: Dr. M. Zahran (Egypt)

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I. INTRODUCTORY REMARKS BY THE CHAIRMAN OF THE COUNCIL

1. The Trade Policy Review of Macau was held on 27 and 28 September 1994. The Chairman (Dr. Zahran) welcomed members of the Council, the delegation of Macau headed by Mrs. Gabriela César, and the discussants, Mr. Wilhelm Meier of Switzerland and Mr. Suboh Yassin of Malaysia.
2. The Chairman recalled that the purpose of the Trade Policy Review Mechanism was "to contribute to improved adherence by all contracting parties to GATT rules, disciplines and commitments, and hence to the smoother functioning of the multilateral trading system, by achieving greater transparency in, and understanding of, the trade policies and practices of contracting parties" (BISD 36S/403).
3. According to the Decision taken on 12 April 1989, the Council was to base its work on two reports. The report by the Government of Macau for this review was contained in document C/RM/G/48 and Corr.1 and the report by the Secretariat, drawn up on its own responsibility, in document C/RM/S/48. Outlines of the main issues the discussants intended to address were contained in document C/RM/W/19. Copies of written questions submitted by the delegations of Australia, Hong Kong and the United States were available.
4. The Chairman then offered the floor to the representative of Macau.

II. OPENING STATEMENT BY THE REPRESENTATIVE OF MACAU

5. The representative of Macau expressed her pleasure in presenting, for the first time in a GATT forum, the Territory's trade policy framework and practices. As one of the smallest and lesser known members of GATT, Macau was anxious to give an up-to-date picture of its social, political and economic system. She felt that the report prepared by the Secretariat, taking into account that submitted by the Government of Macau, achieved this aim perfectly. In particular, the two reports provided a clear explanation of how the transitional period up to and beyond the transfer to Chinese sovereignty would work, politically, economically and institutionally.

6. She informed the Council of certain developments that had occurred since the reports were prepared. With the aim of improving environmental conditions in the densely-populated Territory of Macau, a new law provided that, from 1 January 1995, motor vehicles would have to be fitted with a special device for the exclusive use of unleaded gasoline; a second law introduced a differential consumption tax on fuels, favouring unleaded over leaded gasoline. A new agency, the Macau Institute for Promotion of Investment and Trade, resulting from the merger of the Macau Economic Services Export Promotion Department and the Macau Institute for Promotion of Investment, had started to operate in July 1994.

7. Macau's small economy, with almost no natural resources, was, of necessity, internationally-oriented and particularly vulnerable to fluctuations in the world economy. Her Government was, therefore, delighted with the successful outcome of the Uruguay Round, and hoped that it would contribute effectively to the liberalization and expansion of world trade within a strong multilateral framework.

8. The process of ratification of the Marrakesh agreements was underway and Macau looked forward to joining the World Trade Organization and contributing to its objectives. She pointed out that this would be done autonomously, still as the Territory of Macau. On the return of sovereignty to China - after 20 December 1999 - Macau's membership would be under the name of "Macau - China".

9. For the time being, Macau's main priority with regard to the Uruguay Round agreements was to prepare the implementing legislation in fields such as intellectual property, including effective measures against trade in counterfeit goods, and licensing. Since trade in textiles and clothing remained crucial to employment and economic growth in Macau, her Government attached particular importance to the gradual incorporation of the Multifibre Arrangement into the GATT and, thus, to a genuine liberalization of trade and improved access to major markets, including the United States and the European Union.

10. She referred to the fact that the forces which had hitherto sustained Macau's competitiveness were changing. Internationally, Macau was facing growing pressure in its traditional markets from new producers, which had clear advantages in terms of wage costs. In addition, the international economy had itself changed radically over the last decade, as evidenced by the increased inter-dependence between individual economies, the globalization of markets and the shifted pattern of industrial investments around the world. Macau had been acutely affected by the open-door policies in neighbouring China and, in particular, the establishment of the Special Economic Zones, which had fuelled the current boom in the Pearl River Delta. There was a broad consensus in Macau on the nature and direction of structural change, marked by the growing momentum of the services sector and extensive industrial restructuring and relocation. Although it was clear that the Territory's economy had lost comparative advantage in some labour-intensive manufactured goods, it was becoming more competitive in other sectors, due to its extraordinary capacity to identify, and adjust promptly to, new trends.

11. Macau's economic policies were founded on the principles of a liberal market economy, including freedom of trade and capital flows, and supported by low taxation. These principles were enshrined in the Basic Law which would apply after 1999, thus ensuring continuity in economic policy.

12. The Government's top priority was to spur the restructuring and upgrading of the Territory's economic fabric, rather than the maximization of growth. In this context, full use was made of all available economic policy instruments, including infrastructural projects, necessary to render Macau more attractive to international investors. Major public investments - especially in basic infrastructure and transportation - as well as in the further development and expansion of the education and health systems were now beginning to bear fruit. Already completed infrastructure projects included a new maritime passenger terminal, a new bridge linking the Macau peninsula to Taipa Island, a new container port, a modern solid waste treatment plant, additional electric power capacity, and the modernization of the telecommunications system. The completion of the Macau International Airport next year would contribute to the development of two-way links with China. In order to promote new industrial development, the establishment of a multi-sector industrial park was currently underway, to be followed by another such project, catering to medium- and high-technology industries.

13. To encourage economic activity, Macau also relied on instruments such as interest relief on loans granted for the construction or purchase of industrial premises and new equipment; reduced taxation; vocational training and export promotion facilities. These measures were supplemented by the promotion of joint ventures in the context of the European Communities' Investment Partners (ECIP) programme. Taken together, the above initiatives were expected to enable Macau to take full advantage of the swift development of Southern China.

14. In conclusion, she stressed that Macau's trade policies and practices would continue to be founded on a firm commitment to free trade and market forces, and that this approach needed to be reciprocated in full by other members of the WTO.

III. STATEMENT BY THE FIRST DISCUSSANT

15. The first discussant (Mr. W. Meier) noted that both the Government and the Secretariat report confirmed the openness and market-oriented nature of the foreign trade régime of Macau.

16. With respect to industrial modernization and diversification, Macau had focused on the transformation of its economic structure towards higher value-added activities. However, some of the incentives offered, for example grants for innovative products, had been used very rarely and no new sectors had emerged. Recent economic development had been dominated rather by external factors. The export industry continued to rely heavily on clothing, exports of other manufactured goods including toys and artificial flowers had decreased over the last ten years more than twofold; services exports were concentrated on gambling-related tourism. In addition, Macau had relied increasingly on one major outside investor. He thus invited the delegation of Macau to elaborate on the focus of current policies.

17. According to the Basic Law, Macau would pursue an autonomous foreign economic policy after the transfer of sovereignty to China. With this in mind, he was curious to know if and how the institutional framework would be changed and current policy instruments be adjusted.

18. Turning to a third issue, the discussant wondered how Macau planned to respond to the integration of the textiles and clothing sector, the main export industry, into the GATT. Clothing exports to restricted markets had grown twice as fast as those to unrestricted markets, suggesting that Macau might have benefitted rather than suffered from existing quota arrangements. Moreover, it seemed that the current system of domestic quota allocation favoured established exporters, limiting access for new, and perhaps more competitive, producers. He also questioned the rationale for the one per cent fee applied to certificates of origin for MFA-restricted exports, which was far higher than the fee for other certificates of origin.

19. Lastly, he requested information on the forthcoming adaptation of Macau's domestic legislation on intellectual property protection in light of the Uruguay Round results.

IV. STATEMENT BY THE SECOND DISCUSSANT

20. The second discussant (Mr. Suboh Yassin) drew the attention of the Council to the narrow economic base of Macau, dominated by tourism and the manufacture of clothing. Macau had attempted to diversify into areas such as artificial flowers and toys; however, these had been diverted to nearby lower-cost locations.

21. The authorities had sought to promote the Territory as an independent trading entity and service centre in order to exploit the locational advantages of one of the world's most dynamic regions. In this context, he recognized the strength and dynamism of the private sector and its active participation in Macau's infrastructure projects, with positive implications for the public budget. With this in mind, he wondered if there were plans to deregulate the transport and telecom sectors.

22. As a free port, Macau had followed a trade régime largely free of government involvement. The Government did not operate any quantitative restrictions, maintained no import or export tariffs, and did not provide export subsidy, credit or insurance programmes; the customs and licensing requirements were straightforward. Referring to discriminatory consumption taxes that favoured wines, liquors and spirits from Portugal and to a 25 per cent tax surcharge on certain indirect imports, he enquired whether Macau envisaged any changes.

23. In the Uruguay Round, Macau had bound 10 per cent of its industrial tariffs at zero rates. Given Macau's very liberal trading régime, he would have expected a greater degree of bindings. Another measure at odds with the Territory's otherwise excellent record was an import ban, for environmental reasons, on second-hand motor vehicles. He wondered whether Macau was considering less trade-disruptive alternatives.

24. The incentive schemes to promote industrial diversification and modernization were not free of discretionary elements, in particular concerning the allocation of industrial land. With respect to government procurement, he queried whether the right of every bidder to see his competitors' proposal could facilitate collusive business practices. He also sought information on the precise circumstances in which the authorities would use selective rather than public tendering.

25. Finally, the discussant invited the delegation of Macau to provide further details on the intended changes to labelling requirements, and expressed interest in Macau's views on environmental issues, in relation to the GATT, as well as on regional co-operation initiatives in Asia.

V. STATEMENTS BY MEMBERS OF THE COUNCIL

26. The representative of the United States commended Macau for its open trade and investment régime and its clear commitment to the multilateral trading system. Given Macau's dependence on textile exports and casino earnings, he wondered what specific incentives were planned to promote export diversification.

27. Noting that Macau had undertaken to bind only one-fifth of its tariffs in the Uruguay Round, he encouraged the authorities to bind all tariffs. He also requested information on: the methodology used for customs valuation; new licensing and registration requirements for domestic and foreign traders; the eventual abolition of the tax preferences for wines and liquors from Portugal; and any intentions to replace export licences by export declarations.

28. Turning to intellectual property protection, he asked when the announced changes to domestic legislation would be completed and what enforcement mechanisms were envisaged, given the risk of infringing imports from China. He further expressed the hope that Macau would continue to enforce compliance with its bilateral apparel quotas and suggested full liberalization of all domestic services sectors, including telecommunications.

29. The representative of Japan expressed appreciation for the transparency of Macau's trade régime, based on free-trade principles and minimal government intervention. He sought further clarification on: any policy reorientation following the transfer of sovereignty in 1999; the implementation of the TRIPs Agreement; initiatives to provide industrial diversification; the measures taken to prevent circumvention of textiles agreements; reasons for keeping a majority of tariffs unbound; and any plans for dismantling the telecommunications monopoly.

30. The representative of the European Communities highlighted the economic challenges facing Macau, given its dependence on the textiles sector and the recent real appreciation of the Pataca. He enquired about the initial results of recent educational programmes and any new policies to encourage industrial diversification and additional investment. The fact that Macau had not fully utilized its MFA quotas in the EC market suggested that their level was reasonable. Reflecting its reliance on clothing exports, Macau had drawn little benefit from GSP schemes - a situation which might be enhanced by industrial diversification. He called attention to the growth potential of service industries, in particular hotels, where the EC had been providing technical co-operation.

31. The representative of Brazil also complimented Macau for its liberal trade régime; the distortions caused by the MFA had been imposed on the Territory by its trading partners. He asked whether the limited share of bound tariffs was the result of a policy decision allowing for future flexibility, or whether it simply reflected limited requests by trading partners during the Uruguay Round.

32. The representative of New Zealand remarked that Macau's trade policy was closely in line with basic GATT principles and objectives. He made reference to the significant business opportunities provided by economic integration within the Pearl River Delta and the growth of the services sector. Appreciating Macau's efforts in the Uruguay Round, including the binding at zero of all tariffs on agricultural products and the commitments on financial services and tourism, he asked whether the domestic ratification process would allow Macau to become a WTO member by 1 January 1995.

33. The representative of Finland, on behalf of the Nordic countries, viewed Macau's commitment to free markets and minimal government interference as the basis of its economic success. The opening of China in 1979 had benefitted Macau's economy, and prospects of continued prosperity after 1999

were promising. She then sought clarification on a number of issues, including the GATT-consistency of the tax surcharge on certain indirect imports; Macau's policy towards regional integration and its prospects for joining APEC; the economic potential of the Macau International Airport; any intentions to diversify the public revenue base away from gambling; the possibility of the Bank of China issuing local currency in Macau, as in Hong Kong, and the impact on financial markets; and Macau's rôle as an investor in China.

34. The representative of Hong Kong, emphasizing that free-trade policies had been conducive to Macau's export-driven growth, appreciated Macau's commitments in the Uruguay Round to bind a significant percentage of its tariff lines at zero rate, and its active participation in the negotiations on multilateral rules and disciplines. With regard to specific trade policies, he welcomed the substitution of simple import declarations for licensing requirements, but queried the preferential tax on wines and liquors and the surcharge on certain indirect imports. Referring to the import prohibition on second-hand motor vehicles, he hoped that environmental objectives would not be attained at the expense of free trade.

35. The representative of Canada joined other delegations in commending Macau's free market tradition. She enquired whether the timing of legislation on intellectual property would be in line with the commitments made in the Uruguay Round, and wondered about the reasons behind the low level of tariff bindings. In addition, she sought clarification on the prospective abolition of Macau's preferential consumption taxes on wines and liquors; and whether international standards would be the basis for the proposed review of, and expanded range of, controls on food products.

36. Noting that Macau had one of the most liberal trade régimes in the world, the representative of Australia invited the delegation of Macau to comment on the future of the telecommunications monopoly and the prospective simplification of the Territory's trade régime. Australia would welcome an increase in the level of tariff bindings. Indicating that his delegation had raised further issues in writing, he queried whether Macau had any intention to adopt anti-dumping or countervailing legislation.

VI. REPLIES BY THE REPRESENTATIVE OF MACAU AND ADDITIONAL COMMENTS

37. The representative of Macau felt that the interventions had confirmed Macau's dedication to liberal market principles. Although it was not possible to predict every detail of the transfer of sovereignty to China in 1999, the broad policy lines had been clearly defined between Portugal and China. They were reflected in the Basic Law and ensured continuity in economic policy for the benefit of all concerned.

(1) General policy orientation

38. The opening up of China had had a marked effect on Macau's external economic relations and, by implication, its economic structure. The sharp increase in regional economic activity had fuelled Macau's own demand for goods and services, particularly in finance, property, commerce, hotel and restaurant sectors. New business opportunities, based on both competition and complementarity, had emerged.

39. The administration had to take into account, and respond to, the changing pattern of market forces. Restructuring and modernization should be facilitated by the public authorities, whereas it was for the private sector to reap the benefits of new infrastructural facilities and ensure Macau's competitiveness in international trade. The authorities had not only invested heavily in modern infrastructure to attract investment, but in education and training. An Economic Consultative Council had been created to advise the Government on development strategies and economic policies, and the Macau Institute for the Promotion of Investment and Trade had begun work.

40. Macau had initially concentrated its efforts to strengthen the skills base on upgrading expertise in the garments sector. In 1985, training programmes had been established for machinists and cutting-room operators; programmes for supervisors were added later. In 1991, courses for merchants and quality controllers had been organized in co-operation with the Clothing Industry Training Authority of Hong Kong. Recent programmes had included pattern creation, product development, quality control, CAD/CAM technology transfer and the dissemination of ISO 9000 standards. In addition to activities in the clothing sector, considerable thought had been given to developing a new approach to Macau's educational system. A polytechnic institute had been established to provide training to secondary school graduates in translation and other tourism-related skills. This year, the Professional Training Centre of the Labour and Employment Department had begun offering courses ranging from mechanics to civil construction and computer-aided design.

41. Gambling concession revenues were the Territory's main source of income; they had permitted a fiscal system with very low taxation levels. Consequently, as long as this situation prevailed, Macau did not envisage any significant change in its fiscal policy.

42. As to the coverage of the telecommunications monopoly, she noted that it was no longer exercised in the equipment sector, with the exception of cellular phones, where it was due to terminate in November 1994. Paging services, broadcasting or private radio networks were liberalized, and the monopoly concession was under review with the intention of limiting the concessionaire to the provision of network facilities and basic services. Value-added mobile services would be opened to competition. The concessionaire would be allowed, under a new 15-year concession, to compete in all open-market segments, subject to regulatory safeguards to prevent internal cross-subsidization. There were no present plans for the comprehensive deregulation of all service areas. Macau had made a comprehensive offer on financial services, insurance and tourism in the Uruguay Round.

43. Macau maintained a wide range of trade relations. With a view to encouraging export market diversification, the administration had actively pursued promotional events in Japan, Korea and Hong Kong in 1993.

44. In her Government's view, the Territory should play its part in institutional arrangements fostering regional co-operation. Hence Macau had acceded, as an associate member, to the ESCAP in 1991 and the Asian and Pacific Development Centre in 1993. Macau regarded accession to APEC as an important issue, although there was as yet no concrete outcome. The Government had not formulated a policy on other regional initiatives.

45. The future of Macau's economy, she summarized, would depend on a combination of:

- (a) modernization of infrastructure and diversification of economic activity by the private sector, accompanied by a diversification of foreign investment;
- (b) unrestricted access to international markets for goods and services, based on the agreements reached in the Uruguay Round;
- (c) participation in regional economic integration, to the extent that this had a positive net effect on Macau's economic development; and
- (d) harnessing the synergies resulting from an increasingly close two-way relationship with China, whilst maintaining - in conformity with the Basic Law and with Macau's international commitments - a degree of autonomy in international economic relations.

46. The Macau authorities were taking steps to ensure that the international commitments entered into by China and Macau - for example on textiles - were fully respected. Macau was a reliable trading partner and, therefore, combatted any circumvention of existing trade agreements. Likewise, it was ready to enforce internationally recognized intellectual property rights, including by action against counterfeit goods.

47. Problems concerning trans-shipments to the United States had finally been settled by mutual agreement. Over the last four years, Macau had made great efforts to prevent any recurrence. Measures included more effective border-controls, penalties on offenders, intensification of factory inspections, and closer co-operation with U.S. Customs. Legislation had been extensively modified to facilitate enforcement of proper trading practices and punishment of violations. Furthermore, new border-gate inspection facilities had been built. Considering Macau's geographical size and volume of sales to the U.S. market, the measures implemented were significant in scope and effect, perhaps unparalleled in any other country.

48. A main objective of Portugal and China was to ensure a high level of continuity, during and after the transition period, in the political and legal system of Macau. Thus, the Basic Law provided that the laws, decrees and administrative regulations adopted during the transition would be retained. In addition, under the Basic Law, Macau would maintain an independent taxation system and continue to keep taxes low; retain independence in monetary and financial matters; safeguard the freedom of capital movements; manage civil aviation; maintain its free-port status and refrain from imposing tariffs; authorize any vessel - with the exception of warships - to have access to its ports and harbour facilities; and remain a separate customs territory from China.

49. The Basic Law also provided that Macau participate, in its own name, in international trade agreements such as the GATT and WTO, and in other arrangements not limited to States. Where participation was limited to States, Macau would be a member of the Chinese Delegation. The SARM could also establish economic and trade missions in foreign countries which, in turn, could establish formal consular or semi-official missions in the SARM, subject to approval by the Chinese authorities.

50. The main responsibility for trade policy formulation and implementation would remain with the Government, in the person of the Chief Executive. The latter would define Government policy and issue executive orders. If the SARM Legislative Assembly wished to initiate legislation in matters concerning Government policy, the approval of the Chief Executive would be required.

51. Trade-related decree-laws enacted by the Governor of Macau before 1999 would remain in effect and land leases granted during the Portuguese administration, including those extending beyond 1999, would be recognized. Furthermore, the Basic Law foresaw the maintenance of Macau's 'way of life' and, thus, fully preserved the rôle of the private sector in the formulation of trade policy.

52. Concerning the rôle of the Bank of China, she noted that the Joint Liaison Group had agreed that the Bank would be entitled to issue currency in parallel to the *Banco Nacional Ultramarino* from October 1995. However, this would have little effect on financial markets.

53. The first discussant, appreciating the detailed responses provided, encouraged Macau to focus even more on industrial modernization and diversification, given the dynamism of the region. As to the policy framework after 1999, while he recognized that the Basic Law ensured continuity and independence, he wondered if the authorities were reflecting on institutional measures to underpin these provisions.

54. The second discussant felt that Macau was in a position to continue its open trade and investment policies. On the issue of circumvention, he thought that other countries might draw some lessons from the preventive measures Macau had taken.

(2) New challenges and adjustment requirements

55. The representative of Macau acknowledged that, given the Territory's export structure, the phasing-out of the MFA had important economic consequences. However, despite increasing competition in world markets, Macau would continue to be an important, independent supplier of textiles and clothing. In this context, she referred to Macau's proximity to both Hong Kong and China and the retention of its status as an open and free market after 1999.

56. The Basic Law guaranteed that the Territory's export quotas and similar arrangements would remain valid, to be enjoyed exclusively in the SARM. In addition, Macau remained entitled to issue its own certificates of origin in accordance with the prevailing rules. The availability of quotas, as well as the Territory's pool of skilled and flexible workers, would continue to encourage clothing production. Of course, local companies would have to raise productivity levels by using the latest equipment and by constantly upgrading their operations.

57. She believed that the market outlook was more favourable for North America, given the Territory's "small supplier" status in this region. In contrast, the situation was less optimistic in the European Union, where Macau was considered a dominant supplier. In both markets, however, it was clear that Macau's exporters would be facing increased competition from low-priced suppliers, sometimes with preferential access not enjoyed by Macau.

58. Textile quotas had traditionally been allocated on the basis of past performance. Since 1990, however, a new allocation system had allowed for the distribution of permanent quotas to manufacturers who had sold to new markets or made significant investments to upgrade or expand capacity. In addition, a mechanism had been created for the transfer of quotas, and greater flexibility in quota utilization had been introduced. The regulations governing quota utilization had since been revised twice to speed up the allocation process and further improve the industry's response to changing market conditions.

59. The second discussant noted that foreign investment could be an important vehicle for modernizing the industry. The first discussant, acknowledging the recent adjustments to the allocation system, questioned the emphasis placed on a producer's past performance and wondered whether an auction system would contribute to the industry's overall efficiency.

60. In response, the representative of Macau recalled recent changes in the system, which had been presented in the Secretariat report. However, past performance had remained a central factor, given the need to ensure predictability for producers.

(3) Trade policy after the Uruguay Round

61. The representative of Macau noted that the implementation of the Uruguay Round agreements provided the Territory with an opportunity to bring its trade legislation fully in line with prevailing international standards. The creation or adaptation of local law, and its translation into Chinese, would provide a solid basis for the transfer of sovereignty in 1999 and would reassure economic operators. Macau's ratification of the Uruguay Round agreements would be completed in time, allowing for application from 1 January 1995.

62. In the area of intellectual property protection, legislation was in draft to implement the TRIPs Agreement. In addition, Macau intended to accede to all relevant international conventions. Laws on trademarks, patents, utility models and industrial designs, currently under review by the European Patent Office, would be published in 1995. Technical assistance under the Macau-EU Cooperation Agreement aimed to ensure a level of protection for intellectual property in Macau in line with WIPO standards. However, Macau had not yet encountered serious difficulties with illicit imports from China infringing copy or neighbouring rights. Customs had the power to seize counterfeit goods whenever sufficient evidence of false declarations of origin, illegal use of trademarks or logos, or other infringements of industrial and intellectual property rights existed.

63. The representative of Macau stressed that the Territory's import régime was more open than that of most other contracting parties. If Macau had agreed in the Uruguay Round to bind a higher share of tariffs, this would have left it with little leverage for future negotiations. She pointed out that after the presentation of the Territory's first tariff offer in May 1992, only three contracting parties - Australia, New Zealand and Sweden - requested Macau to consider additional bindings in areas relevant to their trade. As a result of consultations held with these countries in December 1992, Macau submitted an additional offer. Recalling that GATT Article XXVIII bis provided that duty-free treatment should, in principle, be recognized as a concession equivalent to the reduction of high duties, she said that, for the time being, Macau had no plans to bind additional tariff rates.

64. The observer from China pointed out that China had introduced legislation on intellectual property rights and that various Court decisions had recently found in favour of foreign property rights owners. It was by no means clear that China was the source of counterfeit goods.

(4) Specific trade measures

65. The representative of Macau noted that since all products entered the Territory duty free, the authorities had not found it essential to introduce regulations dealing with *customs valuation*. However, in the context of the Uruguay Round, Macau had become a party to the Agreement on Customs Valuation and was therefore bound by its provisions. Should Macau decide to levy tariffs at some future date, proper consideration would be given to the provisions of the Agreement.

66. The most effective safeguard against *collusive business practices* was open competition, combined with vigilance on the part of the administration. Therefore, Macau did not contemplate any legislative initiatives in this field.

67. The procedures for awarding *public procurement* contracts did not, in fact, facilitate collusion. Although all tenders were open to inspection by companies submitting bids, it was not possible to change a bid after the tender had been lodged. Should there be a suggestion of collusion or other complaints, the awarding authority could refuse to award the contract and to declare the procurement procedure void. In addition, if any party considered that it had suffered damage in the course of a procedure for tendering, it could bring the case before civil courts, which had the power to award compensation.

68. It was for the awarding entity to decide, on a case-by-case basis, whether it was in the 'interest of the Territory' not to call a public tender, but to negotiate directly with potential suppliers. In practice, a number of factors were considered during the award procedure, including the conditions offered, timeframe of the contract, quality of materials and equipment, experience of the bidders, and their technical capacity and construction methods. Procurement decisions needed to be clearly reasoned and rigorously justified. Last, the Administrative Court could always review a decision and, where any detriment to the public interest or fraud was found, could declare it null and void.

69. The draft revision of Decree-Law 50/92/M, covering the *labelling* of most foodstuffs, was currently awaiting approval by the Governor and publication. It provided for important changes to existing legislation, including a substantial reduction of mandatory information on non-prepacked foodstuffs; the permission to commercialize products under well-known brand names; and wider scope for the indication of periods of validity. Inspections would be carried out only at the place of sale or display.

70. She emphasized that Macau did not operate any *industrial support* schemes for prescribed sectors, products or companies. Rather, government incentives were horizontal in nature and available to foreign and local firms alike. They were fully compatible with GATT rules.

71. Referring to *excise taxes and import charges*, she noted that the tax preference for certain Portuguese wines and liquors covered only 6 per cent of Macau's total imports of alcoholic beverages in 1993. The preference would be eliminated in the context of a revision of consumption tax legislation in 1995. The 25 per cent tax surcharge on certain indirect imports would be abolished at the same time. The consumption tax on motor vehicles, which currently applied to the c.i.f. value, would then be levied on the retail price.

72. Macau planned to replace its current *export licensing requirement* with simple export declarations, except in the case of goods subject to the prior authorization scheme.

73. *Origin certificates* for restrained textile and clothing products were subject to a higher fee than non-restrained goods, including exports under GSP, in order to favour product and market diversification.

74. The authorities intended to maintain the *import prohibition on second-hand cars*, given that some 64,000 vehicles were already in circulation in Macau's tiny Territory. The prohibition dated from 1975.

75. While there was no need for *anti-dumping action* in Macau's open market environment, Macau would be adopting relevant legislation in the course of implementing the Uruguay Round results.

76. The representative of Macau reserved the right to complement her replies, if necessary, after further reflection and consultation with her authorities. Written answers would be provided to the questions concerning food inspection standards.

77. The first discussant commended Macau for its efforts to eliminate GATT- or WTO-inconsistent measures. He suggested, however, that instead of imposing an outright prohibition on imports of second-hand cars, their registration should be made subject to environmental requirements, such as the use of catalysers. The second discussant noted that labelling requirements should be applied on a non-discriminatory basis.

78. Both discussants and members of the Council appreciated the comprehensive presentation of Macau's trade policies and practices and encouraged the Government of Macau to continue its free-trade and open-market policies.

VII. CONCLUDING REMARKS BY THE CHAIRMAN OF THE COUNCIL

79. In concluding this first Trade Policy Review of Macau, I should like to identify salient features of Macau's trade policies and practices that have emerged from the discussion. These remarks are, as usual, on my own responsibility and do not substitute for the Council's collective appreciation. The full debate will be reflected in the Minutes of this meeting.

(1) General policy orientation

80. Council members praised the openness and transparency of Macau's trade and industrial policy régimes which adhered very closely to basic GATT objectives. There was only minimal government intervention in the economy, imports entered free of tariffs and quantitative measures, exports were not subsidized, and investment and currency flows were unrestricted. Since its succession to GATT in 1991, Macau had worked consistently towards a successful conclusion of the Uruguay Round. Recent initiatives, including the replacement of automatic import licensing by declaration requirements, were aimed to accelerate customs procedures and remove any existing administrative red tape. To encourage sectoral diversification, the Government had enacted various incentive schemes which were open to all economic operators, irrespective of sector or nationality.

81. In the framework of monetary policy, the representative of Macau indicated that the Bank of China would be able to issue currency in parallel to the *Banco Nacional Ultramarino* (BNU) from October 1995. However, this would have little impact on markets.

(2) New challenges and adjustment requirements

82. Members highlighted Macau's encouraging economic performance over the past two decades, recently supported by strong growth in the Pearl River Delta region. However, the Territory's strong reliance on two sectors, clothing and gambling-related tourism, entailed a certain amount of vulnerability. Since attempts towards industrial diversification had produced few lasting results in the past, questions were raised as to the direction and scope of modernization and diversification policies. In this context, several delegations pinpointed new adjustment pressures which might result from the phasing-out of the MFA and felt that MFA restraints might to some extent have benefited Macau, as shown by relatively poor performance in non-restrained markets. It was also felt that the current system of allocating export quotas, based on past performance, implied some economic inefficiencies.

83. Information was sought on whether and how the transfer of Macau to Chinese sovereignty in 1999 would affect its legislative framework and policy orientation.

84. The representative of Macau underlined that, with new competitive pressures on manufacturing, Government policy focused on facilitating restructuring, including a gradual shift towards services. Macau had made large investments in modern infrastructure and in information and training, including the dissemination of CAD/CAM technologies and ISO 9000 standards. A new Economic Consultative Council was expected to advise the Government on promising development strategies and policies, and the recently established Macau Institute for the Promotion of Investment and Trade was intended to spur the Territory's locational attraction. However, it was for the private sector to take advantage of the new investment opportunities.

85. Acknowledging adjustment problems that might result from the phasing-out of the MFA, the representative of Macau was confident that the Territory's identity as a textile and clothing producer would remain intact. Positive factors included proximity to, and intensive economic links with,

Hong Kong and China, and Macau's continued status as an open and free market after 1999. However, in major destinations its exporters would face stiffening competition from low-priced suppliers with, in certain cases, better access conditions. It was therefore imperative for Macau's industry to raise productivity levels and upgrade its operations. Recent reforms in the quota allocation system were aimed at speeding up procedures and creating more flexibility in quota utilization.

86. Effective preventive measures had been taken to combat trans-shipment fraud.

87. Referring to the transition to Chinese sovereignty, she noted the main elements of the Sino-Portuguese Joint Declaration as presented in the Government and Secretariat reports. Main responsibility for policy formulation and implementation in areas such as industry and trade would remain with the Government of Macau, represented by the Chief Executive. The main objective of the transition process was to ensure continuity; decree-laws in trade-related areas issued by the Governor before 1999 would remain in force, and the rôle of the private sector in the policy formulation process would be fully preserved.

(3) Trade policy after the Uruguay Round

88. Given Macau's record as a free trader, several Council members wondered why it had not agreed to bind more than 20 per cent of its tariffs in the Uruguay Round. Clarification was sought on the potential impact of the Round on Macau's expanding services sectors and deregulation initiatives in transport and telecommunications. In the area of intellectual property protection, several members took interest in the current provisions for enforcement and forthcoming changes in Macau's basic legislation. Finally, Macau was invited to indicate its vision for future regional co-operation in the light of its application for APEC membership.

89. The representative of Macau replied that, as an outward-oriented economy, Macau was vulnerable to fluctuations in the world economy. The strengthened rules for international trade resulting from the Uruguay Round were therefore of particular importance. Macau would ensure ratification before January 1995. The level of tariff bindings was consistent with Macau's open-market tradition and with the Articles of GATT, which expressly provided that duty-free treatment should, in principle, be recognized as a concession equivalent to the reduction of high duties. The solution found in the Uruguay Round reflected the results of bilateral consultations and left Macau with some leverage for future negotiations. In the services area, Macau had assumed substantial commitments in the Uruguay Round; it did not intend at present to introduce further deregulation initiatives.

90. Legislation was in draft on both the substantive and enforcement aspects of intellectual property protection, and would be published in 1995. However, Macau had not yet encountered serious difficulties with imports of pirated or counterfeit goods; Customs had the necessary powers to seize any such imports.

(4) Specific trade measures

91. Council members invited Macau to provide additional information on specific issues, including preferential sales taxes on wines and liquors from Portugal; an import ban on second-hand cars; surcharges on indirect imports of cars and certain liquors; exclusive dealership requirements for suppliers of petrol and motor vehicles; the methodology used for customs valuation and its relationship to the GATT/Uruguay Round valuation methods; the possible introduction of anti-dumping or countervailing regulations; forthcoming changes to labelling requirements; health regulations, including the sanitary and phytosanitary régimes; differential fees for origin certificates between textile and non-textile items;

scope for discretion in the industrial incentive and land allocation schemes, and in public procurement procedures; and provisions in the procurement area which might facilitate collusive practices.

92. In reply, the Macau representative said that it had not to date been necessary to introduce customs valuation regulations, given that all imports entered duty-free; however, Macau had become a party to the new Agreement on Customs Valuation and would be bound by its provisions.

93. Written answers would be provided on standards questions, given the technical nature of this issue.

94. No new laws were presently being considered to combat collusive bidding practices in public procurement, as free competition was seen as the best solution. Procedures in force for public contracts did not encourage collusion, as it was not possible for a company to change its bid after a tender had been lodged; civil remedies were also available. Specific criteria existed to identify the "interest of the territory" and limit discretionary powers. Procurement decisions must not be arbitrary, must be justified and were subject to judicial review.

95. New legislation on food labelling was awaiting approval by the Governor. Details were given of these provisions.

96. Industrial incentives were horizontal in nature; sought to achieve diversification and modernization; and were available to all firms, whether foreign or local. Public tenders did not apply to land concessions for industrial purposes.

97. The preferential consumption tax for Portuguese wines, a relic of historical treatment, would be eliminated during 1995, as would be the additional surcharge on indirect imports of alcohol. A new taxation structure on vehicles would be introduced along with the changes in consumption tax planned for 1995.

98. Import licensing and registration requirements were, and would continue to be, applied equally to domestic and foreign companies. The current export licensing requirement would be generally replaced by simple export declarations. Fees for origin certificates, which applied to all destinations, aimed to encourage product and market diversification.

99. The import prohibition on second-hand cars was intended for environmental protection: it was felt necessary to limit the number of vehicles in circulation in the least disruptive manner, given Macau's small size.

100. Macau did not maintain any anti-dumping or countervailing legislation, in view of its open trade policy. Nevertheless, it would adopt the Uruguay Round provisions in this regard.

101. The discussants, in further comments, emphasized that labelling requirements should refer to multilaterally-agreed disciplines and should not be a cover for protectionism. Other measures than import bans could be used to ensure that motor vehicles observed environmental standards.

(5) General observations

102. Macau's economic progress relies both on external impulses, including the present rapid economic growth of the Pearl River Delta region, and the authorities' continued commitment to free-trade principles. The Territory's open-market tradition, combined with a stable and predictable business

environment and an impressive capacity for structural adjustment, holds out much promise for the future. Strengthened external links should help to ensure Macau's continued attraction for international investors and traders. In order to bear fruit in a small and open economy, however, such initiatives need to be accompanied by positive co-operation within the international trading system, including swift ratification and implementation of the Uruguay Round agreements.