

# The future of concessions of games of chance in Macau

The legal setting of casino gaming in Macau, the world's largest market by revenue, will again have to be redefined in the coming years. The expiry of the current concessions, scheduled for 2020 and 2022, is fast approaching.



## We never told you it was forever

The temporary nature of gaming permissions means that the Government must take new decisions regularly, thereby opening new 'gaming eras'. This occurred in 1961/62, giving rise to the STDM monopoly that ended up lasting four decades, and in 2001/02, giving rise to the present situation where there are six sub-concessions.

Persons with a short memory span, and especially financial markets, may approach these moments with great anxiety. But this is how the system has been working for almost 170 years. These cycles are perfectly normal. The history of gaming in Macau has been made of periods of stability or continuity, sometimes lasting decades, alternating with moments of major change, minor change or mostly continuity when the deadline is reached. A new period of stability then follows.

For the Government, this allows a regular fresh rethink of the direction of the industry and the city. One of such moments is looming. In considering what may happen next, we do not have a crystal ball — the issue is complex and has many moving parts. In any case, it is possible to identify and consider various legal aspects that may play a role in shaping the fundamental decisions that will have to be taken in the next few years.

## How we got here

The temporary nature of gaming permissions is a perennial feature, firmly in place since 1849. The current system of concessions was started in 1961, with the concessionaire having the obligation to make certain investments within set deadlines and to perform other obligations, especially the payment of taxes, premiums, contributions, subsidies, one-off payments, and sometimes obligations in kind.

When a concession ends, new decisions must be made by the Government by means of an administrative process. This has happened in both 1961/2 and 2001/2 with essentially similar premises: to develop the economy, enhance tourism and generate added revenue. The main difference was of course that a monopoly was granted in 1961 while an oligopoly was awarded in 2001/2, but the nature of the process is essentially the same.

STDM performed its key obligation to build a casino-hotel by opening the (old) Lisboa to the public in 1970. The 2016 interim review of the current concessions determined that all obligations under the contracts were performed as agreed.

The twists and turns of the STDM concession, which lasted four decades (and is today continued by the SJM concession), are a very good reminder of how large is the deck of cards available to the Government.



The STDM concession was formalized in a succession of contracts and renegotiations which extended its deadline a few times and vastly changed the terms and conditions applicable. The initial contract was signed on March 30, 1962, for eight years. Less than three years later the law was amended and, on December 5, 1964, a second concession contract replaced the previous one and extended the monopoly concession to 25 years (ending in 1986); this second contract had minor amendments in 1969 and 1972. A third concession contract signed on April 23, 1976, greatly increased the taxation applicable, among other changes, but kept the same deadline. In 1982 the law was changed and a fourth contract was signed on December 30, 1982, which again increased the taxes and extended the monopoly concession for five more years, to a total of 30 years, that is, until December 31, 1991. It was amended in 1985.

A fifth (and last) concession contract was signed on September 29, 1986, which extended the concession until December 31, 1996. It was amended three months later, on December 31, 1986, so as to extend the concession for an additional five years, that is, until December 31, 2001. This amendment made a total of forty years and placed the deadline after the transfer of sovereignty of Macau. This contract had various other amendments. The last of these was made during the 2001 tender process, and added three more months.

The evolution of the STDM concession shows that the Macau Government may amend its laws, expand the deadlines of existing concessions, and demand more taxes, premiums, payments, subsidies and other obligations from the concessionaires.

### Scenarios, scenarios...

In theory, there are various possible broad scenarios for the next decade, from total continuity to massive change.

Total continuity seems unlikely. In such case the current sub/concessions would continue, as new concessions or under an extension of say 10 or 20 more years and everything else would remain basically the same. Minor changes would be made in the law to allow this and essentially not much else. This minimalist option most likely will not happen, and some degree of reform should be introduced in the upcoming window of opportunity.

The most likely scenario is that there will be new concessions and some reform of the applicable framework. Certain aspects will remain mostly the same but there may be an increase in taxes and the obligations imposed upon concessionaires. There may be changes in the way the system of concessions is structured. One step that seems totally logical is to have more concessions and end the subconcessions: the current subconcessionaires should be allowed to continue as full concessionaires. This is desirable, as nothing warrants the continuation of the subconcessions. In this case there would be at least six concessions.

The current sub/concessionaires have nothing to fear from a new tender for new concessions, unless the number of concessions on offer was less than six, which is not likely. The STDM concession started on January 1, 1962, and expired on March 31, 2002. On the following day, April 1, 2002, at midnight, the concession of SJM started, which took over the 11 casinos that were being operated at the time by STDM. Something very similar may now happen to all current six sub/concessionaires.





Should there be more concessions, that is, more than six? We think so. They already exist as a matter of fact and it is certainly necessary to revoke the legal provision stating that there shall be no more than three concessions. There should not be a maximum limit to the number of concessionaires. For example, some of the large 'partners' and/or gaming promoters should have an avenue to become fully separate concessionaires. It is desirable that at least those operators who already have a full casino should formally become concessionaires. This would be a step to disentangle the web of linkages that was created in the past decades whereby 'partnerships' amounted to an indirect form of granting a gaming license. All operators should be selected by and be in a direct relation with the Government. In addition, the tax base would grow by excluding the payments due between private parties and directing such financial flows to the public coffers.

#### **To build or not to build?**

In the next decade a political decision may be taken to stop building large casinos or integrated resorts in Macau, as there will be in the region of 40 casinos or more by then. Cotai is mostly completed, except for a couple of pieces of land. Coloane is excluded from having casinos, especially its south face, as well as all residential areas of Macau. The only possibility for large developments within Macau would be to build in newly reclaimed land in either south Macau or north Taipa. In fact, there are plans for development of both areas, but it has been officially announced that there will be no gaming in those areas. Some are earmarked for institutional buildings such as courts. Macau alone cannot repeat the process and ask for more large investments. There is simply no land available.

The other possibility would have to be Hengqin island in some shape or form. But it does not look like there

could be gaming in the island. No Chinese authorities have mentioned that and there is no legal framework applicable other than Macau gaming law. The regulatory detailed planning of Hengqin island calls for three large resorts in the south of the island. Of these tourism projects, Chimelong Hengqin Bay Hotel, a family-oriented vacation resort, is open. There would have to be an agreement between Macau and Zhuhai, Guangdong and Beijing. In any case, there should be no gaming in Hengqin and the investments asked from the concessionaires would be on non-gaming facilities. Investment obligations are only conceivable if Hengqin is associated with Macau in some shape or form. The precedent of the land used by the new University of Macau campus might help.

Regardless of whether an arrangement of this kind is possible, the new concessions may also have added financial obligations or other more detailed demands or guidelines, such as about the often-stated goal of investment in non-gaming, diversification of the Macau economy or the support of small and medium enterprises. Other goals and issues that were mentioned in the 2016 interim review may also be explicitly stated in the future, such as the promotion of Macau residents to top positions. In the view of this writer, more should be demanded from the concessionaires in the fields of culture, higher education and training.

#### **\*About the author**

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