



**Welcome to the summer 2017 edition and new look of MBITA’s World TradeWinds e-zine, now in its 23<sup>rd</sup> year of publication.**

This issue features initiatives on trade and investment with Vietnam, and a follow up article on the controversial South China Sea island expansion.

Additional periodicals from Ayse's Corner on Asia, Tommy's Taglines touching the heartbeat of America’s business culture, Trade Promotion updates from the USDOC as well as a special article from MBITA member, John Keevan-Lynch of Provident Traders, espousing his expertise on export credit insurance, plus, a friendly word from long time MBITA member, Jack Ybarra of Transmetrics.

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MBITA member, the Vietnam Resource and IT Development Group, is conducting a series of trade missions to the booming Vietnamese marketplace in the IT and Ag sectors. Please join these historical trade missions to Vietnam.

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## **Ayse's Corner**

Ayse's Corner is a feature column of the World TradeWinds eZine'. Ayse Oge is a published author and global trade marketing expert and author of **Emerging Markets**.

## **The "Asian Century" Has Arrived**

"The 21st century will be a contest for supremacy in the Pacific because that is where the growth will be." - Lee Kuan Yew, Former Prime Minister of Singapore.

The Asia-Pacific is now the most dynamic economy in the world. Boasting almost half of the world's population, it also accounts for around half of all economic output. Northeast Asia (including China, Japan, South Korea and Taiwan) has enjoyed significant levels of economic growth since the latter part of the 20th century with booming export sectors and emerging middle-class consumer bases.

Here are the facts behind the concept of this "Asian Century" - meaning that the world's political and economic center of gravity is shifting to Asia in the 21st century:

- **Rising trade** - Asia's share of global merchandise trade grew to 32% in 2014, with its exports growing at three times the rate as the rest of the world over the past few decades. Now, China is the largest trading nation in the world in terms of imports and exports, since overtaking the U.S. in 2013. Free trade agreements are also on the rise, since the 21st century began. Asia's

concluded FTAs jumped from three to 76. The Asian-China Free Trade is the largest free trade area in terms of coverage, with over 1.9 billion people in it. Such a fast-growing regional trade and investment environment will surely encourage young Asians to be entrepreneurial and pursue closer cooperation with one another.

- **Hub of globalization** - Asia is where most global product is made, an intricate network that takes software and design from the U.S., microchips from Japan, and screen technology from South Korea, and assembles them into iPads in a factory produced in Southern China. Given that nearly 90 percent of intercontinental commerce travels by ship in Asian seas, Asia's seas have become the symbol of globalization. The container ships carry as many as 7,000 containers and travel the long sea-lanes west from Asia toward Europe and east toward the U.S.
- **Rising middle class** - Asia's emerging middle class is predicted by the OECD to grow from 500 million in 2009 to 3 billion by 2030, which will bring far-reaching economic change, creating new market opportunities for both multi-nationals and small and medium-sized enterprises in the U.S. The demand for consumer durables has increased in the region, with China becoming the world's largest market for automobiles and mobile phones. But there is still a high demand of luxury goods and technological and educational products as the purchasing power of the Asian middle income class catches up to that in more advanced countries. The middle class is already showing itself in the travel market, with cruise ship passenger numbers up by 39% in Asia, compared to a 4% growth in the rest of the world.

However, despite the existing huge growth potential, Asia is facing some shortcomings in achieving a more comprehensive and sustainable development. Among the challenges Asia has is a lack of a universal image, which involves diverse political systems, economic development, social cultures and languages. As China, India and Indonesia enjoy rapid economic growth, other Asian countries still suffer extreme poverty. Asia's second-largest economy, Japan, has been battling with slow growth for years, and a widening income gap is contributing to this non-inclusive economic development.

As young Asians are growing up with a booming intra-regional trade and entrepreneurs are making inroads into the Asian economy, we need to get on board the "Asian Century" train and focus on building solid trade and investment relations to bring together the U.S. and Asia, the two most dynamic and innovative regions of the world.



*Los Angeles World Affairs Council Conference on Asia-last year. From left to right: Moderator: Jim McGregor APCO Worldwide; Arthur Kroeber GaveKal Dragonomics; Andrew Pan, East West Bank; Charlene Barshefsky Former U.S. Representative Los Angeles World Affairs Council Conference on Asia. September 16th 2016. From left to right: Moderator: Jim McGregor APCO Worldwide; Arthur Kroeber GaveKal Dragonomics; Andrew Pan, East West Bank; Charlene Barshefsky Former U.S.*

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*Ayse Oge is President of [Ultimate Trade, International Trade Consulting, Speaking and Training](#). Ayse Oge is International Trade Consultant, Speaker and Trainer. She has served as an instructor for SCORE (Service Corps of Retired Executives) with the same goal as her focus. Ms. Oge has authored numerous articles and several publications including books, World Smart Veterans: From War to International Trade, Go Global to Win and World Wise Children. Ms. Oge's list of certificates, honors and awards for her leadership and service includes The Business Education State Advisory Committee.*

## **New MBITA member, [Vicality.com](#), Promotes Global Sustainable Eco-Tourism**



Travel and tourism is the 7th largest global industry – surpassing oil and gas, food or automobiles – generating \$7 trillion in GDP.

Unfortunately, more and more destination communities are finding that while they enjoy the jobs and revenue that tourism brings, the sheer volume of visitors are exacting a toll.

In response, some communities are examining the true cost of overuse of resources— infrastructure, water, energy and waste management—and looking closely to see if the overall environmental damage outweighs the benefits.

The United Nations has declared 2017 as the year for Sustainable Tourism & Development. Sustainable tourism is about finding the balance between usage and acceptable limits with the goal to benefit the communities involved and ensure vitality for generations ahead.

To be successful, sustainable tourism requires long-term planning. Social, economic, and environmental concerns must meet the interests of all stakeholders, including indigenous people, communities, visitors, industry and government.

Studies find that more than 75 percent of travelers prefer social and environmental responsible service providers—lodging, food, and merchants—if they can find them. To meet that need, **Vicality** is an online marketplace promoting sustainable tourism and a “living lighter” lifestyle advocating for community-based, eco-responsible merchants, events, experiences, places to stay,



eat and shop.

[Vicality.com](http://Vicality.com) is currently in beta serving the Monterey Bay region of California.

## Legal Corner

### South China Sea Arbitration Award Update

By MBITA Member

[James P. Rowles, Esq.](#)

We described in a [previous article](#) the holdings in the South China Sea Arbitration Award of July 12, 2016, which upheld the Philippines' claims against China regarding China's activities in the South China Sea including island-building on certain reefs.

China rejected the award, and seems determined to pursue its objectives in the South China Sea. So, will the award have any impact?

Formally, the arbitration award is binding only as between China and the Philippines. However, as an authoritative statement of international law it will necessarily affect perceptions by other states of the legitimacy of China's actions and the need to take steps to counter them. It will also affect the willingness of foreign companies to sign oil and gas leases within disputed areas.

Moreover, because maritime claims in the South China Sea involve a number of countries and many overlapping claims, often of great complexity, it is not likely that they can be finally settled without resorting to international arbitration or adjudication before the International Court of Justice. When these cases are eventually brought and decided, the principles and holdings enunciated in the South China Sea Arbitral Award of July 12, 2016 are likely to be given great weight. This fact itself will have a large impact in shaping the behavior of neighboring and other countries going forward.

Indonesia, Japan, Malaysia, Thailand, Vietnam, Australia and Singapore participated as observers in the arbitral proceedings. Vietnam indicated that it shared the legal positions of the Philippines.

Recently, China's activities in the South China Sea have become something of a flashpoint in U.S.-China relations. In his Senate confirmation hearings on January 11, 2017, U.S. Secretary of State nominee Rex Tillerson stated, "China's island-building in the South China Sea is an illegal taking of disputed areas without regard for international norms." He also said that such activities were "akin to Russia's taking of Crimea". Further, he asserted, "We're going to have to send China a clear signal that, first, the island-building stops and, second, your access to those islands also is not going to be allowed. They are taking territory or control or declaring control of territories that are not rightfully China's."

Responding to a question at a press briefing on January 23, White House Press Secretary Sean



Spice supported Tillerson, at least in part, declaring "It's a question of if those islands are in fact in international waters and not part of China proper, then yeah, we're going to make sure that we defend international territories from being taken over by one country."

Although these statements stake out a strong position, the United States would nonetheless be well-advised to adopt a moderate approach, taking due care to avoid placing China in a situation where it must choose between military confrontation, on the one hand, and a massive loss of face at home, on the other.

Here, the language of international law, which necessarily involves a conversation including other states, can be highly useful. It can and should be used to emphasize the legitimacy of any actions taken to uphold freedom of navigation. It may be used to bolster those elements within the Chinese government which favor compliance with international law as a general matter, and to reframe issues in ways which lead Chinese officials to take a broader view of the country's interests and how these might be affected by its actions in the South China Sea.



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## Feature

### **MBITA, a Vital Friend to Small Businesses**

By MBITA member Jack Ybarra, [Transmetrics, Inc.](#)

An important part of small businesses reaching out into the international market place is creating international partnerships. This facilitates selling their services or products abroad. An additional part, is the ability to meet and develop joint ventures with their counterparts from within the United States.

For this reason membership in MBITA is vital. MBITA hosts several events throughout the year which allow small businesses to meet and network with potential clients or business partners. All this is available in the Monterey Peninsula and the Silicon Valley. While Transmetrics, a local small engineering business, is not currently marketing its services abroad, it has received invitations from foreign companies seeking local partners for work within the United States.

As we move further into a globalize economy, these contacts become ever more important. During the past ten years, Transmetrics has formed several business ventures with its foreign counterparts for work in California. Among the countries represented by the firms were Taiwan, Italy, France, Spain, Japan, China and Canada.

If the incoming administration stands by its stated goals, public private partnerships will be encouraged for public infrastructure work. Already large international firms have established offices in California and will be required to include small companies in their proposals. Among the international firms already in California are the Spanish companies of Sener, Dragados, OHL, and ACS. In addition, the California Consortium comprised of Mitsubishi, Kawasaki, Hitachi and Sumitomo are present in the state. Italy is represented by Salini Impregilo and Geodata, S.p.A.

An exciting new era for small businesses is beginning and participation with MBITA is an important first step. Changes which will bring new opportunities for small businesses are in the horizon. The time to prepare for the forthcoming change is now. However, before entering into a joint venture

for work inside or outside the country, seek the advice from an experienced international lawyer. This region has excellent international legal advisers, but there are organizations available to assist you such as MBITA who is in touch with local, State and Federal resources.



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## Tommy G's TAGLines

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## Trade Finance

MBITA's trade finance column features articles from the experts in the field of EXPORT FINANCING.

## Prior-To-Export Progress Payment Credit Insurance

By MBITA Member T. John Keevan-Lynch, Provident Traders, Inc.

What is a manufacturer of very large and expensive machines to do if a credit-worthy overseas buyer in a new (and lucrative) market demands open account payment terms, instead of paying with a letter of credit (L/C)?

Without the L/C, payment is not guaranteed and financing the manufacturing costs is more

difficult.

However, some banks are prepared to finance the manufacturing costs of overseas sales by using the Export-Import Bank of the United States' (Exim) Working Capital Guarantee (WCG) support, provided the buyer is credit-insured against non-payment to the bank's satisfaction.

Credit insurance is easy enough to arrange, if the buyer is creditworthy and payment terms are 100% open account after export.

But what if the exporter negotiates several prior-to-export progress payments and one post-export final payment in order to reduce its non-payment exposure and its financing costs? Not so easy.

I recently approached two large well-established private-sector credit insurers regarding the prior-to-export progress payments. They could only offer a 'Pre-shipment' policy (also called 'Contract Frustration') that insured against specific political risks that prevented the export or import of the insured product, such as war, expropriation, cancellation of an import or export license (ex.: President Carter cancelling export licenses to Russia). And, on a case by case basis, they were willing to cover the buyer's bankruptcy.

But, the private sector insurers' pre-shipment policies did not cover protracted default (90+ days slow pay) for the prior-to-export progress payments, the lack of which would make any Exim WCG bank unable to finance the prior-to-export progress payments.

I also approached Exim. It turned out that Exim could insure the prior-to-export progress payments against non-payment due to commercial or political reasons, including the buyer's 'protracted default'. Exim also covered the buyer's 'non-acceptance' of the equipment before and after it was exported, provided the non-acceptance was not due to a product dispute.

Among the documents required for a progress payment claim, Exim sometimes accepts 3rd party verification (SGS or BV) that the billed work was completed per contract specifications, rather than requiring the exporter persuade the buyer to sign/accept the progress payment invoice.

These 3rd party verification documents also help reduce the possibility that a buyer might allege a product dispute as the reason for its non-payment of a post-export final payment, a cause of buyer non-payment excluded from credit insurance coverage. Why? Credit insurers slice a transaction into two pieces: the commercial piece, i.e., blue widgets vs. green widgets and the financial side; the buyer's ability pay. If a buyer does not pay due to an alleged product dispute ('I ordered blue widgets and got green widgets!') no credit insurer will pay a claim because (1) they don't know the difference between blue and green widgets (and don't want to know) and (2) they are only insuring the buyer's ability to pay.

Moral of the Story: credit insurance lacks an L/C's irrevocability (see Note 1 below). However, Exim's prior-to-export progress payment protection gives a US exporter-manufacturer a viable alternative with which to reduce payment risk, finance the prior-to-export inventory and close the sale.

Notes:

- 1) Credit insurance policies lack an L/C's non-cancellable irrevocability.
  - a) No credit insurer covers a buyer's 'arbitrary' cancellation of the purchase order (considered a 'know your buyer' risk that only the exporter can gauge and must bear) and
  - b) Even if the insurance policy is 'non-cancellable', the policy's 'Agreements of the Insured' prohibit the exporter from continuing to work for (or ship to) a buyer if the buyer is known to be in financial difficulties or has not paid earlier progress payments.
- 2) Exim defines insurable progress payments as payments for work performed and/or costs incurred and invoiced. Advance payments and milestone payments that are payable at a pre-determined time, with no requirement that a specified amount of work be performed, are not



insurable.

T. John Keevan-Lynch is President of [Provident Traders, Inc.](#), a Northern California based export finance consultancy and licensed export credit insurance broker with more than 35 years' experience with Exim.

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