



# CALIFORNIA COUNCIL FOR INTERNATIONAL TRADE

Affiliated with the United States Council of the International Chamber of Commerce

1333 GOUGH STREET, SUITE 6F, SAN FRANCISCO, CALIFORNIA 94109  
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VOL. XII, NO. 4

WINTER 1978-79

## “TRADE AWARENESS PROJECT” SEEKS CORPORATE SUPPORT

The board of directors is currently formulating plans for a major CCIT research and education effort to be called the “Trade Awareness Project (TAP).” Its execution will be contingent upon adequate commitments of corporate funding.

The project will produce fresh data directly relating international trade to corporate turnover, profits and jobs in California. CCIT member firms and others throughout the state will be surveyed and, where possible, existing trade data will be utilized.

The project’s findings will then be made available to participating firms for use in educating their staff members. Additionally, the findings will be utilized more broadly, to help legislators — and the general public — better understand the importance of international trade.

The project committee will be chaired by Robert Gomperts, who, in 1977, headed CCIT’s study “The Role of the State in International Trade.” That study, completed six months prior to creation of California’s international trade office, helped form the basis for public discussion of the appropriate functions of the new office.

*Corporations interested in providing funding, manpower or other assistance to the Trade Awareness Project may contact Gomperts directly at (415) 981-3055, or through the Council Secretariat.*

CCIT President Jerry Levine said the project’s importance stems from the organized opposition which is expected to emerge during 1979 to proposals for liberalized “Tokyo Round” trade pacts.

## WORKING SESSION JAN. 8 WITH SEN. MARKS

Members of the Council are invited to participate on January 8 in a working session of the Board of Directors with Senator Milton Marks on the subject “legislative needs of the international business community.”

Marks is chairman of the Senate Select Committee on Maritime Industry, and has a keen interest in international business-related legislation.

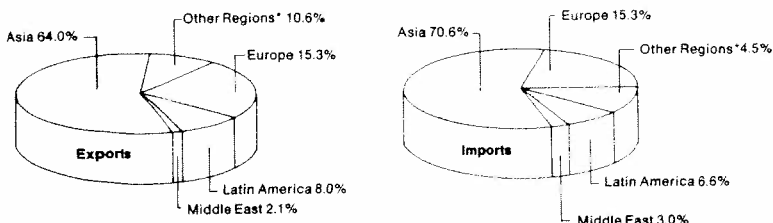
He is expected to briefly share some of his observations about current legislative and executive-branch activities related to international business, including comments on the readiness of the new Legislature to deal with some of the nagging problems such as the inventory and unitary taxes.

CCIT members will then have the opportunity to share with him some concrete ideas for legislative programs.

The meeting will be held from 10 to 11:00 a.m., in the 28th floor Board Room of Levi Strauss, 2 Embarcadero Center, San Francisco. There is no charge, but advance reservations are required.

*An agenda is now being prepared. If you wish to participate, it would be appreciated if you would telephone Stephen Potash at the CCIT Secretariat so that your views can be reflected.*

California's Exports and Imports  
Distribution by World Regions  
(First Half — 1978)



The graph (based on movement through California ports) shows the vastness of that portion of California’s world trade which is with Asia. Our Asian trade, which at mid-year totalled \$11.9 billion, continues to expand although it remains in deficit. By contrast, the state’s trade with the Middle East (see story below) has taken a negative turn.

## SHIFT IN STATE’S OIL SOURCES REFLECTED IN NEW TRADE DATA

While California trade with all other world regions will have posted gains at year-end, trade with the Middle East for the full year will have dropped, Security Pacific National Bank prophesizes.

The forecast is based on data for the first half of 1978, which shows California’s imports from that region down 69 percent from the mid-1977 mark.

The bank, in its new report “California’s International Trade,” says Middle Eastern oil sales to the U.S. as a whole have decreased somewhat, but that the decline in oil sales to California has been much more dramatic. “This is due to the state’s purchases of Indonesian oil and the coming into play of oil from Alaska,” the report notes.

It also concludes that California exports to the Middle East will drop for the year (mid-1978 exports were down 20 percent from mid-1977 levels). This may be no more than a reflection of their sporadic nature, however, and the report suggests that California sales will pick up as some Middle East nations quicken the growth of their economies in 1979.

While the trend was expected, Gladys Moreau of the bank’s research department told CCIT, the sharpness of the decline came as a surprise. As a result of the figures, the bank projects that California’s two-way trade with the Middle East will fall to near or below the 1974 level of \$1.1 billion.

The Middle East section, of course, is one of the several in the book, with extensive coverage given each of the world regions in both text and graphics.

For a copy of the report, contact SPNB in Los Angeles, or send \$1.00 (postage and handling) to CCIT. This service is for members only, please.

# CCIT TRADE RAP-UP

## Real Estate Acquisition

A number of states maintain restrictions against foreign investment in real estate, especially in agricultural products. A proposed California ban on acquisition of farmland by non-resident aliens failed in the last Legislative session, although we have been told by Assemblyman Lehman's office that a new attempt will be made in 1979. An excellent state-by-state summary of existing regulations has been prepared by Chicago Title Insurance Company. CCIT has a loan copy for members.

## In's and Out's

**Phil Creighton**, director of the SF office of the U.S.D.C., has retired after 28 years of service. His many friends in CCIT will miss him. Phil will remain active in teaching and consulting.

Not leaving his post, contrary to some reports, is **Alan Stein**, Secretary of Business and Transportation for California. Because he has demonstrated his understanding of the needs of the international business community, this is welcomed news.

## Unitary Tax

At deadline, CCIT was making plans to testify before the U.S. Senate Judiciary Committee at a California hearing on December 20 on Sen. Mathias' "water's edge" bill to disallow combined reporting by the states. R.L. DeLap, a CCIT director from Peat, Marwick, Mitchell & Co., representing the Council, planned to emphasize the importance of modifying the tax. CCIT is also hopeful the federal hearing will help spark further Sacramento action on the issue.

## Service Exports

While the merchandise trade is in deficit, the US runs a strong balance of payments surplus in the service sector, which ranges from banking to engineering. To help that sector further expand its foreign sales and investments, a "hotline" has been set up at Commerce for reporting barriers or other problems. Call Al Alexander at the International Services Div., USDC, tel. (202) 377-4581.

## Furnishings on Tour

The Resources Council of Los Angeles, through its Pacifica Awards program, will take outstanding examples of West Coast home furnishings on tour this Spring to Western Europe, USSR and Brazil. If you're interested in possibly participating, call (213) 652-8056.

## Free to Members

GAO's to-the-point report "Administration of U.S. Export Licensing Should be Consolidated to be More Responsive to Industry," published 10/31, limited copies available . . . CCIT Director John Norton, San Diego, has provided an excellent set of tips for making communications to legislators more effective. We recommend these . . . Security Pacific's report on California trade (see page 1 story).

## To our friends in the international business community —

During 1978, CCIT concentrated on expanding the geographical distribution of its services and the diversity of its membership, so that our work could be considered truly reflective of the needs of *California's* international business, rather than of the interests of any one region. In this we have been successful.

I am personally satisfied that the work we have done on state and federal legislative issues affecting international trade is indispensable. Additionally, our programming (especially in-depth roundtables), publications (including *Caltrade Highlights*, *Eurotrade Highlights* and the *Newsletter*), our liaison work with state, federal and foreign officials (including in 1978 the People's Republic of China), distribution of materials, etc., are all services which we provide in order to help assure you an environment conducive to international business expansion.

During 1979, we intend to continue these activities as well as to launch an important new program, the Trade Awareness Project (see story, p. 1). This project will require *the assistance and continued financial support* of all our members in San Diego, Los Angeles, Orange County, the Central Valley and the Bay Area.

**Additionally, the challenging program of 1979 provides an excellent opportunity for firms not affiliated with CCIT to assume their share of the responsibility for the Council's work. If your firm is not a member, won't you help rectify that now? Thank you.**

Jerry Levine, President



## MEMBERSHIP APPLICATION

### CALIFORNIA COUNCIL FOR INTERNATIONAL TRADE

Affiliated with the U.S. Council of the International Chamber of Commerce Phone  
1333 Gough St., San Francisco, CA 94109 (415)982-6498

### TO THE BOARD OF DIRECTORS:

The undersigned herewith applies for membership in the California Council for International Trade

**ANNUAL DUES:** (Membership dues are a business expense and deductible when computing your income tax.)

### CORPORATE MEMBERSHIP

**Local - \$135** (please designate up to 3 persons for membership privileges).

**HQ out-of-state - \$250** (please designate up to 5 persons)

**National - \$350** (please designate up to 7 persons)

**International - \$500** (please designate up to 10 persons)

**INDIVIDUAL MEMBERSHIP - \$30**

Payment Enclosed       Please Send Bill

\_\_\_\_\_  
Firm or Organization

\_\_\_\_\_  
Address

\_\_\_\_\_  
Nature of Business      Telephone

\_\_\_\_\_  
Your Name      Title

\_\_\_\_\_  
Date      Signature

**Corporate Members: Please attach list of designees for corporate membership privileges. Please give addresses if other than firm's address. Thank you.**

## INTERNATIONAL "INTERNS" AVAILABLE STATE-WIDE

MBA students with solid backgrounds in international business are available to serve as interns or consultants to private firms. Students are generally available to work on a wide range of projects in such areas as finance, accounting and marketing.

The following summaries of major programs in California may be of interest to a number of members.

### UCLA

Management field study is the culmination of preparation for the MBA in the Graduate School of Management. Projects are conducted by teams of students who maintain a consultant-client relationship with the corporate sponsor. International business projects should be geared to periods equivalent to two quarters, or five months. For information, contact Pat Katsky, director, Management Field Studies, telephone (213) 825-2525.

### U.C. Berkeley

"Applied management projects" in the field of international business are sought by students of the Graduate School of Business Administration. Projects should be of duration of 2½-5 months, during which time the student is under the supervision of both a corporate supervisor and, more indirectly, his UCB faculty advisor. For information, contact Karen Bren, assistant dean for student affairs, telephone (415) 642-5832.

### Monterey Institute

At Monterey Institute, it's called the "cooperative education program." MIBA students will be available for work projects at firms anywhere in California, with assignments being made shortly for summer, 1979. Depending on the nature of the project, the student may or may not receive credit. Firms generally pay starting-level wages. For information, contact Peter Balczunas, program director, telephone (408) 649-3113.

## L.A. ASSESSMENT POLICY CHANGES

Culminating a long battle in the courts and the Legislature, the Los Angeles County Assessor has issued importers a claim form "for immunity from ad valorem tax on imported goods for years 1972-75."

Utilizing this form (and we advise attaching a separate statement specifically requesting a refund), the importer who was assessed retroactively on the basis of the *Michelin v. Wages* Supreme Court case may now apply for refund. There is no statute of limitations despite the fact that the Assessor stated in a covering letter that claim forms had to be in within 30 days.

CCIT had ardently supported a bill (AB 3061) by Assemblyman Dan Boatwright in 1976 which made the retroactive assessments illegal. LA County refused to recognize the constitutionality of that bill, which has been upheld. Wrote trader Lou Frank of San Francisco to CCIT: "This (the reversal by LA County) is the fruit of your endeavors, for which our thanks and appreciation!"

Members wishing background information may contact CCIT.

## QUARTERLY REPORT FROM STATE OFFICE OF INTERNATIONAL TRADE

by Richard C. King, Director

*"New Developments at O.I.T."*

There are a number of developments here at the OIT in which I believe CCIT members will be interested.

1) Two new programs will be realized with the help of Steve Spragens, vice president of Plantronics, Inc., Santa Cruz, who will work with us for six months in our loaned executive program. (This is a program whereby top-ranking executives lend their full-time efforts to assist OIT in promoting California's trade, while their respective firms continue to pay their salaries.)

Steve will be focusing his efforts on developing an export program aimed at California product trade-associations. He will be meeting with those *product groups* which we have targeted as representing high-potential export industries. The support package now being developed will include a mix of seminars, briefings, counseling and referral services available to the export divisions of these associations.

2) Steve Spragens will also be actively working on OIT's export program with JETRO, in which Japan Trade Center locates potential markets for California products in Japan, and OIT assists in identifying California companies to supply those products.

3) In conjunction with the Pearson program (created by a 1975 amendment to the Foreign Service Act), Louis Polichetti will be on loan to OIT from the State Department for a period of 18 months, though he will remain on the State Department payroll. Louis is a career diplomat who has held assignments in a number of Pacific Rim countries and Africa. He will be working with several OIT outreach activities, particularly those relating to third world marketing opportunities.

4) OIT is also actively pursuing its legislative mandate to publish a California international trade directory, listing importers, exporters, trade associations and service firms. This project is under the direction of Monika Wagener, our international trade specialist. A preliminary format has been developed, and the CCIT Board of Directors has been asked to make suggestions and recommendations regarding the format of the directory and its dissemination. Publication is scheduled for late 1979.

5) OIT is also seeking to expand California's presence abroad by working with the overseas offices of our California ports. We have been in communication with the Tokyo offices of the Port of Los Angeles and the Port of Oakland, as well as with Oakland's Brussels office, supplying them with promotional literature and the names of contact people in our office and in the California department of Economic and Business Development.

We have also established a contact program to locate California companies with active foreign offices, utilizing those offices as additional conduits to tell the California international trade and investment story. *Firms wishing to offer facilities, please contact OIT.*

A semi-annual wrap-up of OIT activities and accomplishments will be the subject of my next report and will include a discussion of our legislative priorities and proposals. *RCK*

# FOREIGN CORRUPT PRACTICES ACT: OBSERVATIONS FOR CCIT MEMBERS

A dispute between the departments of Justice and Commerce over whether or not to develop substantive guidelines for the international business community for compliance with the Foreign Corrupt Practices Act (FCPA) of 1977 has hopefully been resolved. It is now expected that guidelines will be issued early in the new year.

But the Act itself is vague, and observers suggest the guidelines may be of little help to the business executive intent upon complying with the Act.

The FCPA was signed December 19, 1977 as an amendment to the Securities Exchange Act of 1934 (Pub. Law 95-213), incident to a post-Watergate recognition of the problem of corporate bribery both at home and abroad. The FCPA levies a mandatory requirement upon all S.E.C. registered or reporting companies to institute a program of internal auditing controls and accounting standards to preclude the possibility that bribes, improper payments or "slush funds" could be concealed.

More important for those companies engaged in international trade, the FCPA makes it a criminal offense for domestic concerns to engage in bribery of foreign officials in order to obtain or retain business.

## Complex Bribery Provisions

Uncertainty about the accounting and internal auditing controls mandated by S102 of the FCPA has been resolved as a result of publication by the American Institute of Certified Public Accountants of tentative guidelines.

But those elements which constitute a violation of the anti-bribery provisions of the FCPA have greater problems of clarity. Sections 103 and 104 of the FCPA make it a crime to corruptly pay any money or "anything of value" to foreign officials, political parties or candidates to influence their acts or to obtain or retain business. Excluded from the broad sweep of the FCPA are those employees of a foreign government whose duties are essentially clerical or ministerial. Thus, "grease payments" to a customs official to clear a shipment in a foreign port appear not to be illegal.

The language of the anti-bribery provisions is laced with ambiguities, and the legislative history of the FCPA provides little help in clarifying matters. These are some specific areas of confusion:

- The intent requirement of the act is vague, leading businessmen to wonder whether taking all reasonable steps to avoid improper payments by employees or agents will shield them from liability.
- It has been suggested that the words "anything of value" may include business lunches, corporate mementos, and the like.
- When the FCPA is read in conjunction with other U.S. statutes, the words "foreign official" can be held to cover senior officers of state-owned corporations, which proliferate in the developing world.
- An underlying area of concern to many is the application of the FCPA to the activities of agents, who are often incapable of being controlled.

## Presidential Concerns

Recognizing the "chilling" effect of the FCPA upon international trade, President Carter stated in his September 26 message that the Department of Justice would "provide guidance to the business community concerning enforcement of priorities" under the FCPA, adding that "I am hopeful that American business will not forego legitimate export opportunities because of uncertainty about the application of [the FCPA]."

On October 10th, the Washington Post reported that the departments of Commerce and Justice were involved in a dispute over just how much "guidance" would be given the business community. Justice wanted to give little, fearful that it would be providing business with a "blueprint for evasion"; Commerce, faced with crushing trade deficits, wanted substantial guidance to help boost U.S. exports. The confrontation now appears abated with Justice agreeing to receive submissions from the S.E.C. and the departments of Commerce, Treasury and State prior to January 1, 1979 for review, and with formal guidance scheduled for publication early in the year.

Many observers fear the guidance from Justice will be minimal and of little use to the business community, as Justice task force members have repeatedly insisted that the critical areas of FCPA requiring definition and clarification are "jury questions."

## Prudent Steps

Although the legal profession has been aware of the need for guidance on the FCPA, no tentative guidelines have been developed similar to those offered by the CPA association. But international lawyers who have studied the FCPA widely agree that businessmen should take prudent steps now to shield themselves from violations of the anti-bribery provisions. Among the steps are the following:

- Establishment of company policy and training of all personnel, as paperwork compliance is not enough;
- Evaluation of the *bona fides* of overseas agents through references and private/governmental bodies, banks and accounting firms;
- Setting of commissions appropriate to the transaction, and payment of same only as monies are received;
- Inclusion of ethical practices clauses in all agency contracts, with "kick-out" clauses to void commission if agent violates the FCPA;
- Alert corporate response to bribe-related commercial danger signals, such as high bid contract awards and requests for up-front cash without commercial justification.

*This up-to-date article was prepared for Newsletter by CCIT member Donald Alford Weadon, Jr., an international business and foreign trade attorney practising in San Francisco.*