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## Book Reviews

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# *Book Reviews*

## *Editor's Note*

On behalf of the Board of Editors of *The Transnational Lawyer*, I would like to recognize the generous contributions of the Greenwood Publishing Group, Inc. and their representative, Brennan McCarthy. Under a variety of labels, Greenwood has forwarded a substantial number of titles on subjects related to transnational law issues and business practices. We truly appreciate this support.

The books reviewed in this edition cover areas of international taxation, customs law, and the general climate for development in the Far East. We thank, as well, Mr. Lantz and Professors Meyer and Yee for taking the time to thoroughly evaluate each book with an objective view.

As the Books Received section indicates, a variety of subjects are presented in the latest books available for review. We are particularly interested in featuring reviews of the publications on banking and foreign exchange operations. We would also enjoy reviews of the books addressing advertising and marketing on an international scale. Another interesting text worthy of review, and which should be of value to personnel managers of multinational employers and to attorneys advising clients on international labor and employment matters, is *Extraterritorial Employment Standards of the U.S.*

Should any of our readers have an interest in reviewing one or more of the titles in the Books Received section, or if you know of someone whom we could solicit for a book review on a particular specialty, please contact our office.

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# Import And Customs Law Handbook

BY MICHAEL J. HORTON, Quorum Books, 1992.

Reviewed by Robert H. Lantz\*

In this age of a global economy, companies which traditionally relied on domestic suppliers are increasingly looking to import goods produced abroad. This phenomenon is especially true for mid-size and small companies. The need to understand the complexities of U.S. import laws and the role of the U.S. Customs Service is no longer limited to large multinational corporations. Therefore, books such as Michael J. Horton's<sup>1</sup> *Import and Customs Law Handbook* are needed more today than ever before.<sup>2</sup>

One measure of the value of any book is whether it ultimately accomplishes the goals established by the author. Mr. Horton states that "[t]he purpose of this book is to explain the important legal aspects of importing in a way that is concise and readily understandable."<sup>3</sup> Accomplishing this task required that Mr. Horton synthesize a large and complex body of law without oversimplifying

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1. Michael J. Horton is an attorney based in Oakland, California. He is a former officer of the United States Customs Service, and has practiced exclusively in the field of customs law since 1977.

2. The reader should not be misled by the term "handbook" in the title of the book. Mr. Horton's book is more than a mere "how to" book, as stated by the author:

"How to become an importer is not the subject of this book. The materials herein are intended to provide guidance to those whose jobs make them responsible for handling U.S. Customs matters, including legal compliance and direct communications with customs officials."

M. HORTON, IMPORT AND CUSTOMS LAW HANDBOOK (1992), at ix (Preface).

3. *Id.*

the legal aspects of importing. With one exception discussed below, Mr. Horton achieved this very important goal.

Whether a book is useful to the author's intended audience is a second measure of a book's value. Mr. Horton's intended audience includes "company owners, company officials, or company employees" who have the responsibility of overseeing the company's import operations.<sup>4</sup> On this score, the book provides vital information to those who have, or will soon have, the responsibility of overseeing the import operations of a U.S. company.

The book is divided into two parts. Part I explains the U.S. Customs Service's role in enforcing customs laws and the methodology for assessing customs duties.<sup>5</sup> In Part II, Mr. Horton advises companies about ways they can more effectively organize their import operations, thereby lowering the amount of duties assessed and avoiding penalties.<sup>6</sup> Proper organization reduces the potential for errors in classifying or valuing goods imported into the United States. Additionally, Part II provides an introduction on how companies can utilize bonded warehouses and foreign trade zones to their advantage. Finally, five appendices provide information on the U.S. Harmonized Tariff Schedule, relevant sections of the United States Code, selected U.S. Customs Service forms, and provide a list of the Beneficiary Developing Countries under the Generalized System of Preferences.<sup>7</sup>

The first chapter provides the reader with an overview of the U.S. Customs Service's history, structure, and methods for enforcing U.S.

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4. *Id.*

5. Part I: Rules, Procedures, and Laws Every Importer Must Know. Part I is divided into nine chapters: 1) The U.S. Customs Service, 2) Classification of Merchandise, 3) Appraisalment of Merchandise, 4) Beginning and Ending Formalities, 5) The Three Most Important Legal Obligations, 6) Country of Origin Marking Requirements, 7) Recordkeeping and Inspection of Records by Customs, 8) Troubleshooting Import Transactions, 9) Methods for Achieving Customs Compliance. *Id.*, at v-vi.

6. Part II: Helpful Things to Know about Importing Merchandise into the United States. Part II consists of seven chapters; chapters 10 through 16: 10) Communications between U.S. Customs and the Importer, 11) How U.S. Customs Redresses Its Wrongs, 12) Duty Exemptions, Special Rate Programs, and Temporary Importations, 13) Duty Drawback and Duty Relief for Damaged Goods, 14) Customs Bonded Warehouses and Foreign Trade Zones, 15) Protection for Trademarks, Trade Names, and Copyrights, 16) Administrative Rulings Issued by Customs. *Id.*, at vi-vii.

7. *See id.*, at 249-65.

Customs laws.<sup>8</sup> The reader should pay close attention to chapter one because it explains the principles guiding customs officers and the U.S. Customs Service. As stated in the book, it is important to remember that customs officers are first and foremost “revenue officers” whose main task is to “protect the revenue.”<sup>9</sup> Therefore, understanding the organizational structure of the Customs Service and the attitude of customs officers is an important first step in importing goods into the United States without costly delay or expense.

Additionally, chapter one introduces the reader to a fundamental concept stressed repeatedly throughout the book; duties are assessed through the importer’s voluntary compliance with customs laws.<sup>10</sup> Because duties are assessed under a system of voluntary compliance, it is imperative that importers become knowledgeable about customs laws. Equally imperative is the requirement that importers utilize a customs broker in all importing transactions. Although the book discusses the importance of the customs broker, it does not provide a detailed analysis of the custom broker’s role in an import transaction. After introducing the U.S. Customs Service, the book explains how Customs classifies and appraises imported goods in order to determine the applicable duty.

Chapter two attempts to explain Customs’ procedures for classifying goods under the U.S. Tariff Schedule. Understanding the step-by-step process used to classify goods under the tariff schedule is difficult under the best of circumstances. Unfortunately, Mr. Horton chose to explain the classification process by combining long excerpts from the General Rules of Interpretation with brief case studies to illustrate how each rule of interpretation operates. In sharp contrast to other chapters of the book, the General Rules of Interpretation are reproduced without further explanation or

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8. U.S. Customs laws can be found in Title 19 of the United States Code. U.S. Customs regulations are located in Title 19 of the Code of Federal Regulations.

9. HORTON, *supra* note 2, at 9.

10. The system of assessing duties is analogous to the self-assessment system utilized by the Internal Revenue Service. The importer must provide all the information necessary to assess the duty. The Customs Service will review this information, and will investigate importers failing to complete Customs forms or provide accurate information to Customs. *Id.*, at 10.

summary.<sup>11</sup> Additionally, the case studies are presented in a fragmented form which fails to give the reader sufficient information to fully understand the rationale underlying the decision. Relying on the case study method seems inappropriate in a book written primarily for corporate officers and employees who presumably lack formal legal training. Fortunately, customs brokers are skilled in this area and will provide invaluable advice on how a particular good should be classified under the U.S. Tariff Schedule. Although chapter two may be difficult reading, the reader is encouraged to continue because the remaining chapters are better written.

Chapter three deals with Customs' methodology for appraising an imported good in order to determine its legal value. Along with classifying goods, determining a good's legal value under customs law is the most important step in assessing the duty. When the duty is assessed *ad valorem*, fixing the imported good's legal value is especially crucial, because accurately calculating the good's legal value will assure that Customs collects the correct duty amount.

Because the Customs Service assesses duties under a system of voluntary compliance, the importer is required to maintain complete and accurate records of all the costs associated with an imported good. Although Customs has several methods of ascertaining a good's legal value, Customs' preferred method of fixing legal value is calculating the transaction value. Customs law defines transaction value as the price actually paid for the imported good.<sup>12</sup> However, the transaction value often includes costs the importer may not ordinarily consider part of the purchase price.<sup>13</sup> Conversely, certain costs may be deducted from the purchase price paid by the importer

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11. Compare, the discussion of the General Rules of Interpretation, pages 19-20 with the discussion of the transaction value of imported goods pages 55-56.

12. 19 U.S.C. § 1401a(b)(1), *reprinted in part id.*, at 55 and entirely in app. B.

13. For example, the following items must be added to the legal value if they were not included as part of the purchase price: (1) Packing Costs; (2) Any commission paid to a selling agent; (3) The cost or value of items provided free to the manufacturer as production assistance; (4) Royalties and license fees; (5) Any additional amounts that the importer is required to pay to the manufacturer or seller after the goods are resold, disposed of, or used in the United States. HORTON, *supra* note 2 at 56.

in determining the legal value.<sup>14</sup> Therefore, it is essential that the importer maintain comprehensive and accurate records of every import transaction in order to capture the actual costs and potential deductions associated with importing a particular good into the United States.

Although approximately ninety-five percent of all imported goods are valued according to their transaction value, Customs is sometimes required to utilize alternative methods for calculating legal value.<sup>15</sup> Customs uses alternative methods when the transaction value cannot be calculated due to missing or incomplete information. The alternative methods for calculating the legal value are used in the following order of priority: (1) the transaction value of identical merchandise; (2) the transaction value of similar merchandise; (3) the deductive value; and (4) the computed value.<sup>16</sup>

Chapter three is one of the best written chapters in the book. Additionally, it is one of the most helpful to the importer. Understanding the important concept of legal value will assist the importer in maintaining complete and accurate records of the costs connected with an import transaction. The chapter provides comprehensive examples of the items that make up a good's transaction value. Finally, chapter three provides an excellent overview of each of the alternative methods of calculating legal value.

Chapter four covers the filing of the entry form and bond with Customs based on the estimated duties. Before Customs will release any imported goods, the importer must file an entry form and bond covering the amount of estimated duties applicable to those goods. Once Customs has completed its review of the import transaction, Customs liquidates its duty assessment. The chapter explains the effects of liquidation, and how an importer can formally protest Customs' decisions or seek reliquidation of Customs' decision. Often the unsuspecting importer will not understand the liquidation process

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14. For example: (1) international freight, insurance, and transportation costs in the United States after importation; (2) costs of assembling or erecting the merchandise in the United States; (3) duties payable because of the importation of the goods. *Id.*, at 57.

15. *Id.*, at 55.

16. *Id.*, at 54.



or the procedure for objecting to a Customs decision. This results in the importer losing the opportunity to lower the amount of duty paid in a given transaction.

Mr. Horton considers accurately completing the invoice, entry, and declaration of imported merchandise forms as the three most important legal obligations of the importer.<sup>17</sup> In Mr. Horton's experience, most Customs penalties arise because of some deficiency in one or more of these forms.<sup>18</sup> Although all these forms are important, the chapter primarily focuses on the requirements for completing the invoice.<sup>19</sup> Comprehensive examples serve to underscore Mr. Horton's concern that importers fulfill the invoicing requirement.<sup>20</sup> However, the invoicing, entry and declaration of merchandise forms work together in providing Customs with the necessary information to review an import transaction.

Chapter six discusses the strict requirements for marking the country of origin on imported goods. Chapter seven covers recordkeeping requirements and how Customs gains access to those records. Chapter eight provides advice on where an importer can search within the company for the information which must be provided to Customs when the goods enter the United States. Chapter nine contains methods importers should implement to achieve better compliance under customs law. In Part II, chapter ten describes the process Customs uses to communicate to the importer. While chapters seven, eight, and ten cover distinct points, presenting this information in one chapter might have provided the reader with a comprehensive picture of how best to maintain records and communicate with Customs. However, each chapter is well written and provides valuable information.

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17. *Id.*, at 91.

18. *Id.*

19. 19 U.S.C. § 1481, Invoice; contents, *reprinted in part id.*, at 91-92.

20. By way of summary, Mr. Horton writes that:

(1) the invoice must contain the terms normally shown on a commercial invoice, (2) the invoice must contain certain specific information only for special classes of goods mentioned in the Customs Regulations, and (3) the invoice must show all charges paid and all costs incurred (for example, production assistance) in connection with the imported goods and any facts deemed necessary to proper classification and appraisement.

*Id.*, at 97-98.

Part II of the book provides the reader with practical tips on how to better communicate with the Customs Service. Knowing how to communicate with Customs often resolves issues before they become major problems. Additionally, Part II explains how an importer can obtain a refund when the importer believes the duty assessment was too high. Finally, Part II introduces the reader to bonded warehouses and foreign trade zones, and discusses ways importers can utilize them to their advantage.

As explained above, chapter ten discusses the ways in which the Customs Service communicates with importers. Because failing to respond to a correspondence from Customs may result in the importer paying a higher duty or incurring penalties, importers are encouraged to establish a centralized location for receiving mail from Customs. Mr. Horton suggests that importers obtain a post office box and that the customs broker list that address on all entries filed with Customs.<sup>21</sup> This is practical advice from someone who has probably had to deal all too many times with importers claiming that they never received a letter or notice from Customs.

Chapter eleven examines the potential penalties involved when Customs discovers that an importer is not in voluntary compliance with the customs law. It is very important to understand the range of penalties faced by an importer who has not complied with customs law. However, the chapter provides excerpts from the penalty statute which contain several legal terms of art. Because these terms of art cannot be adequately defined in a book of this nature, a reader without legal training may not understand all of their nuances.<sup>22</sup> Nevertheless, Mr. Horton does a fine job of informing the reader about what to expect if Customs determines that customs law has been violated. The corporate officers and employees, for whom this book was written, will profit by reviewing this chapter carefully. Understanding the consequences of noncompliance will assure that steps are taken by the importer to comply with customs laws.

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21. *Id.*, at 155.

22. For example, the chapter discusses fraud, gross negligence, negligence, the concept of what is material, statute of limitation, and aggravating and mitigating factors.

Chapter twelve covers situations where goods may enter the United States duty free or with reduced duties. Many importers may not be aware that goods may be reimported into the United States duty free or be repaired, altered or processed abroad and reimported at a reduced duty. Finally, the chapter discusses special programs granting lower duty rates to goods imported from specific countries. The chapter instructs readers on how to read the coding of the Harmonized Tariff Schedule in order to recognize goods qualifying for special duty treatment.<sup>23</sup>

Chapter fourteen also instructs importers on how to better utilize the customs laws. This chapter describes the activities importers may conduct in bonded warehouses and foreign trade zones while delaying the payment of duties. Chapter fourteen is clearly and precisely written, providing an importer with many good ideas.

Chapter sixteen introduces the reader to the procedure and legal authority of customs rulings. Understanding the effect of customs rulings will assist the importer in determining Customs' position on a particular issue before merchandise is sitting in a U.S. warehouse. This will save the importer time, effort, and money.

The *Import and Customs Law Handbook* accomplishes the goals established in its preface. It explains important legal aspects of importing goods in a concise and understandable fashion. It is not easy to communicate such complex subject matter to company owners, officers, and employees who presumably possess little or no legal training. However, Mr. Horton does an admirable job. Readers of this book will gain valuable knowledge about customs law and will find useful tips on how to organize import operations. Attorneys recommending this book to clients will find their jobs much easier once their clients have a better understanding of customs law.

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23. Interestingly, the book discusses special tariff programs without first giving the reader an introduction to the General Agreement on Tariffs and Trade, or discussing the concept of Most Favored Nations Status.

# International Taxation

BY SOL PICCIOTTO, Quorum Books, 1991.

Reviewed By Kent W. Meyer\*

International business taxation is an area of many dimensions. Historically, the relevant laws and policies have been incredibly complex. This complexity has increased in the last two years as a result of the breakup of the Soviet Union and Eastern Europe and the explosive growth of Pacific Rim economies. Additionally, policies and laws related to international business taxation are highly dynamic. Published materials will often be outdated before they are even received. *International Taxation* by Mr. Sol Picciotto is surprisingly current. This is due in part to his thorough research and his ability to project and comment on future developments based on historic trends.

International business taxation has become a concern not only to large multinational corporations but also to small family owned businesses. *International Taxation* may fulfill some of the increasing need for knowledge in the area of international taxation, particularly with regard to smaller enterprises. Regardless of its particular size, problems, and difficulties, no international enterprise can ignore the effects of international taxation on its operations if it hopes to survive.

In spite of the importance of the topic, very few books have been written that successfully provide a comprehensive, readable, and current overview of international business taxation. This shortage of textual resources, combined with the tremendous need for knowledge in this area, can result in unrealistic expectations as to coverage and content when a new book dealing with international business taxation

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is published. Such unrealistic expectations have no doubt affected this review. For example, *International Taxation* will not satisfy one who is looking for new ways to minimize the tax liability of a particular multinational enterprise. However, in spite of the complex nature of the subject matter, the book is a very readable general text.

Mr. Picciotto's book is an ambitious attempt to generally describe the most important topics in international business taxation. It is a well researched study on the historical development and current status of international tax law in several of the world's most important trading economies. The book emphasizes the laws and policies of the United States, Western Europe, the United Nations, and the Organization for Economic Cooperation and Development. However, there is little information relating to Asia, the Commonwealth of Independent States, or Central Europe despite their emerging importance in the world economic community.

In general, the book takes an economic policy oriented approach to international taxation. It mixes discussions of specific tax laws with pleas for international equity. In this regard, Mr. Picciotto's approach is that of one who is aloof from the mundane concerns of those who have to actually deal with the policies and laws he describes. Rather, he reports on international business taxation as a detached observer. From this position, he comments on the need for international tax equity through global cooperation and understanding. While this approach has certain advantages for academicians and economists, it does not give sufficiently in-depth treatment to the complexities of international taxation at an operational level. While this may frustrate those who are searching for practical solutions to very difficult problems, several chapters are well researched and useful to international tax practitioners as well as economists and academicians.

Chapter eight contains a particularly well written discussion on transfer pricing, and its concomitant tax effects. It provides an excellent historical perspective on the issue of transfer pricing and it gives useful guidance to a practitioner with regard to the application of the comparable uncontrolled pricing method. U.S. tax statutes require the use of the uncontrolled price method, whenever possible, for valuing intracompany sales or transfers of goods and services.

This method supposedly yields the best approximation of an arm's length transactional price between unrelated parties. There is a thorough discussion of the weaknesses of this method and a suggestion of several alternatives.

Chapter ten addresses the internationalization of tax administration. Generally, sovereign states are very reluctant to help enforce the tax laws of other nations. They have been somewhat less reluctant to provide information to other states to assist in disclosing illegal activity. In spite of this reluctance, most nations recognize that equitable international tax enforcement requires international cooperation. The United States has been particularly aggressive in getting other countries to cooperate through reciprocal bilateral and multilateral agreements. The information provided on the current status of many of these exchange of information agreements is very useful to practitioners who must navigate through shark infested waters. Chapter ten, which contains information relating to tax havens, anti-tax haven legislation, transfer pricing, and tax treaties, was particularly interesting.

Other chapters cover the history, principles and policies of international tax laws; the past and present status of the international tax treaty system; international tax avoidance; the problems created by tax deferrals; worldwide unitary tax issues; and global business and international fiscal laws.

Overall, this book best functions as an excellent source of historical information for scholars of international tax legislation and policy. It may also serve and inform practitioners interested in gaining a better understanding of how the legislation they must deal with on a day to day basis evolved. However, *International Taxation* provides only limited practical information in the narrow areas of transfer pricing and international tax administration.



# **The East-West Pendulum: A Risk-Reward Analysis Of Asia To The Year 2000**

BY ROBERT LLOYD GEORGE, Quorum Books, 1992.

Reviewed by Leung Yee\*

For a businessperson, business lawyer or business-minded tourist traveling to Asia for the first time who would like to be briefed on the entire region while sitting on that long trans-Pacific flight, there is now one more possible selection. In a mere 133 pages, *The East-West Pendulum* covers, or at least attempts to cover, the histories, business cultures, economies, recent business climates and, of course, the futures, of ten current or emerging Asian economic powers. The countries included are China, Hong Kong, Japan, Taiwan, Korea, Thailand, Malaysia, Singapore, Indonesia and The Philippines. The book was written by Robert Lloyd George, a great-grandson of the former British prime minister David Lloyd George. The author has spent ten years in Hong Kong, including serving as Managing Director of Indosuez Asia Investment Services, Limited, from 1984 to 1991. Since then he has launched an independent investment management company based in Hong Kong to advise investors on the developing Asian markets.<sup>1</sup>

It is quite apparent that the ultimate aim of the book is to persuade its readers of the desirability of investing in Asia, and in particular, the Asian securities markets. Such persuasion is, however, undertaken in a relatively blasé manner. The author opens the book by quoting Byron: "The best prophet of the Future is the Past."<sup>2</sup> The

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\* Associate Professor of Law, University of the Pacific, McGeorge School of Law.

1. Publisher's note provided by Quorum Books.

2. ROBERT LLOYD GEORGE, *THE EAST-WEST PENDULUM: A RISK-REWARD ANALYSIS OF ASIA TO THE YEAR 2000* 1 (1992).



book then proceeds to introduce a brief comparative history between the East and the West, setting forth the underlying theme of dominance by the East versus dominance by the West as a historical theorem. The book advances the view that, during the Medieval period, the East, as represented by China, was far superior in economic life, culture, and technology than the West. However, the "pendulum" gradually swung in the other direction so that around the time of the Industrial Revolution, the West began to dominate the East. This culminated in the colonization of much of Asia and the defeat of Japan in World War II.

The key thesis of this book is, however, that in the past forty years the pendulum of history has been swinging back toward Asia. The author cites as evidence the average economic growth of 7 percent per annum in Asia versus 3 percent in Western countries. He contends that this trend will continue through the twenty-first century.<sup>3</sup> The author's ultimate message to Western readers is an enlightened one: instead of viewing this phenomenon with alarm, thereby engaging in a futile struggle against the great historical current, Western interests will be best served by participating through investment in Asia.

The author believes that the Chinese culture and Chinese emigrants exert significant economic influence over most of Asia and that "the leadership of Asia, in economic and cultural terms, will pass to the Chinese during the next twenty years."<sup>4</sup> The book goes on to describe Chinese culture, especially its business culture, with great emphasis on the view that the supremacy of family over state and law epitomizes the culture. This discussion is followed by brief histories of several Asian countries, emphasizing their interactions with the West. The book then comes to its main task, a country-by-country investment risk analysis of ten Asian countries and a performance analysis of various Asian stock markets. The book ends with an upbeat general forecast for Asia.

Covering so many topics in one volume, even for a single country, is always a haphazard undertaking. For a fairly thin book

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3. *Id.* at 4.

4. *Id.* at xv.

with an ambitious goal of comprehensive coverage of ten different countries, Robert Lloyd George has actually done a relatively good, concise job. There are brief introductory passages such as this: "In China the rule of law is of less importance than in the United States and Europe where conflicting elements in a society such as church and state, capital and labour, government and business, are balanced by the law. By contrast, in traditional China personal virtues of loyalty and honesty, sincerity and benevolence, backed up by the family system provided the basis for commercial contact."<sup>5</sup> Such a statement, although not universally accepted and conducive to stereotyping, is nevertheless valuable and stimulating to students of Asian cultures. By providing general political gossip, such as claiming that Aquino's rise to power in 1986 owed much to the support of the Catholic Church in The Philippines,<sup>6</sup> or that Lee Kwan Yew continues to wield a large influence behind the scenes in Singapore in spite of his official retirement,<sup>7</sup> the book is also a useful news summary for neophytes to Asia. Nevertheless, there are, in this book, significant errors, omissions, equivocations, and questionable claims.

A reader may be easily impressed by the book's scholarly appearance. There are 19 figures and 34 tables. Although in the Acknowledgments, the author does thank two named individuals for their "hard work and research effort," of the 53 figures and tables, only 14 indicate their sources or method of compilation.<sup>8</sup> These non-cited or unexplained tables and figures contain statistics and information ranging from the inflow and outflow of China's silver between years 1800 and 1836, to an estimate of the GDPs of the European, East Asian and North American economic blocs in the year 2000. Further, the U.S. dollar factory wage figures in 1990 for fifteen Asian countries are presented without the definitions of "wage" or any fringe or hidden benefits.<sup>9</sup> Could all these data be the products of original research by these two individuals? In the absence

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5. *Id.* at 13.

6. *Id.* at 5.

7. *Id.* at 83.

8. *Id.* tbls. 1.1, 2.1, 6.9, 6.10, 6.12, 7.3 & figs. 6.2, 6.4, 6.5, 6.6, 6.7, 6.8, 6.9.

9. *Id.* note 1, at 10, 115, 120.

of citation sources or research methodologies, how can the accuracy of these data be verified?

While practically every book strives to convince the readers of its theory, such a task is particularly difficult for a book like *The East-West Pendulum*. In spite of the author's tactful efforts in presenting the past, as a book of investment advice, its main thrust is inevitably upon predicting the future.

Recognizing that predicting the future is a dangerous business, the author often resorts to equivocation. Mr. George often makes a seemingly firm prediction and then, by qualifying such a prediction with a hard-to-predict variable, tacitly admits that the future is largely unknown. For example, in connection with the exchange rate risk of Korea, the book states that one should "not expect a devaluation of more than 5 percent per annum unless Korea's trade or inflation problems worsen significantly."<sup>10</sup> In predicting that Asia's trend toward higher annual growth over Europe and North America will be maintained over the next decade, Mr. George quickly added that, however, "much will depend on the preservation of the international free trade system."<sup>11</sup> There is an even more interesting case of equivocation in connection with Australia's future: "My forecast is . . . that the Chinese will play an important, but minor, role in the future life of Australia. . . ."<sup>12</sup> Can he possibly be wrong, whatever the future may be?

Readers will also find numerous contradictions. In an attempt to impress upon the readers the general health of Asian stock markets because of their large numbers of small, individual investors, the book states: "A market which depends too much on foreign investors, usually a handful of large institutions, is inherently a more volatile and less healthy market than one which depends on a large number of domestic, retail investors."<sup>13</sup> Only a few pages later, however, in an attempt to suggest that the Hong Kong stock market crash of 1972 will unlikely recur, the book states: "The Hong Kong stockmarket

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10. *Id.* at 74.

11. *Id.* at 98.

12. *Id.* at 130.

13. *Id.* at 104.

now, in contrast to 1972, is a market dominated by large investors, both large Chinese corporations and London based pension funds, which tends to smooth out some of the more extreme volatility of the earlier years when the market was 90 percent dominated by small retail investors.”<sup>14</sup> It is also interesting to note how the book claims, in one chapter, that “it is extremely difficult to predict anything about China’s future political direction.”<sup>15</sup> Then in another chapter, the book makes rather bold statements like, “Finally, corruption and lack of moral integrity, will leave a vacuum of power at the heart of the empire. Communist rule in China, for this reason, may well not survive until the end of the century, or even until 1997.”<sup>16</sup>

There are a number of significant omissions in the book as well. In its analysis of the political risk of Taiwan, the book notably fails to mention the Taiwan Independence Movement and the turmoil and civil unrest which that movement has caused and continues to cause.<sup>17</sup> It also fails to mention the looming intra-regional conflicts among China, Vietnam, Malaysia, The Philippines, and Taiwan over the control of certain archipelagoes in the South China Sea for the nearby oil and gas reserves. Similar conflicts are also present among China, Japan, and Taiwan over the East China Sea, which the book again fails to mention. Interestingly, in the section on Indonesia’s political risk, the rise of Islamic fundamentalism in Malaysia is briefly mentioned,<sup>18</sup> yet the book is silent on this issue in connection with the discussions of Malaysia’s political risk.

A number of factual errors in the book can be observed. They range from minor ones, such as mistaken examples of prominent

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14. *Id.* at 107-08.

15. *Id.* at 50.

16. *Id.* at 15.

17. The official position for both the Beijing and the Taipei governments is that there is only one China and that Taiwan is a province of China. They disagree only on which “China” it is, i.e. whether it is the People’s Republic of China or the Republic of China. The Taiwan Independence Movement, as led by DPP, however, seeks to separate Taiwan from either “China” and establish a fully independent state. *See, e.g.,* Michael C. Davis, *The Concept of Statehood and the Status of Taiwan*, 4 J. CHINESE L. 135 (1990).

18. *Id.* note 1, at 86.

overseas "Shanghainese people,"<sup>19</sup> to more obvious ones, such as erroneous descriptions in connection with the U.S. "Oriental Exclusion Act of 1884."<sup>20</sup>

The overall thesis of this book, *The East-West Pendulum*, not being new or unique or entirely without support in its dialectic posturing, contains an unfortunate racial overtone. Although the author has been careful in avoiding the use of the words such as "dominance" or "triumph" as much as possible, the implication of those concepts is unavoidable. The thesis essentially envisions an inescapable antagonism between the East and the West. The corollary of the pendulum theorem is that, although it is swinging toward the East now, one day it will swing back toward the West—either the West or the East will prevail, but not both. When can we see a theorem on the East and the West merging together?

Much of the book is a potpourri of academic theories and economic statistics salted with current gossip, rumors, hearsay, and speculations. All of its flaws notwithstanding, the book is still interesting and easy to read. In this age of information explosion, the book is particularly useful as an introduction to Asia for someone who has little prior knowledge of the region but who also has little time for more comprehensive preparation. Readers, however, must approach this book with caution—that there are inaccuracies and biases, that there is a semi-hidden agenda of investment salesmanship, and that this is but one man's view of Asia.

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19. "Many United States Chinese businessmen, scholars and scientists are also Shanghainese in origin, such as . . . a number of Nobel prize-winning physicists." *Id.* at 16. But, in fact, of the four overseas Chinese Nobel prize winners, only Tsung-Dao Lee, co-winner of the 1957 physics prize, was born in Shanghai. The other co-winner, Chen Ning Yang, was born in Hofei, Anhwei Province. Chao Chung Ting, a 1976 Nobel prize winner in physics, was born in Ann Arbor, Michigan in 1936. Yuan Tseh Lee, a 1986 Nobel prize winner in chemistry, was born in Hsinchu, Taiwan in 1936. WHO'S WHO IN AMERICA 1945, 1946, 3267, 3557, (McMillan Directory Division) (1990-1991).

20. *Id.* note 1, at 19. The United States had no "Oriental Exclusion Act of 1884." The author is probably referring to the "Chinese Exclusion Act" which was repealed much earlier than 1965. Chinese Exclusion Act of 1882, ch. 126, 22 Stat. 58 (repealed 1943). Furthermore, the author's statement that "for all Asian countries there would be a certain number of entrants allowed in automatically each year" is misleading. There has been a cap on immigrants for each country, but no one is "automatically" allowed into the United States. See, e.g., U.S. IMMIGRATION POLICY (Richard R. Hofstetter ed., Duke University Press 1984).