

Denver Journal of International Law & Policy

Volume 5
Number 3 *Special Issue*
Soviet-American Trade in A Legal Perspective

Article 10

January 1975

The Legal Status of Soviet Trade Representations Abroad

V. S. Pozdniakov

Follow this and additional works at: <https://digitalcommons.du.edu/djilp>

Recommended Citation

V. S. Pozdniakov, *The Legal Status of Soviet Trade Representations Abroad*, 5 *Denv. J. Int'l L. & Pol'y* 261 (1975).

This Article is brought to you for free and open access by the University of Denver Sturm College of Law at Digital Commons @ DU. It has been accepted for inclusion in *Denver Journal of International Law & Policy* by an authorized editor of Digital Commons @ DU. For more information, please contact jennifer.cox@du.edu, digitalcommons@du.edu.

The Legal Status of Soviet Trade Representations Abroad

Keywords

International Trade, Joint Venture, International Law: History, Private International Law, Contracts

The Legal Status of Soviet Trade Representations Abroad¹

V.S. POZDNIAKOV*

The Trade Agreement signed by the Soviet Union and the United States on October 18, 1972 provided for the establishment of a Soviet Trade Representation in Washington and a U.S. Commercial Bureau in Moscow. These agencies began functioning at the close of 1973.² Inasmuch as hitherto no Soviet trade representation had existed in the United States, the brief review of the legal status of Soviet trade representations abroad given in this paper may be of interest to Americans, particularly those who have established or plan to establish business relations with Soviet foreign trade organizations.

I. SOURCES OF THE LAW

A Soviet trade representation abroad is an organ of state administration based on the state monopoly of foreign trade. As an organ of state administration the trade representation's competence is determined by Soviet law, since only the state itself has the right to define the powers accorded to that organ. Soviet law resolves questions such as the establishment of the governing bodies of the trade representation and their competence, the procedure for appointing and recalling them, the internal structure of the trade representation, and the material basis of its functions.

In determining the competence of its representation abroad, a

* Vladimir Sergeevich Pozdniakov, Doctor of Legal Sciences, Professor; Chief of Department, Academy of Foreign Trade of the Ministry of Foreign Trade of the U.S.S.R.; President, Foreign Trade Arbitration Commission of the U.S.S.R. Chamber of Commerce and Industry. Author, *GOSUDARSTVENNAIA MONOPOLIIA VNESHNEI TORGOVLI v S.S.S.R. (STATE MONOPOLY OF FOREIGN TRADE IN THE U.S.S.R.) Mezhdunarodnye otnosheniia* [publishing house] (Moscow 1973).

1. For further information on the status of Soviet trade representations see: V.I. LISOVSKII, *TORGOVYE PREDSTAVITEL'STVA ZA GRANITSEI (SOVIET TRADE REPRESENTATION ABROAD)* (1947); *Preobrazhenskaia, Torgpredstva S.S.S.R. za granitse—vydaiushchisia vklad Sovetskogo gosudarstva v mezhdunarodnoe pravo (Soviet Trade Representations Abroad—An Outstanding Contribution of the Soviet Union to International Law, 36 UCHENYE ZAPISKI LVOVSKOGO GOSUDARSTENNOGO UNIVERSITETA, SERIA IURIDICHESKAIA, No. 3, 33-36 (1955); M.M. BOGUSLAVSKII, IMMUNITET GOSUDARSTVA (STATE IMMUNITY) 136-179 (1962) [hereinafter cited as BOGUSLAVSKII]; E.T. USENKO, FORMY REGULIROVANIA SOTSIALISTICHESKOGO MEZHDUNARODNOGO RAZDELENIIA TRUDA (FORMS OF REGULATION OF THE SOCIALIST INTERNATIONAL DIVISION OF LABOR) 261-71 (1965) [hereinafter cited as FORMY]; V.S. POZDNIAKOV, *GOSUDARSTVENNAIA MONOPOLIIA VNESHNEI TORGOVLI v S.S.S.R. (THE STATE MONOPOLY OF FOREIGN TRADE IN THE U.S.S.R.)* (1969).*

2. Arrangements for the opening of these offices were finalized in an exchange of letters between the Ministry of Foreign Trade of the U.S.S.R. and the U.S. Department of the Treasury. See [1974] 1 VNESH. TORG. 33.

state must observe international law and refrain from interfering in the sovereign rights of the country on whose territory the trade representation functions. Thus, in determining the competence of its trade representations, the Soviet Union takes into account international law. The treaties signed by the U.S.S.R. with foreign countries on the legal status of trade representations usually reproduce the pertinent provisions of Soviet law.

The privileges and immunities of a trade representation abroad spring from the general principles of international law relating to missions of foreign countries. Usually, they are recorded in bilateral international agreements, but a trade representation has the right to enjoy them even if they are not recorded. By an international agreement it is possible only to establish certain exceptions to the general principles of international law. For instance, exceptions to the principle of immunity may either broaden or restrict the application of that concept. Also, in countries which, like the U.S.S.R., are signatories of the 1961 Vienna Convention on Diplomatic Relations,³ Soviet trade missions enjoy the privileges and immunities recorded in that convention.

As has been shown by M.M. Boguslavskii,⁴ the view has been widely expressed in French legal literature that international treaties are the source of the immunity of a trade representation. The proponents of that view have contended that immunity is accorded to a trade mission only if expressly provided for in an international treaty. This question was discussed in French legal literature in connection with a number of cases examined by French courts, whose decisions denied immunity to Soviet trade representations prior to the signing of the first Soviet-French Trade Agreement on January 11, 1934.

In this connection it must be pointed out that in the Soviet Union's trade treaties and agreements with foreign countries, two groups of norms must be distinguished. The first group records either the provisions of Soviet law on trade representations or universally accepted norms of international law that are applicable to them. In this area the trade treaties do not establish any new norms but only note what exists independently of the trade treaty. One of the basic provisions of this group is the immunity of trade representations as organs of state administration.

The second group of provisions relating to the legal status of trade representations states the exceptions to the generally accepted norms of international law concerning immunity, or regulates questions for which there are no provisions either in Soviet law or in

3. [1964] 18(1209) Ved. Verkh. Sov. S.S.S.R. 335.

4. BOGUSLAVSKII, *supra* note 1, at 155.

international law (for instance, the number or location of offices or the maximum number of personnel at a trade representation). This section of the trade treaty must be regarded as an independent source for determining the legal status of Soviet trade missions.

The first Soviet trade missions were created in 1920-1921. Their legal status was determined gradually, and during the initial years differed in various countries. Their names also differed: "trade missions" in Estonia, Turkey, Germany, Sweden and other countries, "Mission of the People's Commissariat for Foreign Trade" in Lithuania, "Russian trade delegations" in Britain and Italy, and so forth. But their essence was the same—they represented the Soviet Union in trade with the countries of their location.

By 1921 an act had been published which laid the foundation for the legal status of Soviet trade missions in foreign countries and their relationship with other Soviet bodies and organizations. This was the decree of the Council of People's Commissars of the Russian Soviet Federated Socialist Republic (R.S.F.S.R.) of May 26, 1921, published under the heading "General Provision on Soviet Agencies Abroad."⁵ In accordance with that decree the permanent bodies representing the Soviet government in a foreign country, provided relations were normal, were: a) plenipotentiary embassies, b) consulates, and c) trade missions. The representatives of all other departments and all Soviet organizations on the territory of the given foreign country were subordinated "in a general administrative respect" to the plenipotentiary representative and were subject to his control.

The functions of the trade missions were: a) to study the markets, economic situation and trade of foreign countries, communicate the pertinent information to the People's Commissariat for Foreign Trade, and acquaint foreign governmental and industrial circles with the economic and trade situation in the Soviet Union, b) to supervise trade and commodity exchanges between the R.S.F.S.R. and foreign countries, and c) to handle all import and export operations, all storage, inspection and accounting operations relating to goods, supervise the transportation of goods, and carry out all financial, settlement, and insurance operations connected with trade.

By a decision of the All-Russia Central Executive Committee and the Council of People's Commissars of October 16, 1922, trade missions began to be regarded as an "indispensable part of a plenipotentiary embassy in each given country," which, as will be seen later, meant that the status enjoyed by a diplomatic mission covered the trade mission.

With the formation of the U.S.S.R., the trade missions of the

5. [1926] 49 Svod ukazov Item 261.

individual Soviet republics were reorganized into trade missions of the U.S.S.R., while their legal status was defined by Articles 23-28 of the Regulations of the People's Commissariat for Foreign Trade of the U.S.S.R. of November 12, 1923.⁶

The Regulations reaffirmed the formerly established ruling that a trade mission was an organ of the People's Commissariat for Foreign Trade and, at the same time, a component of the corresponding plenipotentiary embassy. Trade representatives were appointed and recalled by decision of the Council of People's Commissars on the recommendation of the People's Commissariat for Foreign Trade and with the agreement of the People's Commissariat for Foreign Affairs. The Union Republics—with the agreement of the People's Commissariat for Foreign Trade—had the right to send their representatives to the trade missions of the U.S.S.R. in individual countries. The trade missions included representatives of various state offices and enterprises and also the authorized representatives of the Higher Council of the National Economy. With the permission of the People's Commissariat for Foreign Trade the trade missions could include authorized representatives of the People's Commissariat for Foreign Trade at the Councils of People's Commissars of the Union Republics.

Organizationally, the trade missions consisted of two divisions: supervisory and commercial. The functions of the supervisory division included:

- a) elucidation of the overall economic situation in the country of their location;
- b) study of the local market and economic data;
- c) supervision of the work of mixed companies abroad;
- d) observation of the fulfilment of the trade treaties and agreements existing between the Soviet Union and the given country and participation in the drawing up of new treaties and agreements;
- e) supervision of the commercial activity of all agencies, offices and citizens of the U.S.S.R., including the commercial division of the trade missions, in the given country (Regulations, art. 27).

The functions of the commercial division of the trade missions included "the fulfilment of the plan assignments of the People's Commissariat for Foreign Trade and other organs of the U.S.S.R., and also trade and commission operations on instructions from the commercial agencies of the People's Commissariat for Foreign Trade, state offices and enterprises, cooperatives, public and private enterprises and individuals permitted to engage in export and import operations" (Regulations, art. 28).

On the basis of the 1923 Rules, the People's Commissariat for

6. [1923] 10 Vest. TsIK SNK i STO S.S.S.R. Item 302.

Foreign Trade, on March 11, 1924, approved the Regulations on Trade Missions of the U.S.S.R. Abroad,⁷ which mirrored the legislation on trade missions in operation at the time. The normative act defining the present legal status of the Soviet trade missions abroad is the Rules on Trade Missions and Trade Agencies of the U.S.S.R. Abroad approved by a decision of the Central Executive Committee and the Council of People's Commissars of the U.S.S.R. of September 12, 1933.⁸

Prior to the establishment of the socialist system in a number of other countries, all of the international agreements signed by the U.S.S.R. on trade missions were one-sided in the sense that they made no provision for the opening of foreign trade missions in the Soviet Union. This was due to the distinctions in the social system of the U.S.S.R., on the one hand, and of the capitalist countries, on the other. In this case there could be no reciprocity (one of the fundamentals of international law) since the foreign trade of capitalist countries, as distinguished from that of socialist countries, is in the hands of private entrepreneurs; and thus, the objective conditions necessary for the emergence in socialist countries of the functions inherent in foreign trade under capitalism do not exist.⁹

Nevertheless, soon after the establishment of Soviet power, the capitalist countries time and again raised the question of opening trade missions in the U.S.S.R. This desire was mirrored in some international treaties.¹⁰ However, even in those cases where the Soviet Union agreed to include the terms for trade missions of capitalist countries in the U.S.S.R., these missions were not opened. The agreements with capitalist countries on trade missions remain one-sided to this day.

The Soviet-American Trade Agreement is no exception in this respect. The U.S. Commercial Bureau opened in Moscow is not a trade mission because its functions, as contrasted with the Soviet Trade Mission, do not include representing the interests of its country.

The picture is different in the Soviet Union's relations with other

7. [1924] 1 SBORNIK DEISTVUIUCHIKH DEKRETOV I POSTANOVLENNII PO VNESHEI TORGOVLI S.S.S.R. Item 40.

8. [1933] SOBRANIE ZAKONOV I RASPORIAZHENNII RABOCHE-KRESTIAN'SKOGO PRAVITEL'STVA S.S.S.R. Item 354.

9. FORMY, *supra* note 1, at 262-63.

10. For instance, in Article 8 of Section II of the Treaty of October 12, 1924 between the U.S.S.R. and Germany it is stated: "If the German Government shall establish a Trade Mission in the U.S.S.R., it and its Staff shall be accorded the same rights, privileges and immunities by the Government of the U.S.S.R." 8 DOKUMENTY VNESHNEI POLITIKI S.S.S.R. (SOVIET FOREIGN POLICY DOCUMENTS) 590 (1963) [hereinafter cited as DOKUMENTY].

socialist countries, where, as in the U.S.S.R., foreign trade is a state monopoly. From 1957 onwards bilateral trade agreements on trade missions began to be signed with these countries. The provisions of these agreements are applied equally to Soviet trade missions and to the trade missions of the corresponding countries in the U.S.S.R.

Far-reaching socio-economic changes are taking place in countries which after World War II shook off colonial or semi-colonial oppression and took the road of strengthening and consolidating their national independence. One of these changes is the considerable expansion of the public sector in the economy, including foreign trade, which is increasingly carried on by state organizations. Some countries have passed laws establishing a state monopoly of foreign trade. Thus, the objective conditions are taking shape for the establishment by these countries of trade missions abroad. The Soviet Union has concluded bilateral agreements on trade missions with a number of developing states (Singapore, Malaysia, Colombia, and Ecuador, for example).

The content of the bilateral agreements on the legal status of trade missions is basically the same. Certain distinctions, which in the future will be removed, are due to the specifics of trade with given countries, to the unique aspects of these countries themselves and to some other circumstances.

II. THE OPENING OF A TRADE MISSION

The decision to open a trade mission in a foreign country is made by the government of the U.S.S.R. However, the implementation of such a decision requires the consent of the foreign country concerned. Usually this consent is given soon after diplomatic relations are established and is marked by the signing of a trade treaty or agreement or by an exchange of notes on this question. However, the establishment of diplomatic relations is not a necessary condition for the opening of a trade mission. A mission may be instituted even when such relations are absent.¹¹

International agreements usually specify the location of a trade mission. As a rule this location is the capital of the given country. The agreements with some countries, for instance, with Japan, state the exact address of the trade mission and any move to new premises at some other address requires the permission of the government of the country concerned.

11. Prior to the establishment of diplomatic relations the Soviet Union signed agreements on a trade mission in the Kingdom of Yugoslavia (May 11, 1940), on a temporary trade mission in the Republic of Cuba (February 20, 1960), on a temporary trade mission in the Federal Republic of Cameroun (September 24, 1962) and a bilateral agreement on trade missions with the Republic of Singapore (April 2, 1966).

III. FUNCTIONS OF A TRADE MISSION

As has already been pointed out, the functions of a trade mission as a state organ of administration may be defined only by the Soviet government. This is stated directly in a number of international agreements. For instance, in the convention signed with Sweden in 1927 it is stated that the "Government of Sweden accords the Trade Mission the possibility of performing on Swedish territory the *function delegated to it by the Government of the U.S.S.R.*"¹² (emphasis added).

In Article 1 of the Regulations on Trade Missions it is stated that they carry out the following functions:

- a) represent the interests of the U.S.S.R. in foreign trade and promote trade and other economic relations between the U.S.S.R. and the country where the trade mission is located;
- b) supervise the trade of the U.S.S.R. with the country where the trade mission is located;
- c) conduct the trade of the U.S.S.R. with the country in which the trade mission is located.

Most of the agreements signed by the U.S.S.R., in effect, reproduce Soviet law on this point.¹³ However, some do not list all the functions provided for in the Regulations on Trade Missions. For example, the agreement with the Federal Republic of Germany¹⁴ makes no provision for the supervisory functions of the trade mission. Similarly, no provision is made for such functions in the trade agreement with the United States. This omission was evidently caused by the feeling that the supervisory functions of the trade mission do not touch on the interests of the foreign country, in connection with which it was found that it was superfluous to include them in the agreement. The omission provided for in the exchange of notes with the Moroccan Foreign Ministry of June 5 to June 15, 1959¹⁵ is of a different character. It states that "trade activities are excluded from the functions of the Trade Mission." A similar exception is made in

12. SBORNIK TORGOVYKH DOGOVOROV, TORGOVYKH I PLATEZHNYKH SOGLASHENII I DOLGOSROCHNYKH TORGOVYKH SOGLASHENII S.S.S.R. C INOSTRANNYMI GOSUDARSTVAMI (COLLECTION OF TRADE TREATIES, TRADE AND PAYMENTS AGREEMENTS AND LONG-TERM TRADE AGREEMENTS BETWEEN THE U.S.S.R. AND FOREIGN STATES) (2d ed. 1965) [hereinafter cited as TRADE TREATIES].

13. There are, however, some differences in phrasing, as for example, in the supplement *On the Legal Status of the Trade Mission of the U.S.S.R. in Japan* to the Soviet-Japanese Trade Treaty of December 6, 1957. One of the functions of the trade mission is "the adoption of measures required by the government of the U.S.S.R. relative to trade operations between the U.S.S.R. and Japan," which, in effect, reproduces Article 1, paragraph B of the regulation on trade missions. See TRADE TREATIES, *supra* note 12, at 873.

14. TRADE TREATIES, *supra* note 12, at 694.

15. *Id.* at 487-88.

Article 5 of the trade agreement with the United States. In this case the agreement limits the functions delegated to a trade mission by Soviet law.

Article 3 of the Regulations on Trade Missions states the rights and duties of the mission, the implementation of which is vital to the performance of the functions mentioned above. These rights and duties mainly concern the supervisory functions of a trade mission and, to some extent, its function of promoting Soviet economic relations with the country of the mission's location. This section of the Regulations is not reproduced in international agreements.

In view of the foregoing and of the changes that have been introduced in the organization of Soviet foreign trade following the publication of the Regulations, the functions of the trade missions may be summarized as follows:

1. To represent the interests of the U.S.S.R. in foreign trade.

This is the most important function inasmuch as it manifests the representative character of the trade mission as an organ of administration of a foreign country. In view of the fact that this function is stated in both Soviet law and international agreements, the corresponding trade and political acts of a trade mission entail the creation of definite rights and duties for the Soviet government itself.

2. To supervise trade with the country of its location.

The rights and duties of a trade mission in the supervision of trade with the country of its location are stated, in particular, in Article 3 of the Regulations on Trade Missions. On the basis of the state monopoly of foreign trade, a trade mission supervises and controls the trade activities of Soviet organizations permitted to have independent dealings in the external market and also all individual foreign trade transactions by Soviet organizations and citizens who have the requisite permission. They issue permits for the import of goods to the U.S.S.R., certificates testifying to the origin of goods, permission for the transit of goods across the U.S.S.R., and other documents. In the country of its location the trade mission supervises the observance by Soviet organizations and citizens of Soviet laws and the instructions of appropriate governmental bodies.

In carrying out this function the trade mission acts as an organ of the Soviet government with the duty of ensuring that in the country of its location all Soviet organizations abide by the state monopoly of foreign trade. In this respect it guarantees that only those Soviet organizations which have proceeded in accordance with Soviet law will enter into direct transactions with foreign official agencies and contractors.

The fulfilment by a trade mission of its supervisory functions is not an obstacle to direct commercial contacts between authorized Soviet organizations and foreign contractors. This is stated unequivocally in many international agreements. For instance, in the supplement to the trade treaty with Japan it is stated:

The establishment of a Trade Mission by no means affects the rights of juristic persons and individual citizens of Japan to maintain direct relations with Soviet foreign trade organizations for the purpose of concluding and executing trade transactions.¹⁶

Approximately the same wording is to be found in Article 5 of the Soviet-American Trade Agreement.

In fulfilling its supervisory and other functions, a trade mission does not have the right to violate the laws of the country of its location, for that would mean infringing on the sovereign rights of that country. This is underscored in a number of statements by the Soviet government¹⁷ and in some international agreements. For instance, in the Trade and Shipping Treaty with Norway it is stated that:

The Trade Mission . . . shall regulate foreign trade and goods exchanges between the U.S.S.R. and Norway . . . in accordance with the laws of the U.S.S.R. insofar as these laws do not come into conflict with Norwegian law.¹⁸

3. *To handle foreign trade operations on behalf of the government of the U.S.S.R.*

The competence of a trade mission includes the direct handling of foreign trade operations if no other provision (as in the Soviet-American Trade Agreement, for example), is made in the international agreement.

4. *To promote the development of trade relations.*

In carrying out the three functions mentioned above, the trade mission helps to promote trade relations with the country of its location. It is not accidental, therefore, that in many international agreements signed in recent years it is listed as the first of the functions of a trade mission.

A trade mission's function of promoting trade is not limited to the four tasks enumerated above. In countries with which there are trade agreements, the trade missions help to fulfil these agreements. A similar function is manifested in the study of the markets in the country of location and the corresponding information regarding interested Soviet organizations and foreign organizations, companies

16. *Id.* at 875.

17. *See*, for example, the Note of the Soviet Ambassador to France, L. B. Krasin, to the Chairman of the Council of Ministers and the Minister for Foreign Affairs of France of January 12, 1965. 8 DOKUMENTY, *supra* note 10, at 52-53.

18. TRADE TREATIES, *supra* note 12, at 523.

and enterprises. The trade missions help Soviet foreign trade organizations that independently engage in foreign trade operations to conclude and execute individual transactions.

Also, many members of a mission's staff help Soviet foreign trade organizations by negotiating transactions on behalf of and on instructions from these organizations on the basis of powers-of-attorney. This has become a widespread practice and is due to the obvious convenience of this practice for Soviet organizations and their foreign contractors. Needless to say, the principal in a contract signed by a trade mission staff member on the basis of a power-of-attorney is not the trade mission, but the organization that has issued the power-of-attorney.

Owing to a number of circumstances, which we need not dwell upon in this paper, the trade agreement signed by the U.S.S.R. and the United States envisages material exceptions to this practice. As stated in Article 5 of the agreement, the staff members of the Soviet Trade Mission in the United States do not take a direct part in concluding, signing and executing trade transactions or conducting trade in any other way. However, the Trade Mission has the right to place its offices at the disposal of staff members or representatives of Soviet foreign trade organizations who are not members of the trade mission's staff.

IV. PRIVILEGES AND IMMUNITIES OF A TRADE MISSION

With regard to this question, the Regulations of Trade Missions merely state that "in foreign countries the Trade Missions of the U.S.S.R. are organs of the U.S.S.R. implementing the Soviet Union's rights abroad in its monopoly of foreign trade." Article 2 of the Regulations reads: "Being part of the corresponding plenipotentiary missions of the U.S.S.R. abroad and enjoying the latter's privileges, the trade missions are, at the same time, subordinated to the People's Commissariat for Foreign Trade." As a representative of a foreign country, a trade mission has the right to enjoy all the privileges and immunities that, under international law, are granted to such representatives. As was pointed out by L.B. Krasin, a Soviet trade mission holds all the threads of the trade of the Soviet Union as a whole, and for that reason it requires extraterritorial rights at least in the same volume as the diplomatic representatives of the Soviet Union.¹⁹ In its note of May 17, 1927 to Great Britain, the U.S.S.R. pointed out that

the Soviet government is aware that . . . considerable importance is attached to the protection of commercial secrets in the relations between private commercial firms [I]n view of the state monopoly of foreign trade, the government organs that concentrate in their hands all the

19. L.B. KRASIN, *VOPROSY VNESHNEI TORGOVLI (QUESTIONS OF FOREIGN TRADE)* 311-12 (1st ed. 1928).

import and export operations of the entire country . . . must strongly insist on an iron-clad guarantee of the inviolability of the state documents, instructions, circulars, orders and so forth sent [abroad] by these organs The Soviet government has . . . always unequivocally demanded complete immunity and inviolability for its trade agencies abroad.²⁰

As an organ of a sovereign state, a trade mission enjoys all forms of state immunity: immunity from the operation of the law of another state, immunity of state property, tax immunity, and immunity from legal process. In international law, state immunity is understood mostly as immunity from legal process, the content of which has been formulated as follows by M.M. Boguslavskii:

1. No state may compel another state to be a defendant in its courts.
2. A foreign state comes within the competence of the courts of another state only if it expresses the requisite consent.
3. Actions performed by one state on the territory of another with the consent of the latter (purchase of real estate, the conduct of trade operations, and so on) do not signify subordination to the jurisdiction of the courts of that other country in cases arising from these actions.
4. The consent of one country to the hearing of a case in the court of another does not presuppose consent to the enforcement of the court decision or of measures of compulsion relative to the foreign state.²¹

In most international agreements, including the Soviet-American Trade Agreement, provision is made for some privileges and immunities for trade representatives and for persons directing their work. The premises occupied by a trade mission are regarded as extraterritorial. A trade mission has the right to use a code. Although, as a rule, a trade mission may engage in trade, it is not, as a representative agency of a foreign state, subject to entry in a trade register. It should be noted, however, that in individual cases linked with the conclusion of foreign trade transactions by Soviet trade missions abroad, the Soviet Union may give its consent to certain exceptions to the immunity enjoyed by it.

In firmly upholding the principle of state immunity, in particular the immunity of Soviet trade missions abroad, the Soviet Union accords the corresponding immunities to foreign states. In Article 61 of the Fundamentals of Civil Court Procedure of the U.S.S.R. and the Union Republics it is stated: "A court action against a foreign state, . . . and the infliction of a penalty on the property of a foreign state in the U.S.S.R. may be allowed only with the consent of the competent authorities of the state concerned."

Certain advantages and privileges are also enjoyed by the Soviet personnel of trade missions abroad. They do not come under the jurisdiction of domestic courts in questions arising from their official

20. 10 DOKUMENTY 213-14.

21. BOGUSLAVSKII, *supra* note 1, at 17-18.

duties and are exempt from all personal and material duties, as well as from local taxes on the incomes received by them for their work. Moreover, under the Soviet-American Trade Agreement the personnel of a trade mission enjoy the privileges and immunities enjoyed by the corresponding category of personnel at the Soviet Embassy in Washington.

V. BRANCHES OF A TRADE MISSION

Under the Regulations on Trade Missions, in some areas of its work a trade mission may open a branch headed by an authorized trade representative appointed by the Ministry of Foreign Trade. The authorized trade representative carries out his functions on the basis of a power-of-attorney issued by the relevant trade mission.

The consent of the country concerned must be received for the opening of a branch. For instance, in the supplement to the trade treaty with Japan,²² it is stated that the "Trade Mission may open in other cities of Japan its branches with the preliminary agreement of the government of Japan." The agreements with many other countries state, in addition to consenting to the opening of branches, the cities where such branches may be opened.

The functions of branch offices include part of the functions of the trade mission itself in a limited geographical area or functions of the trade mission relative to the entire territory of the country of its location. Within the stated limits the work of branch offices does not differ in character from the work of the trade missions themselves as representatives of a foreign country, and for that reason, in accordance with international law, a branch office must enjoy all the privileges and immunities enjoyed by a trade mission. Fully in accordance with this, the treaties and agreements with Bulgaria,²³ Hungary,²⁴ China,²⁵ Finland²⁶ and some other countries state that the premises occupied by branch offices of trade missions enjoy extraterritorial rights.

With some countries, agreements have been signed that impose restrictions on the branch offices of trade missions. For instance, in the agreement with Turkey, extraterritorial rights are accorded to only one of seven of the branch offices agreed upon by the signatory countries.²⁷

22. TRADE TREATIES, *supra* note 12, at 873.

23. *Id.* at 108.

24. *Id.* at 169.

25. *Id.* at 416.

26. *Id.* at 709.

27. *Id.* at 658-60. Actually, two branch offices of the Soviet Trade Mission operate in Turkey.