

Denver Journal of International Law & Policy

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

Article 18

May 2020

Discussion

Denver Journal International Law & Policy

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

Recommended Citation

Discussion, 5 Denv. J. Int'l L. & Pol'y

This Comment 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.

Discussion

A Soviet participant briefly outlined the sources of the Soviet law of foreign trade: international treaties, special domestic legislation and general domestic legislation. He noted that the arrangement was hierarchical; treaty provisions superseded special domestic legislation, and so forth. He asserted that those elements of Soviet legislation which related to the duty of protecting socialist institutions and intercourse did not by their terms apply to foreigners engaged in trade with the Soviet Union. The applicable Soviet law, he asserted, was as suitable to the protection of international trade as any. He took issue with the suggestion of a Western writer to adopt a special code of East-West trade, but rather favored the creation of general conditions of delivery similar to those used in the CMEA (Council for Mutual Economic Assistance) contracts.

Mr. Ginsburgs asserted that it would be difficult to apply Soviet trade customs, since these were not adequately collected or published and practices were not codified. Mr. Ginsburgs agreed with the previous speaker that it would be desirable to work out uniform principles of trade, similar to the CMEA general conditions. However, he believed that these should be recommendatory rather than mandatory.

A U.S. participant expressed the belief that the choice of forum and of law were critical problems in trade involving the United States in view of the multiple jurisdictions in the United States in which a dispute might be resolved. He agreed with the first speaker that some sort of general conditions would be desirable, whereas a special code governing East-West trade would not. He further suggested that the Soviets reexamine their experience of the 1920's to see whether their old laws would facilitate the expansion of trading relations into joint venture arrangements.

Several U.S. participants expressed the belief that arbitration was the solution to many of the difficulties posed by domestic law. Others stated that arbitrators would face many of the same difficulties and also that, to the extent that the enforcement of arbitral awards could be challenged in court, legal problems could not be avoided.

A Soviet participant expressed the view that Mr. Ginsburgs' interpretation of the Soviet treatment of trade customs corresponded to the view of Soviet jurists.

