

Legal Forms of the Use of Works of Literature, Science, and Technology in Soviet-American Relations

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I. INTRODUCTION

In keeping with the general principle underlying its foreign policy, namely, the principle of peaceful coexistence, the Soviet Union is promoting constructive relations in the fields of science, technology and culture with all countries, regardless of their socio-economic systems.

In promoting scientific, technical and cultural cooperation, the U.S.S.R. is successfully giving effect to the Peace Program approved at the 24th Congress of the Communist Party of the Soviet Union.

The scientific, technical and cultural relations between the Soviet Union and the United States have their own history. The first agreements on technical assistance were signed as early as the 1920's by a number of American firms (Ford, among others). Under these agreements Soviet organizations were given the right to use patents belonging to those firms. At the close of the 1920's, individual agreements, as for example, the agreement with the Radio Corporation of America, began to include terms for the exchange of technical know-how.¹ In that same period the Soviet State Publishing House signed an agreement for the publication of the works of Theodore Dreiser in the U.S.S.R.² After the Second World War the signing of an agreement with Dresser Industries on the purchase of licenses for Soviet turbodrills laid the beginning for trade in licenses between the U.S.S.R. and the United States.

Today, in pursuance of its policy of promoting scientific, technical and cultural relations with other countries, the Soviet Union has

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1. See 2 *ISTORIYA SOVETSKOGO GOSUDARSTVA I PRAVA (SOVETSKOE GOSUDARSTVO I PRAVO V PERIOD STROITEL'STVA SOTSIALIZMA, 1921-1935GG.) (HISTORY OF THE SOVIET STATE AND LAW—SOVIET STATE AND LAW IN THE PERIOD OF THE BUILDING OF SOCIALISM, 1921-1935)* 368 (1968); M.M. Boguslavskii, *PRAVOVOE VOPROSY TEKHNIЧЕСKOI POMOSHCHI S.S.S.R. INOSTRANNYM GOSUDARSTVAM I LITSENZIONNYE DOGOVORY (LEGAL QUESTIONS OF SOVIET TECHNOLOGICAL ASSISTANCE TO FOREIGN COUNTRIES AND LICENSE AGREEMENTS)* 6-10 (1963).

2. E. Dreiser, *MAIA ZHIZN S DREISEROM (MY LIFE WITH DREISER)* 151-152 (1953).

signed a number of agreements safeguarding various forms of intellectual property. In 1965, it signed a basic multilateral international agreement on questions of invention, the Paris Convention on the Protection of Industrial Property,³ and in 1973 it acceded to a basic multilateral agreement on copyright law, the Universal Copyright Convention.⁴

The Soviet Union's accession to agreements that have been signed by the United States creates favorable conditions for the promotion of relations between Soviet and American organizations and firms in the mutual utilization of the scientific, technical and cultural achievements of the two countries.

II. PROTECTION OF RIGHTS TO INVENTIONS

In relations between the U.S.S.R. and the United States, scientific and technical achievements of one country may be used by the other in the following basic forms: 1) rights of use of inventions or know-how may be granted under a general contract for the delivery of complete sets of equipment, or under a designing contract, or engineering contract, etc.; 2) rights of use of scientific or technical achievements may be granted in the course of joint elaboration and implementation of various programs and projects in fundamental and applied sciences, e.g., through joint patenting of inventions; 3) such rights may be granted by purchase and sale or exchange of licenses.

Under all these forms it is of exceptionally great importance that legal protection be provided both for the inventor and for the user of the invention. A Soviet decree of August 21, 1973 entitled Rules on Discoveries, Inventions and Rationalization Suggestions gives to foreign inventors (including legal entities) and their heirs the rights envisaged in these regulations and in other acts of the U.S.S.R. and the Union Republics, thus effectively putting foreign inventors on an equal legal footing with citizens (including legal entities) of the Soviet Union.⁵

Accession to the Paris Convention facilitates the reciprocal patenting of the inventions of Soviet and U.S. organizations and firms and, in particular, makes it possible to apply the rules on convention priority. Like all other rules in the Convention, the rule of convention priority is based on reciprocity. This means that the same priority

3. Paris Convention for the Protection of Industrial Property, *done* June 14, 1967, 21 U.S.T. 1583, T.I.A.S. No. 6923.

4. Universal Copyright Convention, *done* Sept. 6, 1952, 6 U.S.T. 273, T.I.A.S. No. 3324, 216 U.N.T.S. 132.

5. [1973] 19 SOBRANIE POSTANOVLENIH PRAVITEL'STVA SOIUZA SOVETSKIKH SOTSIALISTICHESKIKH RESPUBLIK (COLLECTED DECREES OF THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS) [hereinafter cited as S.P.-S.S.S.R.] 109, art. 7; [1973] 10 Vop. IZOB. 58-79.

privileges are accorded in the U.S.S.R. to all applicants from foreign countries that have signed the Convention. In this connection, priority for foreign inventions is established, in accordance with the Paris Convention, by the date of the priority of the first correctly executed application submitted in a country that has also signed this agreement, provided the application is submitted in the U.S.S.R. within twelve months of that date.

Persons who, on the basis of an international treaty or agreement signed by the U.S.S.R., claim priority of an application submitted earlier must in their application to the State Committee of the Council of Ministers of the U.S.S.R. for Inventions and Discoveries name the country in which the invention was first registered, and give the date on which their application was submitted in that country.

The Committee determines what documents must be submitted by the applicant in order to establish the date of priority of the given invention and the deadline for submitting these documents if no other provision is made in international treaties or agreements (Article 52 of the 1973 Rules).

Further, the Rules provide that a decision to issue a certificate of invention or patent may be annulled (entirely or partially) or reconsidered upon the receipt of an application enjoying earlier priority on the basis of an international treaty or agreement signed by the U.S.S.R. (Article 60 of the Rules).

American firms may ensure legal protection of inventions in the Soviet Union by receiving a patent or a certificate of invention. In the event of the receipt of a patent, the holder of the patent enjoys exclusive rights to the invention for 15 years. No one has the right to use the invention without the consent of the patent holder. The receipt of a certificate of invention means that the state has the exclusive rights to the invention.

Inventions protected by certificates of invention are used by state enterprises and organizations.⁶ The 1973 Rules state that no special permission is required for this use of an invention protected by an author's certificate. "The use of such inventions by other organ-

6. On the legal nature of a certificate of invention, see: PRAVOVYE VOPROSY NAUCHNO-TEKHNICHESKOGO PROGRESSA v S.S.S.R. (LEGAL QUESTIONS OF SCIENTIFIC AND TECHNOLOGICAL PROGRESS IN THE U.S.S.R.) 238-48 (M.M. Boguslavskii ed. 1967); V.A. DOZORTSEV, OKHRANA IZOBRETATEL'STVA v S.S.S.R. (PROTECTION OF INVENTIONS IN THE U.S.S.R.) (1967); V.A. DOZORTSEV, PRAVOVOI REZHIM AVTORSKOGO SVIDETEL'STVA v USLOVIYAKH NOVOI SISTEMY PLANIROVANIYA I EKONOMICHESKOGO STIMULIROVANIYA (THE LEGAL SYSTEM OF INVENTORS' CERTIFICATES IN THE FRAMEWORK OF THE NEW SYSTEM OF PLANNING AND ECONOMIC INCENTIVES) (1969); V.R. SKRIPKO, OKHRANA PRAV IZOBRETATELEI I RACIONALIZATOROV v S.S.S.R. (PROTECTION OF THE RIGHTS OF INVENTORS AND RATIONALIZERS IN THE U.S.S.R.) (1972).

izations and persons for the purpose of manufacture is allowed only with the permission of the State Committee of the Council of the U.S.S.R. for Inventions and Discoveries" (Article 27).

The freedom of choice between these two legal forms is limited by the fact that only certificates of invention are issued for substances obtained chemically, medicines, foods and cosmetics, for substances obtained by nuclear fission, and devices or methods for the generation or use of atomic energy.

In the Soviet Union, American firms usually receive patents, although in some cases applications have also been submitted for certificates of invention. Naturally the question that arises concerns the significance of a certificate of invention to a foreign inventor. First, like his Soviet counterpart, the foreign holder of a certificate of invention has the right to receive remuneration (up to 20,000 rubles). Second, certain consequences may ensue for foreign trade and other analogous operations. Inasmuch as a certificate leaves the exclusive right to the use of an invention in the Soviet state, this right cannot be violated in the U.S.S.R. by a foreign firm. The pertinent Soviet literature has drawn attention to the following: a) in the event a foreign citizen or legal entity puts on display at an exhibition in the U.S.S.R., articles in which use has been made of an invention protected by a Soviet certificate of invention a claim may be made to the exhibitor; b) when foreign trade transactions are concluded for the sale to the U.S.S.R. of articles in which use has been made of inventions protected by Soviet certificates of invention, the Soviet foreign trade organization concerned may, in accordance with established international practice, ask for a price reduction (as a sort of license remuneration for the use of a Soviet invention).⁷

This does not mean that the issuance of a certificate of invention in the U.S.S.R. gives grounds for banning the import of the corresponding articles to the Soviet Union.

Attention must be drawn also to the fact that under Soviet legislation remuneration for the use of an invention is paid if the invention has been used in imports from foreign countries (Part III of the 1973 Rules). Hence, we would draw the conclusion that a foreigner who receives a certificate of invention in the U.S.S.R. has the right to remuneration for the use of his invention in the Soviet Union if it has been used as a result of a contract signed with a foreign firm for the purchase of equipment and if this equipment is used in the U.S.S.R. (if no other terms are specified in the contract).

The receipt of a certificate of invention by a foreigner in the U.S.S.R. does not mean that the Soviet State receives the right to

7. See V.A. DOZORTSEV, *supra* note 5, at 46-47.

patent that invention in other countries or that Soviet foreign trade organizations receive sole rights to the export of the corresponding articles to other countries. If a patent has been issued in a foreign country that right belongs to the holder of the patent and not to the Soviet State.

III. PURCHASE AND SALE OF LICENSES

Licenses for Soviet inventions and know-how have been sold to American firms in recent years. At the same time, Soviet organizations have been purchasing licenses from American firms. The agreements for the sale of licenses usually name the Soviet organizations that own the patents or have submitted patent applications, and declare that Litsenzintorg has empowered them to conduct negotiations for the granting of licenses on its behalf. It must be remembered that in foreign countries Soviet inventions are patented on behalf of the organizations (industrial enterprises or institutes) where the invention has been developed or on behalf of the actual inventors. The sole right to the invention therefore belongs to such an organization or individual, not to the foreign trade organization. For this reason, although all Soviet foreign trade is conducted by special foreign trade organizations, and all foreign trade in licenses is conducted by the foreign trade organization Litsenzintorg, a direct part in the negotiations on the sale of licenses at all stages, beginning with the preliminary talks to ascertain the possibility of a sale and the terms of the agreement, is usually taken by representatives of the enterprise or inventor, who usually act as consultants of Litsenzintorg on all technical matters arising in the course of the talks. Thus, the enterprise and other organizations play an active role in the negotiations on the sale of licenses and in the fulfilment of the terms of the agreement (drawing up technical documents, rendering technical aid in mastering the object of the license, sending experts, and so on). The actual relations between the foreign firm and the Soviet enterprise or institute are put into effect in the long-term relations arising from the fulfilment of the agreement.

In accordance with the foreign trade system in the U.S.S.R., when licenses are purchased, a foreign trade organization, usually Litsenzintorg, acts as one of the parties to the contract.⁸ A license is purchased on a commission basis, and the enterprise or organization for which the license is purchased acts as the party entitled to the commission.

All Soviet enterprises (manufacturers of the corresponding articles) may be interested in the use of the object of a license (invention, know-how). For that reason a contract may provide for the right to

8. Charter of Litsenzintorg, in [1962] 11 VNESH. TORG. 52-53.

use the given design or method and also the right to manufacture the given article at enterprises throughout the Soviet Union. This may be done by including in the contract a clause stating that all the rights granted by the licensor to the licensee are automatically extended to the enterprises in the country of the licensee.

Thus, if an American company has a patent in the Soviet Union, the license may be granted only for the organization on whose behalf and instructions the license agreement is signed, if, of course, no other provision is made in the agreement. In Soviet literature it has been noted that cases are known where foreign sellers of licenses demanded that the enterprise concerned should indicate in the license agreement where the license would be used. When the need for using the same license arose at some other enterprises, this became the subject of an additional agreement between the parties.⁹

Thus, the question of determining the circle of enterprises where the license is to be used, the question of granting the right to export the article manufactured under a foreign license, and so on, are settled by agreement between the parties. In Soviet license practice the signing of agreements on terms of exclusive license rights is the most widespread in both the purchase and sale of licenses.

It is usually stipulated that the seller of a license grants the purchaser of the license sole rights to the use of the invention, technical achievement, or production secret, on the terms defined in the contract. The license rights and the territory where the object of the license may be used are specified in the contract in accordance with the usual terms of international trade in licenses.

It must be noted that the standard license agreements used by Soviet organizations do not contain any special provision. They state the usual conditions applied in trade in licenses. In this area the rules of standard agreements can only facilitate the drawing up of specific terms but they can under no circumstances replace such terms. The specifics of the license trade are much too extensive and the objects of agreements are much too varied, ranging from pharmaceutical goods to electronics. For this reason no license agreement is absolutely identical with another.

As we have pointed out, in Soviet practice when licenses are sold the agreements are, in most cases, signed on terms of exclusive rights to the licenses. In these agreements the territory where the right accorded by them may be used is usually narrowed down as far as possible. This makes it possible to conclude with the firms of other countries outside the territory defined in the agreement other license

9. M.L. GORODISSKII, *LITSENZII V SOVETSKOI VNESHNEI TORGOVLI* (LICENSES IN SOVIET FOREIGN TRADE) 59 (1972).

agreements regarding the use of the same object of the license.

Legal problems relating to patents are the most complex of all the problems that arise in license agreements. They are settled individually in each separate contract.¹⁰ When a license is purchased, Soviet foreign trade organizations usually strive to obtain a guarantee that the seller has the necessary volume of rights to the use of the given invention, know-how, and so on, having in mind that in the fulfilment of the agreement the rights of third parties will not be affected. This condition is of practical importance, particularly in cases where the seller of the license is not the owner of all the patents concerned.

For that reason, license agreements usually contain the provision that the seller (licensor) accords the buyer (licensee) the full volume of rights in accordance with the patents listed in the supplement to the agreement.

This concerns the patents belonging to the seller and the patents belonging to third parties. If the seller is unable to receive from the owner of the patent permission for its use, the minimum provision usually made is that the seller must find another settlement ensuring production under the license.

As a rule, agreements on the purchase of licenses and agreements on the sale of licenses provide for the rendering of technical assistance in the manufacture of "articles under the license." Further, it must be noted that the term of the operation of the agreement on the purchase of a license is usually fixed at from five to ten years.

Regarding license remuneration, the practice in the Soviet Union is that an initial payment is usually made when the agreement is signed or comes into force and is followed by the annual payment of royalties.

IV. COPYRIGHT

The participation of the Soviet Union and the United States in one and the same international agreement, the 1952 Universal Copyright Convention, creates a sound legal basis for the mutual use of the works of literature, science, music and art by authors of the two countries. The Universal Copyright Convention came into force in the U.S.S.R. on May 27, 1973.¹¹ From that date onward the copyright situation in the relations between our two countries has changed

10. *Id.*

11. [1973] 24 S.P.-S.S.S.R. 139. For details of the U.S.S.R.'s accession to the Universal Copyright Convention see: Boguslavskii, *Novoe v sovetskom avtorskom prave (New Developments in Soviet Copyright Law)*, [1973] 7 Sov. Gos. Prav. 56; M.M. BOGUSLAVSKII, *VOPROSY AVTORSKOGO PRAVA V MEZHDUNARODNYKH OTNOSHENIIAKH (QUESTIONS OF COPYRIGHT LAW IN INTERNATIONAL RELATIONS)* (1973).

fundamentally. Earlier, as was repeatedly pointed out in various publications in the United States, due to the absence of an international copyright agreement between our countries, a publisher in the United States could not receive exclusive rights to the translation of a Soviet work in the United States. Moreover, there was always the possibility of a parallel publication of a book of a Soviet author in an English language translation not only in the United States, but also in Canada, Britain, and other English-speaking countries. This circumstance was not conducive to the expansion of the publication and performance of Soviet works in the United States and restricted the volume of the publication chiefly of Soviet scientific and technical literature.

Both in the Soviet Union and the United States the works of American and Soviet authors respectively could be published and used without the signing of agreements and without the payment of the corresponding royalties. In the U.S.S.R. the volume of the publication of works by American authors has always been large. Suffice it to mention that in the period from 1918 to 1972 the works of American fiction published in the U.S.S.R. totalled 3,633 printings with 157 million copies in 55 languages. In 1972 alone there were 76 printings with 4.8 million copies.

Under the terms of the Universal Convention the U.S.S.R. and the United States will henceforth grant "national treatment" to authors of the other country; that is, an American author whose work is published for the first time in the Soviet Union will be granted the same rights as a Soviet author, and a Soviet author whose work is published in the United States will be granted the same rights as an American author. Each country will afford the same protection to the works of citizens of the other country as it gives to the works of its own citizens published for the first time in its territory (Article II of the Convention).

What rules of Soviet legislation are applicable in the use of works by American authors in the U.S.S.R.? Rules on questions of copyright are contained in the Fundamentals of Civil Law of the U.S.S.R. and the Union Republics and in the civil codes of the Union Republics.¹²

12. On Soviet copyright law see: V.I. SEREBROVSKII, *VOPROSY SOVETSKOGO AVTORSKOGO PRAVA* (QUESTIONS OF SOVIET COPYRIGHT LAW) (1956); M.V. GORDON, *SOVETSKOE AVTORSKOE PRAVO* (SOVIET COPYRIGHT LAW) (1955); B.S. ANTIMONOV, *AVTORSKOE PRAVO* (COPYRIGHT LAW) (1957); O.S. IOFFE, *OSNOVY AVTORSKOGO PRAVA* (PRINCIPLES OF COPYRIGHT LAW) (1969); Zilbershtein, *Avtorskoe pravo na muzikalnye proizvedeniia* (Copyright for Musical Works), in *SOVETSKII KOMPOZITOR* (THE SOVIET COMPOSER) (1960); A.IU. VAKSBERG, *AVTOR V KINO* (THE AUTHOR IN FILMS) (1961); U.K. IKHSANOV, *PRAVA AVTOROV PROIZVEDENII IZOBRAZITEL'NOGO ISKUSSTVA* (RIGHTS OF AUTHORS OF WORKS OF FINE ART) (1966).

Let us draw attention first to the amendment of Article 102 of the Fundamentals of Civil Law introduced by decree of the Presidium of the Supreme Soviet of the U.S.S.R. on February 21, 1973. This amendment states:

A work may be translated into another language for publication only with the consent of the author or his heirs.

The competent organs of the U.S.S.R. may, in accordance with the procedure established by legislation in the U.S.S.R., permit the translation of a work into another language and its publication with the observance in appropriate cases of the terms of international treaties or the international agreements signed by the U.S.S.R.

The translator owns the copyright to his translation.¹³

In a supplement to Article 101 of the Fundamentals it is stated that the work of an author (including a translation into a foreign language) may be used by other persons on the basis of an agreement with the author or his heirs except in cases stipulated by law.

Hence, it follows that the works of an American author may be translated and published in the U.S.S.R. on the basis of an agreement with the holder of the copyright. The agreement must be concluded with the Soviet organization authorized to sign agreements of this kind. In Soviet legal literature the viewpoint has been expressed that such an agreement with a foreign contractor concerning the publication or use of a work in the U.S.S.R. has the character of a foreign trade transaction, although it also has some specific features of its own.¹⁴ Under Article 124 of the Fundamentals of Civil Law foreign enterprises and organizations may only conclude foreign trade transactions in the U.S.S.R. "with Soviet foreign trade and other Soviet organizations which exercise the right to conclude such transactions."

Under the 1973 legislation, all foreign trade transactions involving publications must be concluded with the mandatory participation of a new Soviet organization, the All-Union Copyright Agency. Naturally, the rules of Soviet law will be taken into account in the signing of such agreements. Agreements of this kind usually stipulate that in translations, all changes (for example, abridgements) shall be made with the consent of the author or his heirs.

Heirs of American authors will receive in the U.S.S.R. royalties for the use of works in the course of 25 years after the death of the author, counting from January 1 of the year subsequent to the year of the author's death.

With regard to the use of works of American authors in Soviet

13. [1973] 9(1667) *Ved. Verkh. Sov. S.S.S.R.* 131.

14. See *PRAVOVOE REGULIROVANIE VNESHNEI TORGOVLI S.S.S.R. (LEGAL REGULATION OF THE FOREIGN TRADE OF THE U.S.S.R.)* 359 (D. M. Genkin ed. 1961).

films, the rule of national treatment requires that such use be made in agreement with the holder of the copyright and with the payment of royalties in the following cases: a) works written specially for use in a film; b) works rewritten into a film script; c) use in a film of works that formerly had not been published in translation in the U.S.S.R.

For countries that have signed the Convention, its rules do not have retroactive force. Hence, Soviet organizations that have used the works of American authors in the past are not obliged to pay royalties for such use of works published in the United States before the Convention came into force for the U.S.S.R., i.e., before May 27, 1973.

Some provisions of the decree of February 21, 1973 evoked animated comments in the press of different countries, including the United States. For instance, on May 22, 1973 the journal *World* carried an article devoted to the Soviet Union's accession to the Convention. It stated that the Soviet Union had excluded from the operation of the Convention all works of scientific and educational literature. This does not conform to reality. In the U.S.S.R. works of scientific and educational literature are protected by copyright as are all other works. The decree of February 21 speaks of the possibility of "reproducing" in the U.S.S.R. printed works for purposes of science, study, and education without the extraction of profits. This rule covers the copying of works by photographic or other methods in limited numbers and not for the purpose of sale. It may cover, for example, the copying of an article from a scientific journal or individual pages or sections of a scientific monograph. Copies are not sold and payment may be taken only for the making of the copy. For instance, a public library may pay for a photographic copy of an article from a scientific journal.

This method of using foreign scientific works is not excluded from the practice of Soviet scientific institutions. The same practice is observed in many countries. In Britain, Sweden, Finland and other countries, it is expressly provided for in national legislation.

As regards royalties for publications, public performances, or other forms of using the works of foreign authors, the principle of national treatment should be regarded as basic in determining the size of such royalties.

Under Article 98 of the Fundamentals of Civil Law the foreign holder of the copyright on works protected in the U.S.S.R. has the right to receive royalties not only when these works are translated but also in other cases (for instance, when they are published in the original language). Royalties for a work published in the U.S.S.R. in the original language would be paid in the size and order established in the U.S.S.R. for the payment of royalties for the republication of

works of Soviet authors.

Similarly, the amount of royalties paid to foreigners is equated to the royalties paid to Soviet authors for use in television, radio and films of translations of works that have not been published earlier in translations in the given language, for the issue of works in recordings, gramophone records, tape recordings, and so on; for the public performance of plays, operas, light operas, ballets, and so on; for the public performance of literary and musical works in concert and other programs; for the use of works of fine art, and so on.

Royalties to foreign authors (or their heirs) for the use of their works in the U.S.S.R. are paid in the currency of the country of the author's (or his heirs') permanent residence or, if so desired by the author (or his heirs), in Soviet currency with the provision that it is to be used in the U.S.S.R.

Royalties paid to foreign authors or their heirs for the use of works in the territory of the U.S.S.R. (regardless of the place of payment or the currency in which the royalties are paid) are subjected to an income tax. The decree of the Presidium of the Supreme Soviet of the U.S.S.R. of September 4, 1973, states that the size of this tax and the procedure by which it is paid are the same as for the tax on royalties paid by Soviet authors or their heirs for the use of works in the U.S.S.R. However, if in the country of the receiver a higher or lower tax is levied on the royalties paid to Soviet authors or their heirs, this higher or lower tax rate is applied to royalties paid to the foreign receiver for the use of works in the U.S.S.R.¹⁵

The income tax on the royalties paid to foreign authors or their heirs may be decreased or abolished on terms of reciprocity by the signing of the appropriate international agreements or treaties between the U.S.S.R. and other countries. An example of such a treaty is the Convention on Taxes signed by the U.S.S.R. and the United States in Washington on June 20, 1973.¹⁶ This Convention stipulates the following categories of incomes, received from sources in the territory of one of the contracting countries by a person residing permanently in the other contracting country, that are taxable only in that other contracting country:

Payment for use, royalties, and also other sums paid as remuneration for the use of literary, art and scientific works, or for the use of author's

15. [1973] 37(1695) Ved. Verkh. Sov. S.S.S.R. 587.

16. The Council of Ministers of the U.S.S.R. approved this Convention and submitted it for ratification to the Presidium of the Supreme Soviet of the U.S.S.R. *Izvestia*, November 13, 1973. The convention had not come into force as of January 1, 1974. The text has been published in the U.S.S.R. [1973] 8 S.S.H.A.: EKONOMIKA, POLITIKA, IDEOLOGIJA 118-123; Convention on Matters of Taxation, *done* June 20, 1973, 69 DEP'T STATE BULL. 169 (1973).

rights to such works, and also rights to inventions (patents, certificates of invention), industrial samples, processes and formulas, computer programs, trademarks, service marks, and other similar property or rights, or payment for the use of industrial, trade or scientific equipment, or knowledge, experience or known-how (Article III).

V. CONCLUSION: POSSIBLE PROSPECTS FOR THE PROMOTION OF COOPERATION

The mutual patenting of inventions is of considerable importance for the further expansion of economic, scientific and technical cooperation between the U.S.S.R. and the United States. The volume of such patenting is still not large and during the process of patenting substantial amounts of work and money are spent on the examination of the same inventions. Both the Soviet Union and the United States have signed the Treaty on International Patent Cooperation¹⁷ adopted at a conference in Washington in 1970. The enforcement of that treaty would, in our opinion, help to promote the mutual patenting of inventions and to reduce the outlay of labor and means for the compilation of applications and for the examination of inventions.

Today it would be hard to overestimate the importance of the development of license trade and the reciprocal transfer of technical information. I should like to note that the participation of the U.S.S.R. and the United States in multilateral agreements by no means exhausts the possibility for creating more favorable conditions than those obtaining today for exchanges of technical achievements on a mutually beneficial basis. As everyone knows, in the U.S.S.R. there are no rules imposing discriminatory restrictions. In the Export Control Regulations of the United States, technical information and documentation are specified as any information that may be used for the design, production, manufacture, or remaking of objects or materials. The same Regulations define the export of technical information and documentation as the sending overseas of such information, in any form, from the United States. An example would be the utilization in other countries of the technical know-how and experience acquired in the United States. The annulment of all discriminatory rules of both a general and special character would undoubtedly help to promote license trade. Moreover, it would be extremely useful if the above-mentioned tax convention came into force because it envisions the reciprocal lifting of taxes on license payments.

The summit talks of 1972 created favorable conditions for the successful development of scientific and technical cooperation. An agreement on cooperation in science and technology was signed by

17. Treaty on Patent Cooperation, done June 19, 1970, 63 DEP'T STATE BULL. 45 (1970).

the U.S.S.R. and the United States in Moscow on May 24, 1972.¹⁸ Cooperation under common programs, for instance, for the development of generators and for the designing of a gas turbine needed by both countries (it is planned to use this turbine in power systems during peak load periods) has been started within the framework of that agreement.

In the process of scientific and technical cooperation in various areas Soviet and American organizations and firms may develop new techniques on the level of inventions. For the time being we speak of inventions developed in each organization independently; of inventions that will belong to the organization in which they are developed. It is quite natural that an American research center would strive to ensure the legal protection of such inventions not only in the United States but also in the Soviet Union, while its Soviet counterpart would seek the same protection in its own country and in the United States. Similarly, a firm exporting goods to the Soviet Union will be interested in the legal protection of the inventions incorporated in these goods inasmuch as such protection will reliably safeguard the firm's rights in the U.S.S.R.

In addition, we believe that as cooperation develops it will be necessary to settle legal problems arising from joint inventions, i.e., chiefly inventions that may be produced jointly by citizens of the U.S.S.R. and the United States. With the expansion of various forms of production, cooperation, and the joint development of new technological processes and equipment, it would be desirable to apply basic principles determining the patenting of inventions and the conditions for their legal protection and use.

Broad prospects are opening up in the reciprocal utilization of copyrights. Soviet-American cultural cooperation can develop successfully provided it is based on respect for the sovereignty, laws and customs of each country, helps to promote mutual cultural enrichment and trust, and fosters the consolidation of peace and neighborly relations.

18. Agreement on Cooperation in the Fields of Science and Technology, *done* May 24, 1972, 23 U.S.T. 856, T.I.A.S. No. 7346.

