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## The New Soviet Joint Venture Regulations

Keith M. Dunn\*

On September 23, 1986, the Communist Party Central Committee and the Soviet Government announced a major shift in foreign trade policy. For the first time, selected ministries and international enterprises are to be permitted to trade directly with foreign companies, thus ending the monopoly on foreign trade held by the Ministry of Foreign Trade, and leading to the creation of joint ventures with non-socialist countries.<sup>1</sup> The decision to permit such joint ventures was affirmed by Yuri Shcherbima in Washington, D.C. at a United States-Soviet Trade Relations Forum luncheon on October 23, 1986.<sup>2</sup> Although the final law has not yet been published, detailed regulatory guidelines on joint ventures have been issued,<sup>3</sup> and joint ventures are expected to be allowed after January 1, 1987.<sup>4</sup> This Article examines the trade structure as it now exists in the Soviet Union, with an emphasis on contract and planning aspects. The Article also describes the provisions of the joint venture guidelines, and concludes with some observations on how the guidelines, and joint ventures established under those guidelines, best fit into the present Soviet structure.

In the Soviet Union, the essential means of production are owned by the State.<sup>5</sup> Foreign trade is conducted on the basis of a

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<sup>1</sup> *Soviets Relax Foreign Trade Regulations*, Washington Post, Sept. 24, 1986, at F1, col. 3. The announcement appeared in PRAVDA, Sept. 24, 1986, at 1, col. 1, and is included as Appendix A. Joint ventures with socialist countries have been permitted since 1983. 3 Int'l Trade Rep. (BNA) No. 44, at 1328 (Nov. 5, 1986).

<sup>2</sup> 3 Int'l Trade Rep. (BNA) No. 43, at 1301 (Oct. 29, 1986).

<sup>3</sup> *Id.* See also Soviets Publish Guidelines on Joint Ventures with Foreign Firms, 46 Fed. Cont. Rep. (BNA) No. 18, at 845-46 (Nov. 10, 1986). These detailed regulations appear in a recent issue of ECOTASS, the weekly economic and commercial bulletin of the Soviet news agency TASS. *Reorganization of the Management of Foreign Economic Relations of the USSR*, ECOTASS, Oct. 20, 1986, at 845 [hereinafter *Guidelines*]. This article is reprinted as Appendix B.

<sup>4</sup> Already some 15 companies have negotiated for the opportunity to enter into joint ventures with the Soviets, including Pepsico, Inc., which would like to open as many as 100 Pizza Huts in the Soviet Union. *Pizza Hut Asks to Bring Mozzarella to Moscow*, Washington Post, Mar. 5, 1986, at C1, col. 2.

<sup>5</sup> KONST. USSR art. 11.

state monopoly.<sup>6</sup> As a centrally planned economy, all business transactions, including those involving foreign trade, are subject to the national economic plan. All industrial enterprises in the Soviet Union are organized into production associations which, in turn, are organized into industrial associations. These associations are directed by industrial ministries, which are ultimately supervised by the "government."<sup>7</sup> The Council of Ministers of the USSR or the council of ministers of one of the fifteen constituent republics oversees discrete sectors of industry; however, a parallel organization of functional agencies, answering directly to the All-Union Council of Ministers, plans operations for the economy as a whole.<sup>8</sup> Of these agencies, the more important are the *Gosplan* (State Planning Commission), which draws up general production plans, including the Soviet Union's Five-year, annual, and quarterly plans;<sup>9</sup> *Gosbank* (State Bank), which supervises the economy's financial structures;<sup>10</sup> *Gosnab* (State Commission of Supply), which plans distribution; and the State Committee of Prices, which sets prices.<sup>11</sup>

The Five-year, annual, and quarterly plans establish the general direction of the economy but are left to be implemented at lower levels. The lower governmental agencies issue specific annual plans for individual industries and regions. Based on these plans, the various economic ministries establish plans for individual associations and enterprises.<sup>12</sup> These enterprises then submit applications to their superior agencies, outlining their method of accomplishing their assigned tasks. After study and correction, these applications are sent up to higher levels, ultimately being forwarded to the *Ekonomsoviet* (the Economic Council), which conducts trade between and coordinates the work of the various economic ministries.<sup>13</sup>

These plans, in the beginning, do not involve delivery or supply information. Rather, the plans are concerned with the internal production of an enterprise. After superior agencies receive production, delivery, and distribution allocations for the period, the individual enterprises concerned are notified and given the opportunity to state their operational needs. After receipt of these need as-

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<sup>6</sup> The Constitution provides:

The jurisdiction of the Union of Soviet Socialist Republics, as represented by its highest bodies of state authority and administration, shall cover:

(10) . . . foreign trade and other forms of external economic activity on the basis of state monopoly. *Id.* art. 73(10).

<sup>7</sup> Ioffe, *Law and Economy in the USSR*, 95 HARV. L. REV. 1591, 1592 (1982).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* See also Dore, *Plan and Contract in the Domestic and Foreign Trade of the USSR*, 8 SYR. J. INT'L L. & COM. 29, 32 (1980).

<sup>10</sup> *Id.* at 32.

<sup>11</sup> Ioffe, *supra* note 7, at 1593.

<sup>12</sup> *Id.*

<sup>13</sup> Dore, *supra* note 9, at 32-33.

assessments, the superior agency issues a production and delivery order to a supplier, which is then bound to conclude a contract to fulfill that order.<sup>14</sup>

Because the regular courts lack jurisdiction to hear disputes between socialist enterprises, disputes over contested matters are adjudicated in the system of economic courts called the *Arbitrazh*.<sup>15</sup> Disputes arising between enterprises within a single ministry are decided by a Departmental *Arbitrazh*, while those between economic administrations of different ministries are decided by the State *Arbitrazh*. The *Arbitrazh* has a great deal of power and flexibility, including the power to come to a party's aid so that its ignorance of the law does not give the opposing party an unfair advantage; deciding a case on an issue not argued by the parties; or giving judgment beyond either party's claim or counterclaim.<sup>16</sup> In almost all cases the *Arbitrazh* will order specific performance, whether or not damages are awarded, so that the economic plan is not adversely affected by a party's unwillingness or refusal to perform its assigned task.<sup>17</sup>

Foreign trade plans are issued by the *Gosplan* as part of its five year plan. The *Vneshneekonomicheskoi* (plans of foreign economic relations) are subdivided into a foreign exchange plan, a technical assistance plan, and a plan for the import and export of goods. The import/export plans are then further subdivided by country.<sup>18</sup> These plans are developed and administered by the Ministry of Foreign Trade<sup>19</sup> and carried out by operating entities known as Foreign Trade Organizations (FTOs). FTOs, as legal entities, have the right to hold property, may sue and be sued, and are responsible for their own debts.<sup>20</sup> Further, FTOs operate "roughly" on the basis of profit and loss.<sup>21</sup> Each FTO is responsible for trading in a specific product or geographic market.<sup>22</sup> While FTOs are legal entities, they are in

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<sup>14</sup> *Id.* at 33.

<sup>15</sup> Pedersen, *Joint Ventures in the Soviet Union: A Legal and Economic Perspective*, 16 HARV. INT'L L.J. 390, 433 (1975).

<sup>16</sup> *Id.* at 36. See generally Shapkina & Petrov, *Commentary on the Rules for the Consideration of Economic Disputes by State Arbitration Agencies*, SOVIET L. & GOV'T, vol. 3, no. 2, at 38 (1963-64); *The New Rules for Consideration of Economic Disputes by State Arbitration Agencies*, SOVIET L. & GOV'T, vol. 2, no. 3, at 57 (1963-64); Falkovich & Barash, *Commentary of the Rules for Consideration of Economic Disputes by State Arbitrazh Agencies*, SOVIET L. & GOV'T, vol. 2, no. 4, at 55 (1964).

<sup>17</sup> Dore, *supra* note 9, at 36.

<sup>18</sup> Berman & Bustin, *The Soviet System of Foreign Trade*, 7 L. AND POL'Y IN INT'L BUS. 987, 1036 (1975).

<sup>19</sup> *Id.* at 990-91.

<sup>20</sup> *Id.* at 994-95.

<sup>21</sup> *Id.* at 995.

<sup>22</sup> All exports of lumber and lumber products, for example, are handled by the *Eksporles*; all oil and oil products are imported and exported by the *Soivznezneftexport*. In contrast, all export and import business done with Afghanistan, the Arab Republic of Yeman, Iran, the Mongolian Peoples Republic, and Turkey is conducted by the *Vostokintarg*. *Id.* at 996.

reality integral parts of the Ministry of Foreign Trade,<sup>23</sup> and as such operate as "an integral part of the Soviet state monopoly of foreign trade."<sup>24</sup>

Before the joint venture resolution, the only method for foreign participation in Soviet enterprises was the Industrial Cooperation Agreement (ICA). Under the typical ICA, a Western firm provides capital, equipment, and expertise, while the Soviet Union pays for the capital investment with the proceeds of the plant.<sup>25</sup> One commentator has concluded:

The ICA is thus essentially a sale of capital equipment and technology, but it is also marked by a relatively high degree of interdependence between the parties involved, continuing transfers over a period of several years, and the creation of organizational ties, although the parties maintain their separate identities.<sup>26</sup>

While ICAs have been fairly successful, Western firms have sought the right to enter into joint ventures so that they can participate in the management of the enterprise and, thus, increase the profits available for the enterprise.<sup>27</sup> Because of the centralized economy and the importance of foreign trade to the national economic plan, however, the possibility of joint ventures being permitted in the Soviet Union has long seemed remote.

The joint venture regulation as written, however, takes into account the national economic plan and specifically makes joint ventures an exception to the plan. The regulations provide that "[j]oint enterprises shall not receive any obligatory planned assignments from the Soviet authorities and shall determine their production programmes themselves."<sup>28</sup> The provision of Soviet-produced material to the joint ventures is to be handled through Soviet foreign trade associations "at the agreed prices with the account of world market prices."<sup>29</sup>

Under the regulations, some twenty-one ministries and departments, along with seventy enterprises and amalgamations, will have the right to enter into joint ventures.<sup>30</sup> The foreign share of a Soviet joint venture may not exceed forty-nine percent.<sup>31</sup> The foreign partner's contributions to the venture can take the form of equipment,

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<sup>23</sup> For example, the Ministry of Foreign Trade—or, in some cases, another ministry or state committee—usually names both the president and vice-president of the FTO; can liquidate or otherwise reorganize an FTO; and can discipline the FTO. *Id.* at 996.

<sup>24</sup> *Id.*

<sup>25</sup> Pedersen, *supra* note 15, at 391.

<sup>26</sup> *Id.* at 391 (citing Berman, Report to the U.S. - U.S.S.R. Trade and Economics Council 8 (1974)(unpublished manuscript)).

<sup>27</sup> Pedersen, *supra* note 15, at 397.

<sup>28</sup> *Guidelines, supra* note 3, at 5.

<sup>29</sup> For a summary of the joint venture guidelines see 46 Fed. Cont. Rep., *supra* note 3, at 845-46.

<sup>30</sup> *Guidelines, supra* note 3, at 3.

<sup>31</sup> *Id.* at 5.

technology, or funds.<sup>32</sup> A foreign partner will have the right to transfer profits and other assets, and "within the limits of its established share of the joint capital" to reinvest profits into the enterprise.<sup>33</sup> The guidelines also provide that the venture will be subject to a "reasonably favorable level of taxation."<sup>34</sup> While the Chairman and Director-General of the enterprises are to be Soviet nationals, foreign partners are to be given "the right to a meaningful participation in running the enterprise and in monitoring the quality of its output."<sup>35</sup> Finally, the guidelines provide that economic disputes will be resolved by the Soviet courts "or, subject to the agreement between the sides, by arbitration panels."<sup>36</sup>

The joint venture guidelines are generally consistent with prevailing Soviet law. For example, it is clear that FTOs cannot enter into transactions which exceed their charter.<sup>37</sup> Consistent with this principle, a joint venture can be terminated by the Council of Ministers of the USSR "in case it does not correspond to the aims for which this enterprise was set up."<sup>38</sup> Because of this restriction on FTO activities, commentators have suggested that the joint venture contract spell out, in careful detail, the activities of the venture.<sup>39</sup> As one writer has noted:

The less framework which exists as a matter of law, the more detailed the contract must be. The necessity of concluding a comprehensive contract for the joint venture in the U.S.S.R. is underscored by the fact that under Soviet law all of the provisions of a foreign trade contract must be in writing.

Since the Soviets will expect strict compliance with the joint venture agreement, Western investors must attempt to clearly define all duties and responsibilities and include provisions to deal with unanticipated contingencies in the contract. For their part, the Soviets will want to include everything of importance in the joint venture agreement; the same reasons which lead the Soviets to enter into only very detailed trade contracts—to ensure that the effects of the contract will be predictable and that the contract is controllable in its operation—should lead them to seek comprehensive joint venture contracts. From the Western point of view, the more detailed the contract, the more assurance the investor has that agencies, enterprises, and FTOs will behave in a pre-determined manner consistent with the goals of the joint venture.<sup>40</sup>

In other areas, the guidelines seem to be at variance with prevailing Soviet law. For example, the Constitution, as noted earlier,

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<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 6.

<sup>36</sup> *Id.*

<sup>37</sup> Pedersen, *supra* note 15, at 411 (citing CIVIL CODE OF THE RUSSIAN SOVIET FEDERATED SOCIALIST REPUBLIC arts. 49, 50 (1964)).

<sup>38</sup> *Guidelines, supra* note 3, at 6.

<sup>39</sup> Pedersen, *supra* note 15, at 411; Dore, *supra* note 9, at 91.

<sup>40</sup> Pedersen, *supra* note 15, at 411-12.

clearly contemplates state monopolization of foreign trade.<sup>41</sup> By allowing the establishment of joint ventures, the Soviet Government, while not relinquishing *control* over foreign trade, is losing the constitutionally-mandated monopoly. In addition, under article 11 of the Constitution, all industrial enterprises must be state-owned.<sup>42</sup> Further, under the Civil Code of The Russian Soviet Federated Socialist Republic (RSFSR Code), "what the state owns it has the right to possess, use and dispose of, but what the enterprise possesses, uses and disposes of it does not own."<sup>43</sup> Though the Code permits superior state agencies to remove property from the management of the enterprise,<sup>44</sup> the joint venture guidelines provide that "[t]he property of a joint enterprise cannot be requisitioned or confiscated administratively."<sup>45</sup> In order to achieve consistency, either the final version of the joint venture law will have to be rewritten or the property provisions of the Constitution and Code will have to be revised.

Another apparent conflict between the Constitution and the guidelines is the latter's insistence on a centrally planned economy. Article 16 of the Constitution states:

The economy of the USSR is an integral economic complex comprising all the elements of social production, distribution and exchange on its territory.

The economy is managed on the basis of state plans for economic and social development, with due account of the sectoral and territorial principles, and by combining centralised direction with the managerial independence and initiative of individual and amalgamated enterprises and other organisations, for which active use is made of management accounting, profit, cost, and other economic levers and incentives.<sup>46</sup>

The disposition of property is on the basis of the planned tasks assigned by the *Gosplan*.<sup>47</sup> According to one writer, this obstacle should not be difficult to overcome, because foreign transactions are almost totally separated from domestic trade.<sup>48</sup> As pointed out elsewhere, however,

the enterprise will inevitably be intimately connected with the national economic plan. In order to obtain its supplies and basic raw materials from domestic sources and in order to sell its products to domestic buyers, the joint venture's needs must be provided for in the Soviet system of material-technical supply. In order to acquire supplies from foreign sources or to export its products, the joint venture's activities must likewise be provided for in the foreign trade

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<sup>41</sup> See *supra* note 6 and accompanying text.

<sup>42</sup> See *supra* note 5 and accompanying text.

<sup>43</sup> Pedersen, *supra* note 15, at 412-13.

<sup>44</sup> *Id.*

<sup>45</sup> *Guidelines, supra* note 3, at 6.

<sup>46</sup> KONST. USSR art. 16.

<sup>47</sup> See *supra* note 9 and accompanying text.

<sup>48</sup> Dore, *supra* note 9, at 87.

plan.<sup>49</sup>

The guidelines exempt joint ventures from obligating planned assignments and permit the ventures to carry out foreign economic operations either independently or through Soviet trade agencies.<sup>50</sup> Despite this assurance, it is inconceivable that goods could be introduced into the highly planned Soviet economy without the impact of their introduction influencing the national plans. It also seems unlikely that goods produced for consumption by the joint venture can enter the economy without some sort of centralized planning. Conceptually, this may be the problem area that gives the Soviets the most difficult time—how to introduce unplanned goods into a planned economy.<sup>51</sup>

It has been suggested that the joint venture contract be carefully structured to avoid “directive planning, unlimited inspections, freedom from changes in plans or orders without prior consultation, absolute dependence on Soviet sources of supply, turnover taxes, and success indicators other than profits.”<sup>52</sup> Thus, according to another writer:

[T]he joint venture contract should be specifically insulated from Article 234 of the Civil Code of the RSFSR which provides that changes in the national plan may cancel contracts; nor should such changes be allowed to interrupt or in any way jeopardize the joint venture's sources of supply within or outside the Soviet Union.<sup>53</sup>

Whether joint ventures will be allowed to include such provisions remains to be seen. Such provisions would, however, be consistent with the tenor of the guidelines.

The final troubling aspect of the guidelines is the provisions dealing with dispute resolution. The guidelines provide for resolution of economic disputes by the Soviet law courts or “subject to the agreement between the sides, by arbitration panels”—presumably *Arbitrazh*.<sup>54</sup> It has been suggested that, “because of the clear orientation of the institution toward state interests, and its commitment to the primacy of the plan” that *Arbitrazh* would not be acceptable to foreign parties.<sup>55</sup> Alternatives which have been suggested include the Foreign Trade Arbitration Commission of the All-Union Chamber of Commerce,<sup>56</sup> third-country arbitration,<sup>57</sup> or on-site arbitra-

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<sup>49</sup> Pedersen, *supra* note 15, at 417-18.

<sup>50</sup> *Guidelines*, *supra* note 3, at 5.

<sup>51</sup> Of course, the national plan may take into account the goods produced by the joint venture. The Guidelines state only that the joint ventures will not receive *assignments*; they do *not* say that the projected output of the joint ventures will not be factored into the national plan.

<sup>52</sup> Berman, *Joint Ventures Between United States Firms and Soviet Economic Organizations*, 1 INT'L TRADE L.J. 139, 150 (1975-76).

<sup>53</sup> Dore, *supra* note 9, at 89 (citing Pedersen, *supra* note 15, at 418).

<sup>54</sup> *Guidelines*, *supra* note 3, at 6.

<sup>55</sup> Dore, *supra* note 9, at 92.

<sup>56</sup> *Id.* The FTAC is comprised of 15 members, generally lawyers or economists, from



tion by technical experts rather than trained arbitrators.<sup>58</sup>

In conclusion, though the guidelines have been initially established, they are far from complete. In establishing the final law, the Soviet government must consider the problems discussed in this Article.<sup>59</sup> The present law and Constitution will certainly be changed or subordinated to meet the needs which brought about the joint venture statute. This point is emphasized in the guidelines, which state that the reorganization "is part of the general reform of the economic mechanism of the country . . . to make foreign economic contracts more flexible and efficient and to subordinate them to the strategy of accelerating the social and economic development of the country."<sup>60</sup>

Having identified the need to engage in joint ventures in order to advance technologically, scientifically, and to become a more visible world trading partner,<sup>61</sup> the Soviet government will not be restrained by conflicting statutory provisions. Once again, ideology will be forced to accommodate practical need.

## Appendix A

### *Resolution Issued on Foreign Economic Ties*

The CPSU Central Committee and the USSR Council of Ministers have adopted resolutions "On Measures To Improve the Management of Foreign Economic Ties" and "On Measures To Improve the Management of Economic, Scientific, and Technical Cooperation With Socialist Countries." They make provision for a number of major measures in this sphere. They are part of the in-depth restructuring of the economic machinery in the USSR being carried out in accordance with the 27th CPSU Congress decisions.

During the postwar period the Soviet Union has established a broad presence on the world market and achieved a substantial expansion of its foreign economic activity. The USSR is an active participant in the integration process within the framework of the

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which arbitration panels are chosen. The FTAC is empowered to, among other things, decide disputes between foreign firms and Soviet Economic Organizations. Statute on the Foreign Trade Arbitration Commission Attached to the USSR Chamber of Commerce and Industry, *Vedomosti SSSR*, no. 17, Item 269 (1975), reprinted in 3 COLLECTED LEGISLATION OF THE USSR AND CONSTITUENT UNION REPUBLICS § V-2 (1979). See generally Norberg & Stein, *Arbitration of US-USSR Trade Disputes*, in BUSINESS TRANSACTIONS WITH THE USSR (R. Starr ed. 1975).

<sup>57</sup> Dore, *supra* note 9, at 92.

<sup>58</sup> Pedersen, *supra* note 15, at 436.

<sup>59</sup> The Soviet Government will not be working in a vacuum in drafting the final law. Rather, it can be expected that the Government will draw from the legislation already in place in Rumania and other Eastern Bloc countries. See Seriven, *Joint Venture Legislation in Eastern Europe: A Practical Guide*, 21 HARV. INT'L L.J. 633 (1980).

<sup>60</sup> *Guidelines*, *supra* note 3, at 1.

<sup>61</sup> See Appendix A.

socialist community, and the socialist countries account for more than half of its foreign trade turnover. Diverse trade and economic ties have been established with developing states and Western countries. Participation in the international division of labor is becoming an increasingly important factor in the development of the Soviet national economy.

At the same time the established scale, structure, and forms of our trade, scientific and technical, and production ties have come to be at variance with the requirements of the intensification of the national economy and the acceleration of scientific and technical progress. This has become particularly tangible against the backdrop of the profound changes in international economic relations under the influence of the scientific and technical revolution.

The USSR's share of world trade does not match the level of economic development which the country has reached or the requirements of its economic development.

Unsatisfactory use is made of the export potential of processing industry, and first and foremost machine building. The transition to extensive joint ventures [kooperatsiya] in the scientific, technical, and production fields is proceeding slowly.

The existing situation is largely the result of obsolete methods of managing foreign economic activity and the lack of coordination of industry and foreign trade. Production associations and enterprises were in effect excluded from direct participation in foreign economic activity and socialist economic integration.

With a view to improving the management of the foreign economic complex and improving the standard of coordination of the work of ministries, departments, and organizations engaging in trade, economic, currency, financial, scientific, and technical ties with foreign countries, the USSR Council of Ministers State Foreign Economic Commission has been set up. It is charged with the functions of leadership of the activity of foreign economic ministries and departments in their implementation of foreign economic ties.

The USSR Council of Ministers State Foreign Economic Commission is headed by a chairman at the level of deputy chairman of the Council of Ministers. It includes the leaders of leading USSR ministries and departments involved in foreign economic activity. The planned measures to improve foreign economic activity are in tune with the measures being implemented in the USSR to considerably expand the rights and responsibility of associations and enterprises and transfer them to full financial autonomy and self-financing. These measures are aimed at increasing the interest of those who produce output in expanding the production of highly efficient goods for export and in ensuring the thrifty utilization of imported resources. More than 20 USSR ministries and departments,

as well as 70 of the biggest associations and enterprises, are granted the right, from 1 January 1987, to engage directly in export and import operations (including the markets of capitalist and developing countries). They will incorporate within their framework financially autonomous foreign trade firms. As the appropriate prerequisites are created, similar rights will be granted to other ministries, organizations, and enterprises.

The USSR Ministry of Foreign Trade and the USSR State Committee for Foreign Economic Relations will monitor foreign trade operations with a view to safeguarding state interests. Associations and enterprises which have not yet been granted the right to go into foreign markets will export and import output on the basis of contractual relations with foreign trade associations of the USSR Ministry of Foreign Trade, as well as other ministries and departments.

With a view to increasing the economic interest and expanding the autonomy of enterprises and associations in developing exports and renewing the production base, currency allocation funds [fondy valyutnykh otchisleniy] are to be set up at the enterprises and associations, to finance export and import operations. These funds may be used to purchase on the foreign market, independently or through foreign trade organizations, the machines, equipment, and materials needed for the retooling and modernization of production and for scientific research, experimental, design, and other work. Such purchases to meet the requirements of associations, enterprises, and organizations are incorporated in the import plan in full, and are carried out on a priority basis. Associations and enterprises are granted the right to receive currency credits from the USSR Foreign Trade Bank. At the same time the economic responsibility of associations and enterprises in the event of their nonfulfillment of plan targets for the export of goods or contractual commitments is considerably increased. They make good the losses thus suffered out of their currency resources.

In economic cooperation with the socialist countries, it is planned to ensure a transition from primarily trading relations to far-reaching production specialization and joint ventures. The basis of all work in cooperation is the Comprehensive Program for Scientific and Technical Progress of the CEMA Countries Through the Year 2000. It is planned to draw up a framework [kontseptsiya] for the development of the USSR's foreign economic ties with the CEMA countries which will form the basis for coordinating long-term economic policy and for the coordination of state plans. The 5-year and annual plans for economic and social development will set targets for USSR ministries and departments and union republic Councils of Ministers relating to the volumes of foreign economic ties, with targets for the CEMA countries being specified.

Soviet associations and enterprises are granted broad rights in the development of direct ties with enterprises and organizations of the other CEMA countries. They will independently resolve all questions relating to joint ventures, and that includes defining the avenues and concrete objectives of cooperation, choosing partners in the CEMA countries, and carrying out deliveries under joint ventures, including the signing of economic treaties and contracts for the delivery of output and the provision of services relating to joint ventures and the development of production, defying the economic terms of cooperation, and agreeing on prices for the component articles and services under joint ventures.

Here the associations, enterprises, and organizations have granted the opportunity to carry out, together with their partners, joint planning of production facilities under joint ventures, making provision first and foremost for the development and assimilation of progressive equipment and the creation of new capacities and the modernization of existing ones, and also to agree on the range and volumes of export and import deliveries of output under joint ventures.

Wide opportunities are opened up for them to participate directly in the implementation of the Comprehensive Program for Scientific and Technical Progress of the CEMA Countries Through the Year 2000, and in particular in carrying out, together with organizations in the CEMA countries, scientific research, planning, design, and experimental work, and in exchanging scientific and technical documentation on mutually agreed terms.

All the revenue from activity in the sphere of international joint ventures remains fully at the disposal of enterprises (with the exception of small deduction to go to the sector ministries). The currency allocation funds of associations and enterprises will not be subject to confiscation by higher organizations.

Provision is made for the possibility of the wide utilization in the socialist countries' mutual relations of such forms of cooperation as joint [sovrestnyye] enterprises, which could be created on the territory of the USSR or other countries on the basis of common ownership, and international associations and organizations, where national ownership is preserved but joint activity is carried out on the basis of coordinated or common plans.

Joint enterprises will be entirely financially autonomous, economically independent organizations endowed with broad rights in the sphere of export and import relations, the agreeing of prices for the output produced, the conclusion of contracts, and so forth. The profits made by such enterprises will be distributed among their participants in proportion to their contribution to the state fund [ustavnyy fond].

Joint enterprises will carry out their activity within the system of the Soviet economy and will be guided by the legislation which exists in the USSR and by the labor and social norms for Soviet citizens. Provision is also made for a new procedure for sending Soviet specialists to CEMA countries within the framework of direct ties.

This procedure will considerably facilitate the organization of official secondments on the basis of granting the right to resolve these questions directly to the leadership of associations and enterprises.

The measures adopted open up wide opportunities for accelerating the process of socialist economic integration and for stepping up in every way the practice of joint ventures in the production, scientific, and technical fields within the framework of the community.

Provision is made for the development of new forms of economic relations with firms in capitalist countries, including joint ventures in the scientific, technical, and production fields and the setting up of joint enterprises. In applying the new forms of economic ties, the Soviet state will proceed in its mutual relations with foreign partners on the basis of compliance with the principles of mutual benefit and will guarantee respect for their interests and rights. At the same time the principle of the state monopoly of foreign economic activity and unconditional compliance by foreign partners with Soviet laws and norms will continue to be adhered to firmly. The CPSU Central Committee and the USSR Council of Ministers believe that the struggle for a decisive restructuring of foreign economic activity must be the cause of the whole party and the whole state, and express firm confidence that party, soviet, and economic organs and the labor collectives of production associations, enterprises, and organizations will ensure the unconditional fulfillment of the measures adopted by the CPSU Central Committee and the USSR Government with the aim of implementing the 27th CPSU Congress decisions.

## **Appendix B**

### *Reorganization of the Management of Foreign Economic Relations of the USSR*

By the decision of the CPSU Central Committee and the Council of Ministers of the USSR a radical reorganization of the management of the foreign economic relations system has begun in the Soviet Union. It is part of the general reform of the economic mechanism of the country and is called upon to bring the forms of foreign trade into line with the scale achieved by it, to make foreign economic contacts more flexible and efficient and to subordinate them to the strategy of accelerating the social and economic development of the country.

In order to improve the management of the foreign economic

complex and coordinate operations carried out by departments and organizations working on foreign markets, a State Foreign Economic Commission was established. As a standing body of the Council of Ministers of the USSR, the commission will exercise guidance over the activities of the Ministry of Foreign Trade, the USSR State Committee for Foreign Economic Relations, the Bank for Foreign Trade, and other departments participating in foreign economic operations across the entire range of commercial, industrial, scientific and technical cooperation with foreign countries. A Council on Science and Economy is to be set up under the commission to study more important problems of the foreign economic activity of the Soviet Union. Vladimir Kamentsev was appointed Chairman of the commission in the status of Deputy Chairman of the Council of Ministers of the USSR.

Starting from January 1, 1987 21 ministries and departments and also about 70 enterprises and amalgamations (groups of enterprises) will receive the right of direct access to foreign markets at the level of specific commercial operations. This will enable them to work actively in the sphere of international commercial, industrial, scientific and technical cooperation, and to develop more rapidly new forms of business partnership. The ministries and departments are to maintain these contacts through cost-accounting foreign trade agencies to be attached to them, and the amalgamations and enterprises—through foreign trade firms to be set up within their structure.

The enterprises and amalgamations which received the right of direct access to foreign markets will conduct their commercial operations on the basis of cost-accounting, self-financing and without state currency subsidies. This means that they must make efforts to ensure a balance of their foreign payments. However, they also get the right to use currency credits of the Bank for Foreign Trade, including credits to finance measures devised to broaden their export capability. Foreign economic operations of amalgamations and enterprises will become an organic part of the economic mechanism and the results of foreign operations will be directly linked to the overall results of economic performance. Specifically, it is planned to establish a system of interrelationship between transactions carried out in domestic and world prices with a view to ensuring cost-accounting in their work.

The Ministry of Foreign Trade will retain its functions of trading in most important raw materials and foodstuffs, as well as in a number of goods of national importance. A number of export/import associations, primarily those dealing with machinery and equipment, are given to industry in full or partially. In addition to organizing the construction of industrial and other installations

abroad, the USSR State Committee for Foreign Economic Relations will be in charge of supervising the construction in the Soviet Union of enterprises with the involvement of foreign firms.

The reorganization is called upon, first and foremost, to intensify direct contacts between Soviet enterprises and their partners in the CMEA (Council for Mutual Economic Assistance) countries, including with a view to fulfilling the Comprehensive Programme for Scientific and Technical Progress in the CMEA countries for the period up to the year 2000.

The reorganization is also called upon to ensure the transition from predominantly commercial ties to deep-running specialization and co-production, especially in machinebuilding. However, the reform creates most bountiful opportunities for expanding cooperation with the interested firms and agencies in Western and in developing countries.

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In the conditions of the steadily growing importance of international contacts in production, special emphasis is to be made on new forms of cooperation, including the development of co-production industry and the establishment of joint enterprises on Soviet territory, in the process of reorganization of management of foreign economic relations of the USSR.

The establishment of such enterprises with partners from socialist countries was permitted in 1983, and the task at the present time is to upgrade the requisite economic, legal and organizational conditions for that on the basis of full-scale cost-accounting and mutual benefit.

At present new possibilities for developing co-production in industry and for the establishment of joint enterprises are offered to interested firms in capitalist and developing countries as well. The endorsed principles of establishing such enterprises combine both the specific features of the Soviet economic system and the positive world experience of joint enterprise and joint activity in the sphere of production.

Joint enterprises can be established for the output of products currently imported from abroad. However, it is expected that at the same time they will carry out active export operations, including with the use of the marketing and servicing networks of both partners. The main areas of cooperation of interest to the Soviet side as of today are: the output of chemicals for use as pesticides, dyeing agents, chemical fibres, and individual types of machines, as well as the pulp-and-paper, light and food industries.

Joint enterprises are set up on the basis of joint capital with the share of the foreign participant not exceeding 49 percent. Its con-

crete contribution can take the form of equipment, technology or currency funds.

Alongside the contribution of the foreign partner to the fixed assets, spending on the social infrastructure of an enterprise will be taken into consideration in full or partially. The evaluation of the contribution and property of the partners will be made in an agreed currency with account of world market prices.

Joint enterprises shall not receive any obligatory planned assignments from the Soviet authorities and shall determine their production programmes themselves. The provision of Soviet-produced material resources to them and the marketing of products to Soviet users shall be handled through Soviet foreign trade associations at the agreed prices with the account of world market prices. These enterprises shall also pay for the lease of land and for the water consumed. They can carry foreign economic operations either independently or through Soviet foreign trade agencies specializing in the corresponding field.

The foreign partner shall receive the right to the free transfer of profits and also of other assets due to it. A reasonably favourable level of taxation shall be set for it. The foreign partner shall have the right, within the limits of its established share of the joint capital, to re-investment of its profits with a view to enlarging or modernizing production.

The terms of payment, the time of work and leisure of Soviet citizens employed by joint enterprises, and the terms of social security and insurance shall be determined by the Soviet legislation. Qualified specialists from abroad can be invited to take part in the work of such enterprises. The Soviet legislation applies to them, excluding matters related to the payment for work, leaves and the provision of pensions. These specialists shall receive the right to remit part of their salaries abroad in foreign currency.

The highest authority of a joint enterprise shall be a board composed of representatives of both partners. The management shall be in charge of guiding day-to-day activities of an enterprise. The Chairman of the Board and the Director-General shall be appointed from among Soviet citizens. However, foreign partners shall also get the right to a meaningful participation in running the enterprise and in monitoring the quality of its output.

The property of a joint enterprise cannot be requisitioned or confiscated administratively. Economic disputes related to its activity shall be solved in Soviet law courts or, subject to the agreement between the sides, by arbitration panels.

The activities of a joint enterprise can be terminated by the agreement of the sides or by the decision of the Council of Ministers



of the USSR in case it does not correspond to the aims for which this enterprise was set up.

Talks with foreign firms on the establishment of joint enterprises shall be held by branch ministries with foreign trade agencies taking part.