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Martin P. Levin

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THE CHALLENGE OF DOING BUSINESS IN THE SOVIET UNION

MARTIN P. LEVIN *

The problems associated with doing business in the Soviet Union include finding the correct Soviet entity able to make a deal, the lack of experience in negotiating commercial transactions, the language, cultural and communication barriers, the lack of convertibility of currency and the inhospitable business environment.

My own experiences in the Soviet Union began in 1976. I was on my first trip to Moscow, accompanied by a delegation of publishers, and the chairman of the *Goskomisdats* (which is now called *Goskompechat*) urged us to exhibit at the first Moscow Book Fair to be held in September 1977. I was asked by my fellow publishers to present him with our demands. Never having dealt with the Soviet Union before, I accepted the challenge and asked, as a quid pro quo, that in order for American publishers to attend the Fair, the Soviets had to invite Israeli publishers to attend, to make the Fair open to all Soviet citizens and to give assurances that no censorship would take place. The list of demands went on. To each demand, I received a "nyet." Boris Stukalin, the chairman, replied, "We cannot invite publishers of Israel; we do not have a diplomatic relationship with the Israelis. We will determine which Soviets will attend the Fair," and so forth. All the demands were summarily rejected. The next day, our cultural program was changed and we were asked to reconvene the meeting to discuss the Moscow Book Fair again. Mr. Stukalin asked me to put the same questions to him again. He said the translation on the previous day was imperfect; the interpreter was poorly trained. The same questions then received answers that were sufficiently positive to attract the substantial U.S. involvement in the Moscow Book Fair, which has continued to the present.

So, from the beginning in 1976, I started a love/hate relationship with the Soviet Union. I love being there, I hate what happens when I get there. When I get on Pan Am flight #30 on Saturday night, it will be my thirty-fourth or thirty-fifth trip, and my twelfth in the last two years. And as I look at my present visits from the perspective of 1976, it really is the best of times. I'd like to share with you some of the things that are happening and projects in which I am involved.

There is now a Press Law in the Soviet Union.¹ The Press Law,

* Counsel, Cowan, Liebowitz & Latman, P.C. (New York City); Adjunct professor of law, New York Law School, Benjamin N. Cardozo School of Law; B.S., 1946, Temple University; J.D., 1983, New York Law School.

1. The Law of the Union of Soviet Socialist Republics Concerning the Press and Other

even with its imperfections, gives me a great deal of comfort because there is a section that says, in essence, that the Soviet Union now acknowledges and incorporates into the Press Law those agreements it has previously entered into on an international basis.² The foreign office of the Soviet Union has amplified this provision in a separate report. The conformation of this provision means that such documents as the Helsinki Accords, the Madrid Conference and all other agreements whose benefits were never realized, are now operative by law. This is the best of times. When the press runs of Soviet publications are being reduced below demand because of the paper shortage, and possibly on a discriminatory basis, it is the worst of times.

From time to time, I think I might like to go back to the old days before the Press Law, *glasnost* and *perestroika*, because in the old days I was able to deal with one monolithic, controlling organization. I knew the offices to go to, and I knew what it would take to get a "yes" answer. Because of the inability to identify the current business partner, it is very difficult to do business in Moscow now. I set up the first American Book Store in Moscow in 1988. It was a terrible location; however, at the time, it was the best that we could do. Then I wanted to move it downtown. After I picked the space, which was available, three different Soviets tried to rent the same space to me. This represented an entrepreneurial overload. Finally, I discovered not one of the three had the authority to lease the space.

Even when the negotiating partner is identified, it is still difficult to negotiate a deal. A case in point: I represent the American Institute of Physics. The translation of Russian language journals into English has been a long-term relationship between the Soviet Union and the United States, whose two major scientific establishments have made significant contributions to physics research. However, the Russian physicist writes of his experiments in Russian (Russia is the only country in which physics research is not written originally in English). Since the American physicists, for the most part, cannot read Russian, AIP, the U.S. not-for-profit physics society, translates from the Russian, publishes English translations and sells them to the American physicist. The copyright agency, VAAP, which handled the business arrangements for the Institutes in the past, is no longer the exclusive agency. In order to extend the contracts, which have been in existence for thirty years, AIP must deal individually with twenty different professional Soviet physics societies, each of which has never negotiated a contract before and is not represented by an attorney or professional negotiator.

The unreliability of currency is also a significant deterrent to trade.

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2. *Id.* art. 33.

Many years ago, the Soviets created joint ventures, which they believed would be attractive to foreign partners and encourage hard currency investments. Generally, the Soviets contribute the market and some services. The hard currency is supplied by the foreign partner. The difficulty is that the trading is done in rubles. The ruble is not convertible to hard currency and is significantly overvalued.

One such joint venture is *Burda*, a women's fashion magazine discovered by Raisa Gorbachev when she was on a visit to West Germany. With the encouragement of the Kremlin, a joint venture was created to translate *Burda* from German to Russian and sell it in the Soviet Union. *Burda* is translated from German to Russian in the Soviet Union, printed in Germany for hard currency and shipped into the Soviet Union. The sales of *Burda* are over a million copies a month at five rubles a copy. The joint venture generates some sixty million rubles. In order to effect conversion to hard currency, the Soviet Union permits this joint venture to engage in counter trade, that is, buying Russian manufactured goods for rubles and selling these goods to the West for hard currency. It is difficult to find Soviet goods in the amount of sixty million rubles, especially when goods such as vodka, caviar and art have already been spoken for. Joint venturers become interested in real estate, in restoring ships and in other extraordinary items—but they are still left with millions of rubles. The hope for joint venturers lies in the future, when there will someday be an opportunity to convert these rubles to hard currency. However, this will be at a sharp discount and, most likely, far off in the future.

The non-tourist ruble rate is 1.60 to the dollar. At a currency auction, which occurs from time to time, the rate is twenty to thirty to the dollar.³ The prospect of a joint venture becoming viable by converting from rubles to dollars is not promising. Until recently, joint venturers were never allowed to participate in the occasional auctions of currency.

The good news is that with the new regulation it is possible for foreign companies to establish their own presence and deal directly with Soviet entities. I represented the Reader's Digest, which will be translated into Russian and sold in the Soviet Union. The Reader's Digest elected not to utilize a joint venture. It decided to maintain control of the enterprise in order to insure that the Reader's Digest in Russian, which would be based on the U.S. edition, would not be censored and that the Reader's Digest could control the quality of translation and printing. The Reader's Digest searched for entities that would enter into contracts to translate, print and distribute its magazine. After considerable effort, three such entities were located, terms negotiated and contracts signed.

3. Since this speech, there have been adjustments in the ruble/dollar conversion for tourists and commercial rates.

It took two years to complete this deal. Why? Soviets have faxes but the telephone lines on which facsimile devices depend are overcrowded until about 3:30 a.m. If one wishes to get a message through, one arranges to get up at 3:30 in the morning to send a fax from home. Telexes go through because there are dedicated telex lines. However, it is a major problem to get a Soviet to pay attention to the urgent message one is sending. You may send an urgent message by fax or telex, but it often takes a week for someone to interpret the fax from English to Russian, and for you to get a response. It is not in the Soviet culture to respond quickly, or indeed, to respond at all. There is also difficulty concerning travel to the Soviet Union. Until I was fortunate enough to obtain a visa that allows me to travel without having to apply repeatedly, I would worry before each trip that the Soviet Embassy in Washington might not approve my visa in time. Despite the need for commercial investment and the "thaw" in relations, a visa is required for every trip.

Is there hope for a commercial revolution? I think so. In the long run, a mineral rich nation of 270 million literate citizens, with a rich tradition in literature, dance and the arts, will solve the problems of a transition to modern business methods, convertible currency and ease of communications. I come back from some trips encouraged, others discouraged. But, from 1976 to 1991, there has been an upward movement towards a more open society, one that is more allied to the West, proud of its cultures and heritage and willing to learn how to operate in a sophisticated commercial environment.

I think those of us who suffer through the bad times and enjoy the good times do business in the Soviet Union because we wish to be a part of the history of this transition to a successful, commercially viable country. It is one of the few challenges in business and in the law remaining today.

Thank you very much.