LAW AND CONTEMPORARY PROBLEMS

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FOREWORD

The progressive political polarization of the world that this last decade has witnessed is perhaps nowhere more graphically reflected than in the field of international trade. Thus, in 1947, the United States exchanged \$693,461,000 in exports and \$224,947,000 in imports with communist-bloc countries; in 1958, the analogous figures were \$113,000,000 and \$64,000,000, respectively, the bulk of which was with Poland.¹ To alter this situation, and ostensibly to promote world peace, Premier Khrushchev, in June 1958, invited President Eisenhower to explore with him the possibility of encouraging more extensive commercial intercourse between the United States and the Soviet Union.²

This overture was received with a polite show of interest and a promise of more detailed study,³ but the further reply that was indicated was never forthcoming. If only to reassure friendly and uncommitted nations the world over of our sincerity of purpose, some explanation that would clearly and convincingly define our position in the matter seemed to be required. To this end, therefore, the Senate Committee on Foreign Relations propounded and directed to the Department of State a series of twenty-two questions designed thoroughly to ventilate our policy toward trade with the Soviet Union—and, inferentially, other communist-bloc countries as well.⁴

The response elicited, which Senator Fulbright has characterized as "one of the most comprehensive statements of the administration's position on U.S.-U.S.S.R. trade relations available," reveals several serious obstacles to any meaningful commercial rapprochement. Although some of them quite patently stem from the "cold war"—and, accordingly, are beyond the scope of our inquiry—others seem directly traceable to the philosophical as well as practical difficulties that inhere in attempts to accommodate state and private-trading systems. Thus, for example, while purporting to favor expansion of peaceful trading with the Soviet Union, the Department of State demurs:

¹ Senate Comm. on Foreign Relations, 86th Cong., 1st Sess., U.S.-U.S.S.R. Trade Relations 1 (Comm. Print 1959).

² Id. at 3-6.

^{&#}x27;Id. at 9-27.

⁶ Id. at 10.

^{*} Id. at 7.

⁸ Id. at 1.

The administration considers that U. S. trade with the Soviet Union is conducted, and should continue to be conducted, by private American businessmen. The proper function of the U. S. Government is merely to establish the framework within which such trade takes place. The administration therefore considers that the most direct and effective method by which United States-Soviet trade can be increased is for the Soviets to purchase more in the United States, and for the Soviets to offer a wider selection of products at reasonable prices.

Again, in discussing the granting of "most-favored-nation" treatment to the Soviet Union, the Department warns of⁷

... the inability of a state trading country like the Soviet Union to grant reciprocal concessions to the United States which would be comparable with most-favored-nation treatment by the United States.

And in explaining the general lack of interest on the part of businessmen in pursuing trade prospects with the Soviet Union, the Department observes:8

There are very real difficulties in making commercial contacts and obtaining commercial data from the Soviet Union, which conducts foreign trade as a state monopoly and does not disclose information normally made available by countries interested in expanding trade or desired by American businessmen interested in exploring trade opportunities with the Soviet Union.

Of more than passing interest, too, is the dim view that the administration takes towards a proposal to establish a U. S. Trading Corporation, which would employ state-trading techniques to counter Sino-Soviet penetration of world markets. Apart from some question as to the effectiveness of such an instrument, the Department of State moralizes: 10

Creation by the United States of a trading corporation would be in imitation of Soviet state-trading methods and contrary to traditional U. S. encouragement to and reliance on free markets.

The form in which we cast and direct our foreign trade today has profound implications for our future. Our contributors have sought to illuminate at least one dimension of this problem by analyzing our present officially articulated policy toward state trading in the light of actual practices at home or abroad. Whatever tack is ultimately followed in this regard should be chosen free of emotive and other irrational considerations. It is to this liberation that this symposium has hopefully been addressed.

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7 Id. at 11.
8 Id. at 14.
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⁹ H.R. 2159, 86th Cong., 1st Sess. (1959).

¹⁰ Senate Comm. on Foreign Relations, op. cit. supra note 1, at 25.