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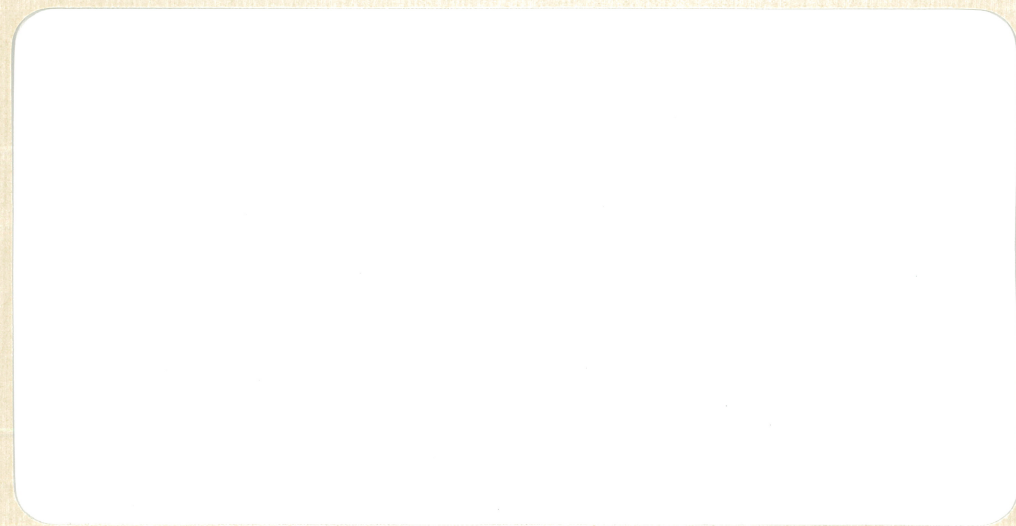
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**Creation of a Legal-Institutional Basis for
Facilitating Trade, Economic, and Technological Ties
between Russia and Taiwan**

by
Cherng-shin Ouyang

No.9304

July 1993

Paper presented to the 1st Conference on "Nongovernmental Ties between Russia and Taiwan: Problems and Prospects," Moscow, 18-19 March, 1993.

1. The first part of the document is a list of names and addresses of the members of the committee.

2. The second part is a list of the names of the members of the committee.

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4. The fourth part is a list of the names of the members of the committee.

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The creation of a legal-institutional basis for facilitating mutual ties between Russia and Taiwan in such fields as science, technology, trade, and other related economic activities is the subject addressed in the present session at the conference.

I am delighted to be called upon to giving some constructive remarks on their present status, obstacles, and possible means of amelioration. I must admit, to begin with, that it is a very vast and complicated subject to be adequately treated within the time constraint -- given the fact that Russo-Taiwan economic relations are still in their embryonic stage. It is also beyond my professional competence to evaluate in full the scientific-technological questions insofar as they form an integral part of Russo-Taiwan economic ties. Still I spare no effort to meet the challenge. My main object for

* Associate Research Fellow, Chung-Hua Institution for Economic Research.

presentation accordingly will be trade issues, touching upon other vital issues as peripheral.

I. Current Status of Russo-Taiwan Trade and Economic Relations

Trade relations between Russia and Taiwan, as they are disclosed in annual Current Account entries, cannot be considered satisfactory in either direction. This amounts to saying that the realized two-way trade turnover falls short of the potential that, by rational calculation, should be capable of being released under "normal circumstances." The distinction between "normal" vs. "abnormal" circumstances has, undeniably, more to do with the destabilized Russian economy than it does with Taiwan at the moment. Thus, if conditions were favourable, Taiwan as a resource-poor economy, yet a powerful engine for manufacturing exports, should have found enormous trading opportunities in Russia. Likewise, the latter should demonstrate strong appeal toward Taiwan with regard to the inestimable treasure it possesses: a rich natural resources endowment, a sophisticated chain of industrial and technological complexes, superb command over the fruits of scientific research and their applications, etc. But the current situation is just the opposite.

II. Bilateral Trade: High Growth Rate Is No Cause for Relief

In 1988, when the ROC government first lifted the ban on direct trade with the former Soviet Union, a meager US\$7.9 million turnover was recorded in our trading

account (Table 1). Last year (1992) total Russo-Taiwan trade grew to US\$500 million, which is 63 times the 1988 figure. This was arrived at by assuming that 80% of the (unclassified) trade turnover with the whole of the Soviet Union, namely US\$164.6 million, is also included in the customs statistical base (see Note#2, Table 1), though an annual average of 268.7% in the growth rate of bilateral trade is registered over 1988-92.

Table 1 Taiwan's Trade with Russia 1988-1992

(in million US\$)

Year	Export	Import	Balance	Total	Growth Rate (%)	Share ¹ (%)
1988	---	7.9	-7.9	7.9	---	0.00
1989	20.6	54.8	-34.2	75.4	854.0	0.06
1990	59.0	60.6	-1.6	119.6	58.6	0.10
1991	63.3	164.5	-101.2	227.8	90.4	0.16
1992	23.0	368.0	-345.0	391.0	71.6	0.26
1992 ²	44.44	455.24	-410.8	499.7	119.4	0.33
1988-92 annual average	---	---	---	---	268.7	---

Sources: Board of Foreign Trade. Monthly Reports, March 1993

Notes: 1) As Percentage Share of Taiwan's Total Foreign Trade.

- 2) Denote variants of approximate Russo-Taiwan trade after adjustment, i.e. by adding 80% of the unidentified USSR-Taiwan trade figures to those that are free from identification problem. Here, 80% is purely hypothetical. This problem arises because the break up of the former Soviet Union in December 1991 makes it administratively impossible to base customs statistical reporting of both imports and exports upon consistent territorial classification. Some trading companies, both in CIS and Taiwan, still use the former USSR as the country of origin/destination for their imports/exports. In 1992 Taiwan's export to and import from the USSR (rather than that of Russia as a separate territorial category) amount respectively to US\$26.8mn and US\$164.6mn.

Russo(Soviet)-Taiwan trade as a proportion of Taiwan's total foreign trade has never exceeded 0.33% in any single year -- a disappointingly low figure. This low level traffic explains, however, both "a lot" and "too little." It shows, on the one hand, that great potential exists for both trading partners to explore in earnest a feasible structure and mechanism for developing mutual ties in the trade, economic, and technological spheres. But there are indeed very few sources from which concrete and intelligible policy may be formulated in this pursuit. (In other words, what we are confronting at present is the lack of an adequate and reliable knowledge base.) Its coming into being in my mind is impeded by a spuriously created artificial barrier owing to many factors. I am tempted to call the barrier artificial because, given normal conditions as witnessed in Taiwan's economic ties with other countries, it has no reason to subsist. This state of affairs is, of course, much easier to lament than to explain.

In what follows I shall try to identify the sources of existing constraints by which large-scale bilateral trade has been prevented from taking place. I shall, in this connection, waive the usual complaints and discussions about routine problems of, say, business tours made by foreigners in Russia, recognizing in this respect that two-way knowledge-based market development calls for a deeper understanding of the unique characteristics of two fundamentally different trading systems: that of Russia and of Taiwan.

III. Barriers to Normal Economic Ties

In talking about differences in the trading systems of Russia and Taiwan, one is inclined to argue that the former is now caught up in the confusion of the transition from a command to a market economy, whereas the latter displays all the vitality of a moderately developed market economy comprised of small- and medium-sized enterprises. There is no commensurate mode of operation of the two entities. Thus it seem to be asking too much to expect Russian trading organizations to behave in an analogous fashion to their Taiwanese counterparts. This is true to a certain extent in my opinion. But it does not take into account the whole picture because apart from this we could easily come up with a dozen concrete factors that are responsible for the low level of economic interaction so far between Russia and Taiwan.

According to the agenda of the present conference, the single precondition to developing economic ties between Russia and Taiwan is that they should be "nongovernmental." Though I have some reservation about the essential meaning of this term -- if taken intuitively -- there is still some way to go before any ties may be declared "governmental." My argument then would be premised upon a broad range of flexibility in interpretation. Many constructive relations between Russia and Taiwan can still be visualized and carried out regardless of the circumventive status to which both of us are accordingly subjected. Indeed, the ROC is an exemplar case of a powerful international trader which lacks de facto diplomatic recognition from most

foreign governments. It shows, therefore, that the evolving outer constraint of Russo-Taiwan relation may not be altogether damaging to the development of normal economic ties. It is within the latter context, namely, the sphere of bilateral economic ties, that barriers assert real force. The barriers are of numerous shapes and origins: legal, institutional, and operational, which are the more fundamental; and the problem-ridden system of the Russian economy in transition as secondary. Now allow me to elaborate somewhat on the former; to save time the secondary impediments will not be taken up.

As one half of the dichotomy, the fundamental barriers refer to a constellation of (invariant) build-in systems by which all bilaterally-linked economic activities are regulated, either directly or indirectly. They affect the operation of an economy and its foreign economic relations. Obstacles of this kind are, of course, not the exclusive preserve of the Russian Federation in the development of ties with Taiwan. Taiwan may also be blamed for many of the fruitless dialogues with the host country in the past. But I shall limit my discussions to half of the scenario -- the Russian side.

Legal

From the beginning of 1992 there have now been about 180 economic or semi-economic resolutions issued by the Russian higher authorities. Some of them concern foreign economic relations. Constant changes have been made in legislation, amendment, enactment, and so on in some measures such as import duties, quotas, enterprise profit tax, share of export proceeds to be sold to the State Bank, etc. This

information is available in Russia but it is doubtful how extensively it is disseminated to outsiders with commercial interests. This information gap alone discourages potential business from taking place to a degree that can hardly be guessed. Apart from that, in both conventional and unconventional trade -- the subject I shall turn to shortly -- it is natural for all parties concerned to look for legal protection. There is a long list of legal-judicial steps required for any deal to be honored by both contractual partners. This includes everything from company territorial registration, right of patent and trademark, notarization of documents, disputes settlement, courts of justice for arbitration or enforcement of penalties, to protection of, say, intellectual property rights. To give just one example, Clause 2.d) of Article 16 of the Foreign Investment Law (issued on July 4, 1992 by President Yeltsin) stipulates that a Russian version of the notarized company registration file in the home country should be submitted to the Ministry of Finance for registration in the Russian Federation. This routine regulation constitutes an obstacle -- though I fully agree that it is legitimate. (A trading agent or investor would not dare to risk incalculable losses that may occur purely because he is convinced of supernormal profit that lies ahead.) Thus an umbrella must be provided by public authorities to safeguard commercial risks.

Institutional

This obstacle is as much attributable to the abnormal path of restructuring in present-day Russia as to the limited adaptive capacity of Taiwan business people. I would not contend in this connection that the Russian institutions in transition are now paralysed because the traditional mechanism of planning has been dismantled, yet

market regulations are not in sight. But problems arising from structural maladjustments are real and damaging. It is infeasible for a well-wishing company director to check, for example, the credit record of his business partners, both in the Russian Federation and in ROC. The severity of this problem is compounded not only by the physical distance that stands between but also by the well-understood problems of means of communication, bureaucracy, and language that may exist in any business deal. Institutional obstacles also include the lack of organizational effort in bridging the gap in harmonizing technological norms, certification, the exchange of patent and trademark registration, and accordingly in facilitating turn-key transfer of technology.

COCOM imposes another constraint as Taiwan (itself not a signatory member of the organization) has been unfairly and unilaterally under constant US pressure to control shipment of sensitive technology to the former communist countries at the gain of US high-tech industries. This outdated ruling has survived incessant protests from Europe and Japan. However, the US, finding itself increasingly less competitive in many arenas, is contriving harsher terms against rival competitors so as to fill in the business/power vacuum.

To safeguard mutual interests it is up to us to devise a viable mechanism for facilitating the emergence of all necessary ties, despite the fact that Russia in regard to technological cooperation has substantially more to offer than Taiwan does. For that matter, legal-institutional stipulations are urgently called for.

Operational

The rest of the impediments to bilateral economic relations may be indiscriminately labelled as operational. Many of them are, of course, historically inherited. But given the high versatility of Taiwanese enterprises in approaching new markets, this problem may be eradicated with time.

IV. Establishing a New Mechanism

The time has come therefore for us to confront the realities. A new mechanism laying the legal-institutional base aimed at harnessing bilateral commercial ties is strongly recommended. To undertake the task it is imperative to institute a system of accountable organizations having dual features: i.e. official and non-official. Namely, the core is represented by official functionaries but assumes the form of non-official affiliates at the ministerial level from both Moscow and Taipei. It stretches along the axes to all administrative bodies responsible for overseeing all coordinating matters of the two countries. The outlying structure of the diverse organizations would embody and be reflective of the need to resolve the foregoing issues as discussed in Section III.

This undertaking has as its objective the laying down of a solid and durable framework for promoting business in both directions. Apart from that, I would first like to prescribe some positive suggestions to cope with current trade issues. Related suggestions will then be taken up.

Tangible Trade

Trading may be subdivided into “tangibles” and “intangibles” categories, or what I previously called “conventional” and “unconventional,” respectively. The former covers trading in merchandise such as raw materials, tools, equipment, consumer goods, and other intermediate goods. The latter consists primarily of know-how, technology-leasing, services, in other words, that which is physically intangible. In both spheres a direct bilateral contract is the indispensable prerequisite to obviate cumulative mark-up expenses arising from the intervention of intermediaries from Japan, the US, etc. Other strategic considerations for mounting larger-scale deals than are realized at present must, of necessity, account for the problems that restrict trade. Concrete suggestions are as follows:

Countertrade

Existing trade volume between Russia and Taiwan is limited by the payment mechanism. To overcome this constraint and the fact that a sizeable proportion of Russian foreign trade is still conducted through barter, compensation, debt-swap at discount, and so on, I should like to advance “countertrade” as a substitute for “barter.” To pursue this, a series of steps are involved:

- a) Open a joint account, say, in a bank of a third country, which undertakes clearing of lists of goods from Russia to Taiwan and vice versa;
- b) Shipment of goods is based on L/C with full institutional backing in case

of default;

- c) Mutual guarantee rests upon the provision of a clearing fund derived from residual export credit, i.e. left after paying for imports from the exporting nation. The trading partner does the same by drawing on the excess credit it is entitled to use for imports;
- d) The pool of resources, which vary, of course, with the level of trade, are disposed for paying insurance, penalty charges, operational expenses, and levies proportional to credit extended at commercial rates.
- e) As a last resort -- when excessive default arises --both the Russian and ROC governments will intervene. For example, strategic minerals, oil, natural gas, real estate, etc., may be used as debenture, so as not to disrupt the flow of trade.

The clearing account mechanism is not new in international trade. Actually it has been practiced already with both success and failure in the former Soviet Union's trade with European countries. I suggest that operations a) to e) receive full backing from Central Trust of ROC on our side and the equivalent counterpart from the Russian government.

The Intangibles

Trading in intangibles requires technically far more sophisticated legal-

institutional backup. Taiwan, though a moderately high income economy, is unfortunately underdeveloped in all aspects of the infrastructural set-up needed to do this. But we are learning. In view of the supply-demand structure that characterizes the Russian and Taiwanese economies there is enormous potential. Taiwan is now intending to upgrade its manufacturing technology whereas Russia is extremely rich in the attainment of both fundamental and applied research for scientific and industrial technologies. In such fields as aviation and space, metallurgy, industrial materials, machine- and ship-building, superconductivity, laser and radiation medical equipment, precision engineering, etc., Russia claims technologically superior and competitive know-how that may be fruitfully converted into commercial use. The ideas and means for promoting these mutually beneficial commercial interests were explicitly mentioned previously, and they cry out for serious attention from all the participants at this conference to help tackle this issue.

Promotion of Small- and Medium-Sized Enterprises in Russia

Russia is now in the process of encouraging privatization and development of small- and medium-sized enterprises (SMEs). In this respect our experiences may be of great relevance.

Indeed, the rapid development of Taiwan's economy is due to many factors. Structurally the successful evolution of small- and medium-sized enterprises has had a very positive impact and this unique experience has attracted attention worldwide. One interesting feature of SMEs is that, contrary to the usual reasoning of return to

scale, SMEs seem to have fit well the tempo and structure of growth of the Taiwanese economy, at least since the 1960s.

Right now, around 800,000 enterprises may be classified as small- and medium-sized, which account for more than 98% of the total number of enterprises in Taiwan. These miniature firms engage about 70% of the total active work force and produce 45% of GNP in Taiwan. As for export revenue, 60% is attributable to the SMEs, especially in the manufacturing sector. The above figures have left unaccounted other functions SMEs play. They include: high social stability created due to virtual full employment because SMEs are quite labor-intensive; reducing inequality of rural-urban income distribution; high resilience and versatility of SMEs in adapting to changing economic circumstances; assuming the shaping force in the formation of a competitive market essential for efficiency, and so forth.

All these suggest that it is of importance to conduct feasibility studies to expediently transplant to Russian soil what is considered the "know-how" of Taiwan SMEs. I assume this is the least expensive approach to revival of the Russian economy. Moreover, they would constitute part and parcel of the attempt to cement mutual ties between Russia and Taiwan.

Others

Of even greater importance, goods traded between Russia and Taiwan do not yet enjoy preferential treatment in import duties. I would like to take this opportunity to push for an early settlement of this problem to expedite the full scope of bilateral

cooperation. Equally, protection of investments, intellectual property, trademarks, and so on, must be in order to ensure continued venture capital formation.

V. Summing-up

To conclude, we realize the present difficulties of the Russian government in coping with the restructuring problems of the economy. I wish you every success in this ambitious and grand undertaking. Lastly, may I congratulate the host organization-- the Diplomatic Academy of the Ministry of Foreign Affairs -- for having staged a fruitful conference for which we came a long way to participate.

Thank you and best wishes!

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