



TREATY REGULATION OF THE TRADE MISSIONS AND ECONOMIC DIPLOMACY

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SUMMARY

The article deals with the international treaties regulating the activities of trade missions and economic diplomacy. Author provides a brief description of each of the treaties, emphasizes the peculiarities of the application of these norms of a universal, regional and bilateral nature. The Vienna Convention on Diplomatic Relations of 1961 and the Vienna Convention on Special Missions of 1969 remain the highest priority among the treaties regulating the activities of trade missions and the economic diplomacy. Analysing the bilateral treaties, the article gives examples of current treaties of Ukraine. The author also considers some bilateral agreements between states and international organizations.

Keywords: international treaty, trade mission, economic diplomacy, internationally protected persons, special mission.

ДОГОВОРНОЕ РЕГУЛИРОВАНИЕ ТОРГОВЫХ ПРЕДСТАВИТЕЛЬСТВ И ЭКОНОМИЧЕСКОЙ ДИПЛОМАТИИ

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АННОТАЦИЯ

Статья посвящена вопросам международных договоров, которые регулируют деятельность торговых представительств и ведения экономической дипломатии. Автор представляет краткую характеристику каждому из договоров, акцентирует внимание на особенностях применения норм универсального, регионального и двустороннего характера. Ведущее место среди договоров, регулирующих деятельность торговых представительств и ведение экономической дипломатии, занимают Венская конвенция о дипломатических сношениях 1961 г. и Венская конвенция о специальных миссиях 1969 г. Анализируя двусторонние договоры, в статье приводятся примеры современных договоров Украины. Также автор рассматривает некоторые двусторонние договоры между государствами и международными организациями.

Ключевые слова: международный договор, торговое представительство, экономическая дипломатия, лица, пользующиеся международной защитой, специальная миссия.

REZUMAT

Articolul este dedicat problemelor tratatelor internaționale care reglementează activitățile misiunilor comerciale și desfășurarea diplomației economice. Autorul prezintă o scurtă descriere a fiecăruia dintre contractele, se concentrează pe caracteristicile de aplicare a acestor norme ale problemelor universale, regionale și bilaterale. Locul de frunte printre tratatele care reglementează activitățile misiunilor comerciale și desfășurarea diplomației economice ia Convenția de la Viena relațiile diplomatice din 1961 și Convenția de la Viena privind misiunile speciale din 1969 care analizează acordurile bilaterale, articolul oferă exemple de tratate moderne din Ucraina. Autorul consideră, de asemenea, unele acorduri bilaterale între state și organizații internaționale.

Cuvinte cheie: acord internațional, birouri de vânzări, diplomație economică, persoanele care se bucură de protecție internațională, misiune specială.

Formulation of the problem. Modern diplomacy is characterized by multi-vector cooperation, cooperation with international organizations and diplomacy at the highest level. In general, the representation of the state, the protection of its interests and interests of its citizens abroad is entrusted to the Ministry of Foreign Affairs. How-

ever, speaking about the trade missions and economic diplomacy, we should also mention the Ministry of Trade as other subjects. National law provisions differentiate the powers of these departments by forming a united, partially united or divided model of economic diplomacy, defining the legal status of trade missions (economic departments) and

their place in the system of agencies of foreign relations.

Activities of trade missions, trade and economic missions, diplomatic missions, legal status of their employees, legal status of officials representing the state in the host state are governed by international law, in particular by universal and bilateral agreements. International trea-



ties, defining the above-mentioned aspects are insufficiently studied in the international law science and require further research.

Actuality of the research. Under the conditions of globalization, each state seeks effective instruments to protect its national interests, to guarantee national security, stability, including in the foreign policy and economics. Thus, a special attention shall be paid to the international legal regulation of trade missions helping national business and economy be competitive at the global market.

Recent publications analysis. Such Ukrainian and foreign scientists as A.-K. Amarey, V.A. Vergun, N.M. Grushinska, B.I. Gumeniuk, G. Carrón de la Carrier, M. Kosteki, O. Naray, K.S. Rana, N.O. Tatarenko, K.A. Flissak, V.H. Tsiyatyy have studied the issues related to the conduction of economic diplomacy and the protection of national economic interests in their scientific papers. Although these works highlight the scientific ideas and conclusions, some aspects are not studied and need to be analyzed.

Setting paper objectives (aim). The general objective of the article is the international treaties' analysis, clarification of the peculiarities of their application, and their classification.

Presentation of the main results and their substantiation. In ancient times, the foreign economic and policy activities of the states were regulated by customary norms and, in some cases, by the internal rules of the states. Since the Middle Ages, the number and importance of the international treaties has been increasing, expanding the sphere of regulation and subjects of treaties.

In the modern period, the practice of multilateral agreements was widespread [p. 53, 1]. The first multilateral treaty on diplomatic law was the Vienna Protocol on the Classes of Diplomatic Agents of 1815, consolidated the basic principles of the ambassadors' activities and the rules of the diplomatic ceremony and the protocol [2]. It also formalized the separation of diplomats into the three classes: Ambassadors and

Nuncios, Envoys and Internuncios, *Chargés d'affaires* [p. 54, 3]. Later, the Aachen Protocol of 1818 added the fourth class, the Minister-residents and put it between the Envoy and *Chargés d'affaires* in the hierarchy of classes [p. 804, 4].

Modern treaty norms of international law serve as a normative tool for regulating the process of conducting diplomatic activity. They could be classified as universal, regional and bilateral ones according to their scope. The other category of international treaties includes the founding acts of international organizations and treaties between the states and international organizations.

The Charter of the United Nations set the main goals and principles of this organization, recognized as the general principles of international law. The rules of the Charter are peremptory norms of international law, and therefore serve as the basis for diplomatic activity. Its Preamble provides the peoples' aspirations "to employ international machinery for the promotion of the economic and social advancement of all peoples" in order to achieve the main goals of the UN. In accordance with Art. 1 para 3 of the UN Charter the purposes of the organization include, among others, "to achieve international co-operation in solving international problems of economic ... character." Art. 2 set forth the general principles of international law, in particular, the principle of sovereign equality of states, the faithful fulfillment of obligations assumed by them and the peaceful settlement of disputes. Chapter IX is entirely devoted to the issues of international economic and social cooperation, in order to "create the conditions of stability and well-being necessary for peaceful and friendly relations among nations, the UN promotes a standard of living, full employment of the population and conditions for economic and social progress and development" (Art. 55). Chapter X governs the functioning of the Economic and Social Council, its structure, powers and voting procedure (Articles 61-72) [5].

After the Second World War, the

rules of the diplomatic law were codified and developed. The universal international treaties regulating the activities of trade missions and economic diplomacy include the Vienna Convention on Diplomatic Relations of 1961, the Vienna Convention on Consular Relations of 1963, the Vienna Convention on the Law of Treaties of 1969, the Vienna Convention on Special Missions of 1969, the Convention on the Prevention and Punishment of the Crime of Internationally Protected Persons, including Diplomatic Agents of 1973 [6], the Vienna Convention on the Representation of States in their Relations with International Organizations of a Universal Character of 1975.

Among the international treaties defining the legal status of trade missions and regulating the economic diplomacy, the Vienna Convention on Diplomatic Relations of 1961 occupies the forefront. The Preamble states that the parties to the convention "from ancient times have recognized the status of diplomatic agents" and conclude this treaty in order to promote friendly relations between the states. Art. 3 includes the functions of a diplomatic mission: "(a) Representing the sending State; (b) Protecting the interests of the sending State and of its nationals; (c) Negotiating with the Government of the receiving State; (d) Ascertaining by all lawful means conditions and developments in the receiving State; (e) Promoting friendly relations between the sending State and the receiving State, and developing their economic, cultural and scientific relations" [7]. The Vienna Convention on Diplomatic Relations of 1961 also defines the procedure for accreditation, the legal status of the diplomatic mission and its employees, in particular the privileges and immunities necessary for their effective functioning.

The Vienna Convention on Consular Relations of 1963 was adopted taking into account the provisions of the Vienna Convention on Diplomatic Relations of 1961. It clarifies the legal status of consuls, establishes their privileges and immunities. According to Art. 5 consular



functions include in particular: «(a) protecting the interests of the sending State and of its nationals, both individuals and bodies corporate; (b) furthering the development of commercial, economic, cultural and scientific relations; (c) ascertaining by all lawful means conditions and developments in the commercial, economic, cultural and scientific life of the receiving State, reporting thereon to the Government of the sending State and giving information to persons interested» [8].

The Preamble of the Vienna Convention on the Law of Treaties of 1969 states that the parties recognize “the ever-increasing importance of treaties as a source of international law and as a means of developing peaceful co-operation among nations”. It regulates the procedure for the conclusion, validity, termination of the international treaties, amendments and reservations to them, and interpretation of their provisions. Art. 7 defines the persons representing their State *ex officio*: Heads of State, Heads of Government and Ministers for Foreign Affairs, as well as Heads of diplomatic missions, for the purpose of adopting the text of a treaty between the accrediting State and the host State [9].

The Vienna Convention on Special Missions of 1969 specifies that “a special mission is a temporary mission, representing the State, which is sent by one State to another State with the consent of the latter for the purpose of dealing with it on specific questions or of performing in relation to it a specific task”. Special missions used to be quite common, but today they are mainly confined to ceremonial events and are called *ad hoc* diplomacy [6]. According to Art. 7 “The existence of diplomatic or consular relations is not necessary for the sending or reception of a special mission”. The functions of a special mission are determined by a bilateral treaty, usually they include the representation, negotiation, handing over of documents, participation in official events. The Head of the State, the Head of the Government, the Minister for Foreign Affairs and other

persons of high rank when they take part in a special mission shall enjoy the facilities, privileges and immunities accorded by international law (Art. 21) [10].

The Convention on the Prevention and Punishment of the Crime of Internationally Protected Persons, including the Diplomatic Agents of 1973 was adopted to guarantee the security of these persons and maintaining friendly international relations among nations. According to Art. 1, internationally protected persons are the Head of the State, the Head of Government, the Minister for Foreign Affairs and members of their families, any representative or official of the State, as well as members of his family. The crimes committed against these persons should be punished according to their grave nature (murder, kidnapping, attack on the official premises or transport). States Parties afford the greatest measure of assistance in case of such crime [11].

One of the most important institutional mechanism for conducting economic diplomacy is international organization. The Vienna Convention on the Representation of States in their Relations with International Organizations of a Universal Character of 1975 defines the rules for the functioning of permanent missions and missions of permanent observers in such organizations. As stated in the Preamble, the participating States recognize the growing role of multilateral diplomacy and the responsibility of the UN before to the international community. The Convention determines the international organization of a universal character (Art. 1). Art. 6 defines the main functions of permanent missions at the international organizations [12].

Besides the universal treaties, the functioning of diplomatic and trade missions is regulated in particular by treaties of a regional character. As previously noted, the Vienna Protocol of 1815 and the Aachen Protocol of 1818 played a key role in the formation of diplomatic law in Europe. Another example of regional treaties is the Havana Convention on Diplomatic Officials of

1928, codified a number of rules of customary diplomatic law at the regional level, valid even today. It was this convention to set forth a diplomatic shelter institution [13], subsequently developed in the Caracas Convention on Diplomatic Asylum of 1954. Regional conventions also regulate consular activities, in particular, the Caracas Convention on Consular Functions of 1911 and the European Convention on Consular Functions of 1967 [14].

The highest number of international treaties are of bilateral character. According to the subject such treaties are divided into interstate, intergovernmental and interagency. Interstate agreements are concluded of the most important issues: political, peaceful, territorial, with regard to human rights, state participation in international organizations, and intergovernmental ones – on economic, trade and humanitarian issues [p. 165, 15]. Bilateral treaties on the establishment of diplomatic relations are concluded on behalf of the state by the Head of the State or by a person authorized by him. Establishment of diplomatic relations confirms the recognition of the state and intentions for further cooperation (the Joint Communiqué on the Establishment of Diplomatic Relations between Ukraine and the Kingdom of Spain of 1992 [16], the Protocol on the Establishment of Diplomatic Relations between Ukraine and the French Republic of 1992 [17]). Agreements on the establishment of a free trade zone also are concluded on behalf of the state (the Free Trade Agreement between Ukraine and Canada, 2016 [18]). Intergovernmental agreements regulate economic cooperation between the states, defining key areas and institutional mechanisms (the Agreement between the Government of Ukraine and the Government of Canada on Trade and Commercial Relations of 1995 [19], the Agreement between the Government of Ukraine and the Government of the Republic of Turkey on Trade and Economic Cooperation of 1992 [20]).

The activity of trade missions is immediately regulated by inter-



state treaties (Art. 4 of the Agreement on Trade Relations between Ukraine and the United States of America of 1992 [21] defines the legal framework for government trade missions) as well as by intergovernmental ones (the Agreement between the Government of Ukraine and the Government of the Republic of Belarus on Free Trade of 1992, stipulated that Ukraine could establish the trade mission in the Republic of Belarus, which legal status, functions and location should be agreed upon by the Parties additionally (Art. 17) [22]).

Bilateral agreements could also be concluded between States and international organizations. Such agreements are usually concluded on behalf of the government, set provisions on the legal status of the permanent mission of the organization, its employees, privileges and immunities (the Agreement between the Government of Ukraine and the European Bank for Reconstruction and Activities of the Permanent Delegation to the EBRD in Ukraine of 2007 [23], the Agreement between the Government of Ukraine and the United Nations on the Establishment of a United Nations Delegation of 1992 [24], the Agreement between the Cabinet of Ministers of Ukraine and the Economic Sector Organization Development and workers on the privileges, immunities and privileges granted by the Organization of 1999 [25]).

Conclusions and perspectives for further research. Thus, international treaties regulating the activities of trade missions and conduct of economic diplomacy could be classified according to their scope into: universal (the Vienna Convention on Diplomatic Relations of 1961), regional (the Havana Convention on Diplomatic Officials of 1928), bilateral (on the establishment of diplomatic, consular relations, and cooperation in the economic sphere). In our opinion, the founding acts of international organizations (the UN Charter) and the treaties between the states and international organizations (the Agreement between the Cabinet of

Ministers of Ukraine and the Organization for Economic Co-operation and Development on Privileges and Immunities granted by the Organization of 1999) should be noted separately. The implementation of treaty provisions into the national legislation of the states, cooperation between states and international organizations in the economic sphere, the role of international organizations in regulating the activities of trade missions require further research.

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