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23 March 1976

MEMORANDUM FOR: Associate Deputy Director for Intelligence

SUBJECT : Soviet Copyright Problem

1. This responds to your request for a report on the Soviet copyright situation and its impact on FBIS services.

2. The USSR became a signatory to the Universal Copyright Convention (UCC) in May 1973. We continued to translate and disseminate Soviet copyright material without restriction based on advice of OGC and our own judgment that the value of this material to the public outweighed the small risk of such a policy. Subsequently, certain U.S. firms began to enter into "exclusive translation right" contracts with the Soviet Copyright Office (VAAP). As we became aware of publications covered by such contracts we restricted dissemination of translations to USIB components only.

3. In January 1975 VAAP complained to JPRS that it had translated (in January 1974) a copyrighted Soviet book, MIROVOY OKEAN (THE WORLD OCEAN), consigned to a publisher in April 1973, but not actually published until May. A copy of VAAP's letter and its translation are attached. Upon receipt of this letter we again consulted OGC which advised us to restrict dissemination of all translations of copyrighted Soviet publications to U.S. Government recipients only. We have prepared a JPRS reply to VAAP (attached) which is being coordinated with OGC, NTIS, and Department of State.  of OGC is also in touch with the Department of Justice on this matter. NTIS is in contact with the Air Force and other government agencies concerned.

4. NTIS is receiving complaints and is itself unhappy with our restricted dissemination which has cut into its service to the public. Other Government-sponsored translations of copyrighted Soviet publications have also been restricted including those of the National Science Foundation. We estimate that 60 percent of the political, economic, military, and sociological material and 95 percent of scientific and technical material that we translate from Soviet journals and books come from copyrighted sources and, therefore, now are restricted to Government users. Only abstracts,

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because they are considered a "new product," continue to be available to the public. Of 23 JPRS serials on the USSR, eight contain only abstracts and are unaffected. Eight are limited to Government use only and the distribution of seven depends on the materials contained in a given issue. Those copyrighted Soviet publications which have the largest number of public subscriptions are USA: ECONOMICS, POLITICS, AND IDEOLOGY (57), METEOROLOGY AND HYDROLOGY (42), AND SPACE BIOLOGY AND AEROSPACE MEDICINE (39). USA recipients include universities, think tanks, and corporations. Soviet newspapers, such as PRAVDA and IZVESTIYA, on which we depend for current intelligence information to be carried on our Wire and in the DAILY REPORT are not copyrighted.

5. NTIS Director William Knox and his deputy Peter Urbach are scheduled to meet with VAAP representatives 24 and 26 March to explore the possibility of an agreement which will allow the U.S. Government to continue to translate and disseminate copyrighted Soviet materials. Nominal royalties applying to both Government and public dissemination will be the solution of last resort. NTIS proposes to become if necessary the executive agency to collect and pay whatever royalties may be agreed upon.

6. If you have further questions about this matter, please let me or  know. We will report significant developments as they occur.

Director

Foreign Broadcast Information Service

Attachments:

- TAB A: VAAP letter and translation.
- TAB B: Draft JPRS reply to VAAP.

Distribution:

- Orig. & 1 - Addressee w/atts.
- 1 - Chief/Prod w/atts.
- 1 -  personal file w/atts.
- 1 - D/FBIS w/atts.
- 1 - FBIS Executive Registryw/atts.



COPYRIGHT  
 AGENCY  
 OF THE USSR  
 OFFICE  
 OF THE USSR  
 POUR LES DROITS  
 DE L'AUTEUR  
 UNIONENAGENTUR  
 URHEBERRECHTE  
 U.S.S.R.  
 AGENCIA  
 DE DERECHOS  
 DEL AUTOR

*Not-12/14 G.I. 16v.*

Joint Publications Research Service  
 1000 North Glebe Road  
 Arlington, Virginia 22201  
 U S A

Уважаемые господа!

Согласно Всемирной конвенции об авторском праве 1952 г., членами которой являются СССР и США, произведения советских авторов, выпущенные в свет в СССР, должны пользоваться в США такой же охраной, какую США предоставляют произведениям своих граждан, впервые выпущенным в свет на их собственной территории.

В январе 1974 года ваш департамент опубликовал произведение советского автора Колодкина А.Л. "Мировой океан". Это произведение впервые было выпущено в свет советским издательством "Международная жизнь" после вступления в силу Конвенции для СССР (после 26 мая 1973 года), о чём свидетельствует знак ©, проставленный на обороте титульного листа. Поскольку такое произведение несомненно подпадает под действие Конвенции, его использование должно было осуществляться в соответствии с законодательством США, то есть только с согласия автора, §1(a) Раздела 17 ("Авторское право") Свода Законов США.

Однако, несмотря на требование Конвенции и указание внутреннего закона, использование произведения Колодкина А.Л. вашим департаментом имело место без согласия автора. Как нам кажется, при этом вы исходили из того, что данное произведение не подпадает под действие Конвенции, полагая, что дата подписания произведения в печать - 12 апреля 1973 г. является датой выпуска произведения в свет (именно эту дату вы приводите в данных о публикации на странице -в-). Между тем, совершенно очевидно, что подписание произведения в печать не означает "воспроизведения в какой-либо материальной форме и предоставление неопределённому кругу лиц экземпляров произведения".

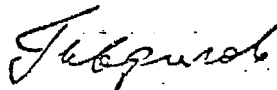
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ятия", а значит не может считаться "выпуском в свет" согласно ст.УІ Конвенции. После вступления в силу Конвенции А. Д. никак не могло быть предоставлено для чтения или ознакомления неопределённому кругу лиц, поскольку экземпляров такого произведения ещё не существовало. Что касается действительной даты выпуска произведения в свет, то совершенно неоспоримым является то, что первый выпуск в свет имел место после вступления в силу Конвенции для СССР, поскольку сигнальный экземпляр был подписан 31 мая 1973 г., а во Всесоюзной книжной палате произведение зарегистрировано 3 июля 1973 года.

Если же, уважаемые господа, у вас имелись какие-либо сомнения на этот счёт, то, как нам представляется, наличие знака © на экземплярах произведения могло бы помочь вам разрешить их путём переговоров с советским правообладателем.

Учитывая изложенное, право автора на получение вознаграждения за использование его произведения, а также обеспокоенные возможным дальнейшим незаконным использованием произведения, просим вас принять необходимые меры, уведомив нас о результатах.

С уважением



Э.П.Гаврилов

Начальник Договорно-правового  
управления ВААП

Following is a translation of a 6 January 1976 letter from the Soviet Copyright Agency to the Joint Publications Research Service:

Gentlemen:

In accordance with the Universal Convention on Copyright of 1952, of which the USSR and the USA are members, works of Soviet authors published in the USSR must enjoy the same protection in the USA as the USA extends to its own citizens' works first published on its own territory.

In January 1974, your department published "The World Ocean," which is the work of the Soviet author A.L. Kolodkin. The Soviet International Life ("Mezhdunarodnaya zhizn'") Publishing House first published this work after the Convention went into effect for the USSR, i.e., after 26 May 1973. This is evidenced by the symbol © placed on the back of the title page. Inasmuch as such a work comes undoubtedly under the effect of the Convention, its utilization must comply with the legislation of the USA, i.e., only with the author's consent -- § I(a) Title 17 ("Copyright Law") Digest of US Statutes.

Despite the requirements of the Convention and the directive of the domestic statute, your department made use of A.L. Kolodkin's work without the author's consent. As it seems to us, you proceeded from the position that this work does not fall under the effect of the Convention, believing that the assigned to press date of 12 April 1973 was the publication date (precisely this information you place on the publication data sheet on page B). Whereas it is perfectly clear that the assignment of the work to press does not signify "reproduction in any material form and presentation to an unspecified group of persons of copies of the work for reading or familiarization by means of visual perception," and therefore cannot be considered "published" according to Article VI of the Convention. After 12 April 1973, A.L. Kolodkin's work could not in any way have been presented for reading or familiarization to an unspecified group of persons inasmuch as copies of this work did not yet exist. As far as the actual publication date is concerned, the undisputed fact is that the first publication took place after the Convention went into effect for the USSR, inasmuch as the preprint copy was signed on 31 May 1973, and the work was registered at the All-Union Book Archives on 3 July 1973.

If you gentlemen, had any doubts in this respect, then, it seems to us, the presence of the © symbol on the copies of the work may help you resolve your doubts by way of talks with the Soviet copyright holder.

Considering the statement, i.e., the author's right to receive compensation for the utilization of his work and also the anxiety over the possible further illegal use of his work, we ask you to take the necessary measures and to inform us of the results.

Respectfully yours,

Signed: E.P. Gavrilov  
Chief of the Contractual Legal  
Administration of the Copyright  
Agency of the USSR

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2 February 1976

Mr. E. P. Gavrilov, Chief  
Contracts & Legal Department  
Copyright Agency of the USSR  
Moscow, K-104  
B. Bronnaiya, 6a

Dear Mr. Gavrilov:

This will acknowledge receipt of your letter of 6 January 1976 concerning the translation by the Joint Publications Research Service of A. L. Kolodkin's book, The World Ocean (Mirovoy okean).

The Joint Publications Research Service is a department of the U. S. Government which, as a service to scientists, scholars and other officials of the government, translates foreign material into English for the official use of the Government. Because our translations are not produced as a commercial venture, but for official government use, we believe that our activity falls within the "fair use" precedents of the U.S. Copyright Law.

Responsibility for promulgation of translations and research reports produced by the U. S. Government has been vested in the National Technical Information Service (NTIS), U. S. Department of Commerce. Because your letter raises the matter of the sale of A. L. Kolodkin's work, we have referred your letter to Mr. William Knox, Director of NTIS, who plans to contact you separately with regard to this matter.

Sincerely,

[Redacted Signature]

Chief

Joint Publications Research Service

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