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Vadim Radaev

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REGULATION COME FROM?
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TRADE IN RUSSIA**

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*Vadim V. Radaev*¹

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From the beginning of economic reform in 1992, the retail trade sector was one of the most liberalized market segments in the Russian economy. However, the state was suddenly brought back in during the late 2000s. A restrictive Federal trade law passed after continuous and furious debates in December 2009. It created a new precedent of administrative regulation imposed on a highly competitive industry. Where did the demand for state regulation come from? What interest groups stood behind this new helping hand policy? Which arguments in a course of political and expert debate were used to justify the state intervention? Who has benefited from the new formal institutional arrangements? The author addresses these issues by revealing the para-political practices of formal institutional building in the trade sector, which has been largely neglected by scholarly research. This paper uses data collected from two series of in-depth interviews with key market actors and political experts in 2008-2009 together with records from the expert meetings arranged by several Federal Ministries in which the author took part. Survey data of 512 retailers and suppliers collected in five Russian urban areas in 2010 are also employed to reveal interest groups that have benefited from the new regulatory policy. In conclusion, this paper argues that public officials used a liberal rhetoric of the competition protection to develop new instruments of political and administrative control over large and medium-sized businesses, and finds that the actual results of state intervention deviate remarkably from the declared goals.

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¹ Professor, Head of Laboratory for Studies in Economic Sociology at the National Research University "Higher School of Economics".

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INTRODUCTION

This paper aims to shed light on the para-political practices facilitating formal institutional change in a competitive market under specific administrative regime (Sakwa, 2010). It deals with the Russian retail trade, which has endured fundamental structural and institutional changes during the years of economic reform. Surprisingly, very little research has been conducted on trade liberalization policy in the post-Communist countries (Frye and Mansfield, 2003). As for the new phenomenon of reverse movement back to state regulation in the Russian domestic trade, which will be explored here, scholarly literature is virtually absent (for important exceptions, see Daugavet, 2011; Dzagurova and Avdasheva, 2010; Novikov, 2010; Radaev, 2011).

This paper begins with a *puzzle*: after being one of the most liberalized sectors of the Russian economy for 15 years, the retail market has suddenly become subject to nationwide state regulation. We produce a number of alternative *hypotheses* pointing to potential interests of major political and economic actors in moving from the invisible hand model to the helping hand model of governance (Frye and Shleifer, 1997). Then a condensed *story* is presented describing how the new Federal trade law was elaborated and adopted in a process of continuous and furious political contestation. To understand the demands of divergent interest groups, we investigate the *background* of this intervention, looking for underlying structural, institutional and symbolical factors. We compare evidence obtained in Russia with the U.S.'s attempts to regulate retail chain stores (Ingram and Rao, 2004; Klein and Wright, 2007). We then use quantitative survey data to reveal interest groups that might benefit from the *results* of state intervention. We also point to the controversial nature of legislative efforts. Finally, we provide *explanations* for this state intervention, arguing that the actual intentions of public officials and results of intervention deviate remarkably from the declared goals.

PUZZLE: WHY DID THE STATE SUDDENLY COME BACK?

The retail trade enjoyed its status as a significantly liberalized sector in the Russian economy since 1992, when Russian Federation President Boris Yeltsin signed the decree "On Freedom of Trade" that allowed trading activity to be carried out by any legal entity or person without special licensing. Trade liberalization was accompanied by the mass privatization of trading outlets, which were sold out or given away to the working collectives of the shops. Sixty percent of trading outlets were privatized within two years of 1992-1993. By the end of the 1990s, non-state retail activity accounted for 96 percent of sales in Russia and 99 percent of sales in Moscow (Radaev, 2007).

A large percentage of privatized shops were small-sized, and these dispersed assets did not attract the attention of national state regulators. Federal state policy regarding the retail sector was virtually absent. The Federal Customs Service's serious intervention aimed at legalizing import transactions and filling the state budget deficit in the beginning of 2000s was an exception (Radaev, 2002a). Issues of trading activity were largely on the periphery of the political and expert agenda for at least 15 years.

The absence of a distinct policy does not mean that the existing form of governance entirely corresponded to the invisible hand model and that trading companies escaped from any administrative control. On the municipal level, local trade inspections, fire and sanitary surveillance bodies, tax authorities and law-enforcement agencies made numerous planned and spontaneous visits to trading outlets to enforce a wide range of bureaucratic requirements that no one was able to satisfy fully. The grabbing hands of local inspectors collected formal fines and extorted informal bribes from the companies (Radaev, 2002b). However, the whole industry of retail trade was not subject to any national economic strategy and federal restrictions. There were several attempts to develop a federal trade law and conception of domestic trade development since the mid-1990s, but the leading policy makers ignored these efforts.

The domestic trade suddenly attracted the serious attention of the higher political layers at the end of 2006. First, the new Federal law "On Retail Markets and Changes to the Russian Federation Labor Code" passed with striking speed due to a direct order from Russian President Vladimir Putin. The law prescribed reducing the share of foreign citizens in the open-air markets to 40 percent of sellers and to reach the zero level in one year. The retail trade of alcohol and medicine was prohibited for immigrants. The law was passed under populist slogans of defending the interest of small domestic producers. However, the major focus of these legislative undertakings was a restrictive migration policy rather than regulation of trade per se.

Second, and much more important, the Russian President Vladimir Putin claimed a necessity for a general Federal law on the state regulation of trade at the end of 2006. The work on this law was started intensively at the beginning of 2007. A new helping hand policy was pushed onto the political agenda.

Political contestation over the new draft law lasted from 2007 to 2009. It stimulated heated intrastate and expert debates with broad mass media coverage. The undertaken efforts were finalized in the Federal law "On Main Provisions for State Regulation of Trading Activity" that passed the State Duma (Russian Parliament) in December 2009, despite resistance from the leading market sellers and independent experts. It is less widely known that a new federal strategy for development of the domestic trade in the Russian Federation in 2010-2015 was

developed and approved by the Ministry of Industrial Production and Trade in 2010. It is remarkable that legislative changes preceded this substantive strategic document, although logically one would expect a reverse sequence of actions.

The importance of the case considered in this paper is not confined to the issues of retail trade alone. By adopting a restrictive Federal law in one industry with serious deviations from the general law “On Protection of Competition” (2006), legislators and government officials created a new precedent of economic regulation that should be viewed in the broader context of the “rise of the regulatory state” as a global tendency (Glaeser and Shleifer, 2003), which is especially characteristic of Russia in the 2000s.

The introduction of a new policy raised a number of questions. Why did the state suddenly return to the retail trade? What interest groups stood behind this new helping hand policy? Which arguments were used to justify state intervention during different stages of political debate? Who benefited from alternative formal institutional arrangements? These are major issues for our investigation, which aims to display how a demand for alternative formal institutional arrangements emerges.

Using elements of the new institutionalist approach, we will present an analytical narrative with relevant quantitative data to explicate complex and largely non-transparent mechanisms of institutional building as a highly contested process (Fligstein 1996; 2001). We assume that the rules constraining and enabling the behavior of market sellers are infused with a variety of meanings that are a subject for diverse interpretations and symbolic struggle.

DATA SOURCES

Data were collected in a research project headed by the author and implemented by the Laboratory for Economic Sociology Studies of the National Research University “Higher School of Economics”⁴. Original qualitative data were obtained from 38 in-depth interviews with market actors and political experts conducted in two phases in 2008-2009 in Moscow, Saint Petersburg, and Tyumen.

Interviews were supplemented with records from a diversity of expert meetings in which the author of this paper took part as a formal member. They include committees arranged by the following Federal state agencies:

- Ministry of Economic Development
- Ministry of Industrial Production and Trade

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— Federal Anti-Trust Service

— State Duma Committee on Economic Policy and Entrepreneurship

Original quantitative data were collected by the author and his research team in the grocery sector and the home electronic appliances sector in November-December 2010. These two sectors total about 50 percent of sales in Russian retailing. Sellers from the food sector constituted about 70 percent of the final sample, given that it was the largest retail sector attracting most of the attention from analysts and policy makers at present. The sector of home electronic appliances presents a non-food sector and a different type of commodity chain. On the retailers' side, the sample includes global and domestic retail chains of different sizes. On the suppliers' side, we have representatives of producers and distributors. In total, we received 512 questionnaires completed by managers of retail chains and their suppliers in five Russian cities, including Moscow (Central region), Saint-Petersburg (Central-Western region), Yekaterinburg (Ural region), Novosibirsk, and Tyumen (Western Siberia region).

Business media and company reports are also used as additional open sources of information.

HYPOTHESES

With the rise of domestic multiple-store companies and the invasion of global chain stores in the 2000s, the Russian retail market came to a fluid period when the roles of challengers and incumbents were not yet defined, and there was no accepted set of social relations (Fligstein, 1996, p. 664). It could be reasonable to start with a proposition that multiple-store companies may have an increasing interest in adopting new institutional arrangements to control sources of instability and ensure their dominant positions in the market. They also create new conceptions of control as widely shared meanings of what has to be done to achieve success in the market (Fligstein, 2001, p. 31). In doing so, they have to interact with the state agencies that provide new formal rules and instruments of regulation. Thus, we come to our first hypothesis:

H1. Multiple-store companies backed introduction of the new formal institutional arrangements in order to stabilize the market and maintain their recently achieved dominant positions.

An alternative view suggests that incumbent firms are interested in establishing their dominant position by means of private ordering and market discipline rather than by public enforcement through the state regulation if we use the terms of enforcement theory (Shleifer, 2005). It is their smaller competitors (small independent stores and shopkeepers) possessing less market power and bargaining capacities that might have an interest to call for a helping hand of the state and anti-chain legislation (for similar U.S. historical evidence, see Ingram and Rao, 2004). Thus, we can formulate the following proposition:

H2. The social movement of small independent retailers demanded a state intervention to limit expansion of the growing multiple-store companies.

A new appeal for the state intervention could also originate from a transformation of supply chain management reflecting a global transfer from the supplier-driven to the buyer-driven commodity chains (Gereffi, 1994; Gereffi, Humphrey and Sturgeon, 2005; Hamilton, Petrovic and Senauer, 2011). Since the beginning of the 2000s, the grocery sector in Russia presents a case of buyer-driven commodity chains in which retailers are power-advantaged and might abuse their increasing market power that resides in the suppliers' increasing dependence as it was postulated in power-dependence theory (Emerson, 1962). Given a lack of bargaining power, the suppliers try to compensate for it by taking a voice strategy and appealing to the public enforcement (Hirschman, 1970). It is important that large suppliers (especially suppliers of agricultural products) traditionally had better lobbying capacities than retailers to capture the state (Stigler, 1971; Hellman, Jones and Kaufman, 2000) and use public enforcement to their favor. At the same time, we have to take into account empirical observations demonstrating that in recent years, the state capture was largely replaced by more sophisticated systems of exchange between state authorities and business (Yakovlev, 2010). Here we have our next hypothesis:

H3. Suppliers tried to compensate for their decreasing bargaining power by capturing the legislative capacities of the state to restrict the dominance of multiple-store companies.

Looking for a variety of explanations, we should not neglect the possibility that the new policy was developed to enhance the controlling capacities of public officials. As the state is supposed to protect broad interests rather than particularistic needs (Reuschemeyer and Evans, 1985) on one side, the public officials could try to meet demands of the final consumers or at least react to articulated public opinion claims (for example, by imposing retail price control). Indeed, the interests of the final consumers were widely used for justification of state intervention.

On the other side, new regulations could serve the selfish interests of the rent-seeking state bureaucrats. In this case, the new institutional arrangements would not reflect so much a helping hand policy as it was publicly announced, but rather make room for new grabbing hand practices for the advantage of rent-seekers (Frye and Shleifer, 1997). Thus, our last hypothesis is as follows:

H4. Public officials adopted a new restrictive law to enhance their controlling capacities over market sellers.

Now let us turn to a brief history of debate on the new trade law.

STORY: HOW THE NEW FORMAL RULES WERE CONSTRUCTED

The story in its active phase started in January 2007 when a newly established expert committee of the Russian Federation Ministry of Economic Development and Trade discussed a draft concept of the Federal trade law. Taking part in those meetings, it was easy to understand that the draft's major statements were explicitly directed against chain store companies. Moreover, they were largely confined to measures restricting activity of the leading retailers. These provisions included the following:

- Administrative regulation of trading outlets' location by approving municipal plans of spatial development
- More severe limitations of the market share for the leading chain stores
- Introduction of compulsory vocational training for all employees of the stores
- The rights of the state to regulate retail prices on basic goods in the stores

At the same time, the concept of the law claimed the necessity of direct support for domestic producers and distributors, as well as for small businesses. The issues of national food security were raised to justify this policy of support for domestic market actors. The entire document was designed to protect the suppliers from "greedy" chain stores. Many of these restrictive statements were reproduced in the draft law "On Main Provisions for State Regulation of Trading Activity".

Leading retail companies naturally rejected the necessity for such a law. But their voices were deliberately misrecognized, and they had to send their representatives to expert committees to monitor the situation. While doing this, global and domestic retail companies forgot about their former tensions and soon consolidated efforts as they found themselves in the same boat.

After making some corrections and amendments, the Ministry of Economic Development and Trade submitted a draft Federal law to the Russian Government in November 2007. Some of most restrictive statements from the January 2007 draft were omitted, including administrative regulation of trading outlets' locations and direct support of domestic producers. However, the Ministry retained many other important restrictions. This was done under pressure from the Ministry of Agriculture and Federal Anti-Trust Service that released the outcomes of a survey (conducted at least two years before) to document extortion practices used by the chain store companies in contract relations with their suppliers (*An Analysis of Large Chain Stores Positions...*, 2005).

One of the limitations dealt with the criteria of market domination measured by the market share within a certain territory. The Federal Anti-Trust Service suggested to reduce the criterion of domination for the grocery chain stores from 35 percent of the market share, as it

was prescribed by the Federal Law “On Competition”, to 5 percent. They finally compromised on 15 percent, but introduced additional criteria for collective domination of 20 percent of the market for three companies and 30 percent for five companies. It means that the actual criterion of individual domination was kept at the level of 6-7 percent. It was announced that multiple-store companies exceeding the limit would find themselves under closer surveillance of the state’s controlling bodies.

Representatives from the Federal Anti-Trust Service at the expert meetings provided the following explanation for this new administrative barrier. They said that available production capacities in the domestic market were excessive in relation to retail capacities, and that chain stores abused this imbalance to push the producers away from the market. According to this argument, multiple-store companies developed successfully at the expense of declining agricultural production and food processing.

Controversial provisions regarding the necessity of state regulation of maximal (not minimal) retail prices were also suggested in the draft law, despite criticism from independent experts. It was intended to impose limits on the large chain stores if they were proved to be in a dominant position in the market. Obviously, chain store companies were the main subject of administrative restrictions.

In spite of active resistance from the retailers’ representatives and independent experts, the draft law was sent out for final intra-governmental approval. It was made clear that the game was over. But suddenly, the whole situation fundamentally changed due to para-political practices used by retail companies. Official prerogatives of regulation of domestic trade were transmitted from the Ministry of Economic Development and Trade to the Ministry of Industrial Production in May 2008. The former was renamed to the Ministry of Economic Development while the latter was renamed to the Ministry of Industrial Production and Trade correspondingly. But it was more interesting that the newly appointed head of the Department established to regulate the domestic trade had previously served as the Executive Director of the Association of Retail Companies, which was and still is a major business association of the largest chain stores. This twist made the future of the draft trade law uncertain.

Exploiting this new political situation, the chain stores immediately took efforts to escape from regulation and to replace anti-chain-store legislative measures with a variety of “soft” political agreements. For example, the Association of Retail Companies and the Union of Independent Chain Stores of Russia signed the Agreement “On Rules Regulating an Access of Agricultural Products to the Chain Stores” in November 2008, promising to avoid some of the slotting fees and additional contract requirements with their suppliers of non-branded goods.

The Inter-Ministry Working Committee to monitor the situation in the food sector was created in April 2009 to develop agreements between business associations of retailers and suppliers. The Ministry of Industrial Production and Trade also initiated a new “Code of voluntary practices of retail chain stores in their relations with the suppliers of food products” which was a manifestation of free will and was designed to substitute for more obliging legislative measures. As for the draft trade law, it was “sent for vacations” at least for half a year as it was pronounced by the Ministry officials.

There was an impression that chain stores companies won the game, and the new law would never be adopted. But this impression was wrong, for the suppliers’ political lobbyists struck back. Their new attack was very straightforward and effective. They arranged for Russian Prime Minister Vladimir Putin to visit one of the Moscow supermarkets (the chain store “Perekrestok”) in June 24, 2009. While perusing the store shelves, they did their best to convince the Premier that the gross margin of the retailers was too high. On the same day, a decision was passed to intensify the work on the draft trade law. A new round of the game had started. The Ministry of Industrial Production and Trade was forced to submit this draft to the Government in one month. In August 2009, the draft was submitted to the State Duma, which considered the law as a first priority and approved it in the first reading in September 2009. Here we have a good example demonstrating how the para-political practices of the existing administrative regime affect constitutional practices in Russia (Sakwa, 2010).

Contestation over the main provisions of the law came to a final stage. It turned out that retailers’ interests were not articulated in the State Duma. At the same time, the Russian MPs demonstrated a striking lack of professional competence, given that the domestic trade was not a subject for federal legislation for quite a long time.

In this situation, the public authorities had to make additional efforts to explore retailer-supplier relationships more closely. They could also learn from international experience. For example, a similar confrontation regarding slotting fees in retail trade appeared in the USA in the early 2000s. In that case, the U.S. Senate entrusted the Federal Trade Commission as an anti-trust regulator to examine the situation. The Federal Trade Commission spent three years on research and produced a report by 2003. No definite results were obtained. The Commission made the following statement:

Our ability to comment about the relevance of the various theories of slotting based on our study is limited, however. Neither the academic and market researchers who developed the theories nor others have detailed how the theories could be tested with real world data (FTC, 2003, p. 62).

After that, the number of court precedents against slotting fees was reduced for both retailers and suppliers (Klein and Wright, 2007). Additional research conducted by marketing experts also demonstrated that slotting fees should not be interpreted unambiguously as an abuse of market power (Bloom, Gundlach and Cannon, 2000).

In contrast to this U.S. experience of the 2000s, almost no research was carried out in Russia to substantiate the major legislative provisions. There were several case studies of the procurement contracts conducted by the Federal Anti-Trust Service in Saint Petersburg trying to prove that practices of slotting fees and extortion are absolutely common and damaging (An Analysis of Large Chain Stores Positions..., 2005). The only example of quantitative study was presented by the author and research team of the Higher School of Economics (Radaev, 2011; Radaev, Kotelnikova and Markin, 2009). Some attempts were made to prove that large suppliers were more involved and more motivated to pay marketing fees, using them as an instrument of competition against smaller suppliers (Radaev, 2011). But there was an obvious reluctance to take these results into account. One of Russian MPs even proclaimed at the State Duma public debate that “research provides nothing but a medieval mode of argument”.

Instead of detailed examination of the situation, there was a politically accepted presumption that the retail chain stores dominate in the local markets and abuse their market power. Within two months before the second substantive reading of the law in November 2009, Russian MPs suggested more than 300 amendments to the text. Many of them were explicitly anti-liberal. They include requirements:

- To fix retailers’ upper level of gross margin
- To limit a share of imported goods in the stores
- To restrain sales of private labels by 15 percent
- To reserve store shelves for the small suppliers

At the same time, criticism rose from the independent experts who tried to eliminate these anti-market statements, which would reduce the flexibility of contact relationships and restrict competition (Radaev, Kotelnikova and Markin 2009). After the publication in mass media of the “letter of liberal economists” against the trade law⁵, the Russian President Administration tried to intervene. As result of this political struggle, some restrictive amendments were rejected. However, some major anti-chain-store discriminatory statements remained in the final text, and the new law passed the State Duma in December 2009.

⁵ См.: <http://www.inliberty.ru/sobitie/trade>

What are the most important legislative statements that are aimed at restricting chain store market freedom? First, it is prohibited to include most marketing fees into procurement contracts with suppliers (an exception is made for the volume of sales bonuses, which are limited to 10 percent of the goods' value). The chain store companies have to avoid exclusive contracting and any "entry fees" for placing the goods on their shelves. Additional fees may be subject to separate marketing contracts. However, it is not legitimate for the chain stores to impose these fees as a precondition for signing a major procurement contract.

Second, the length of repayment for supplied goods is legally fixed for chain stores. They are supposed to pay for supplied meat and poultry within 10 days, for most other goods within 45 days, and for alcohol and tobacco within in 75 days.

Third, retailers' gross margin and prices are not limited. However, the Russian Government is supposed to intervene if the price increase on necessities in the stores in any region exceeds 30 percent in 30 days. In this case, the government has a right to fix retail prices in this region for 90 days.

Fourth, one of the most painful statements for the large multiple-store companies prohibits chain stores that obtain 25 percent of the market in a municipal district from opening additional trading outlets in this district. It is remarkable that this chapter first appeared in the text of the draft law on the night before its submission to the State Duma. It was not suggested by the Government draft, demonstrating one more manifestation of the peculiar administrative regime. It is rumored that the Russian Premier Vladimir Putin personally wrote this provision at a closed meeting with the large suppliers' lobbyists. The reduction of the market's spatial borders from large Federal regions to small municipal districts was a novelty, provoking a wave of resistance from the large retailers. Attempts were made to postpone implementation of this rule until 2014, but this idea was rejected and the law was put into operation in July 2010.

We should add that all major arguments in favor of the anti-chain-store regulations were based on a non-disputed idea of retailers' extortive practices. Most of the lawmakers assumed that slotting fees were just a result of policies pursued by the "greedy" chain store companies. Ritual general references to international experience of retail trade regulation in some European countries like France or Greece were also made to justify the state's intervention. Anti-chain legislation was introduced to impose constraints on the leading retail companies.

The next question is who could eventually benefit from the new trade law.

DISCUSSION: WHO WAS INTERESTED IN BRINGING THE STATE BACK?

The first thing that we have learned from the presented story is that multiple-store companies were by no means interested in the state intervention. Moreover, they did their best to oppose adoption of this Federal law aimed at restricting their market positions. This means that our Hypothesis 1 must be rejected. What could be said about the other interest groups? Let us start with the small independent traders whose interests could be damaged by the chain stores' expansion.

Is there a social movement of small business owners?

The rise of new multiple-store companies has become a remarkable feature of the market development in Russia at the beginning of the new century. These companies had demonstrated an accelerating growth rate in the 2000s and had an annual 40-50 percent increase in sales until the financial crisis in 2008 (Radaev, 2005, 2007). Most of them also recovered very soon after the financial crisis in 2009. These multiple-store companies (both domestic and global) provide an economy of scale and sustainable channels for sales. They also introduced modern trading formats which were much more attractive for the final consumers. At the same time, some experts view their intervention as a damaging force for local independent stores. According to this view, multiple-store companies were able to abuse their market power and push smaller competitors away from the market. If it is true, it could raise opposition to their increasing dominance.

Historically, the anti-chain-store campaign in Russia is not unique. The experience of the U.S. market could be used again as an illustration. As a reaction to the striking speed of chain stores' development in the 1920s, when the contribution of the chain stores to the American economy exceeded 20 percent (which is similar to the situation in the Russian economy by mid-2000s), anti-chain-store legislation was enacted in 27 out of 48 states in the 1930s. Discouraging taxes imposed on the chain stores was a key element of those laws (Ingram and Rao, 2004).

It is important to note that this legislation was initiated by associations of small retailers and farmers representing local communities. Apart from the damaged economic interests of small business, the legislation appealed to the fundamental values of American society and combatted deterioration of the local communities, which was viewed as the basis for democratic order. Thus, a grassroots social movement arose to back the anti-chain-store campaign and coordinate an attack on the newly emerging yet dominant organizational form. This public policy attack found its most active support in the states with a large number of independent entrepreneurs. A counteractive pro-chain-store campaign was also developed in the mass media,

but it was not as successful. At the same time, the chain store representatives were more effective in organizing privately to defend their interests in the courts.

What was the result of those store wars? Chain stores managed to control institutional change. They stimulated the establishment of associations for the independent producers and farmers, and obtained their support eventually. The chain stores were also forced to sign collective agreements with trade unions (retailers were reluctant to accept these arrangements before the anti-chain-store campaign began). Finally, there was a reverse movement, and at least part of the anti-chain-store legislation was repealed at the end of 1930s (Ingram and Rao, 2004).

As for the Russian economy, by mid-2000s it reached a point that was observed in the U.S. economy almost 80 years ago with regard to the share of chain stores in the market. Russia is also facing anti-chain-store campaigns, but their origins are fundamentally different. There are no important and feasible grassroots social movements of small business owners rising “from below”. The reason lies in the absence of a broad layer of independent shopkeepers who are integrated into local communities. This layer was almost totally destroyed during the years of Communist rule. Private trade was persistently reduced by the state and finally declared illegal in 1932. The collective-farm trade did not play a systemic role as a quasi-private commercial activity. Its share was reduced to 2-3 percent by the mid-1970s and kept under strict control, while individual plots of land were used largely for in-kind provision of goods (Radaev, 2007).

This history demonstrates that the interests of independent sellers and small business in general were largely used as a rhetorical camouflage for some other purposes, and thus our Hypothesis 2 should be rejected as well.

Transformation of commodity chains and new challenges for suppliers

Our next proposition claims that an increasing demand for the state intervention was stimulated by the fundamental transformation of supply chain relationships. This proposition has more empirical support. After a decade of suppliers’ dominance in the Russian consumer market during the 1990s, a large part of their former market power withered away in the 2000s. This redistribution of power between retailers and suppliers could be explained as a transfer from the supplier-driven to the buyer-driven commodity chains (Gereffi, 1994; Gereffi, Humphrey and Sturgeon, 2005). This is a worldwide trend at least in the grocery sector, implying that retail companies gain a dispositional power advantage (Hamilton, Petrovic and Senauer, 2011). The latter gives them an increasing capacity to control market entry and establish the rules of exchange to their favor.

The presence of a commodity on the multiple-store shelves not only increased sales dramatically, but also became critical for promotion of the new brands. It made the new channel of sales increasingly attractive for suppliers. But when suppliers came to chain stores, they faced unexpectedly high contract demands from their managers. Leading retail companies used their new position in the supply chain to improve their bargaining capacities and establish new rules of exchange to redistribute value added and control the behavior of suppliers. They imposed new contract requirements, according to which the suppliers must pay entry fees to see their goods in the stores, secure the gross margin of a buyer if sales of a commodity are less than expected, pay retro-bonuses for the increase in sales if a new product is commercially successful, and contribute to costs of retailers (for example, cover the losses from shoplifting, etc.).

This institutional entrepreneurship was backed by elements of symbolic struggle, which led to formation of a new conception of control as a cognitive scheme that provided lenses for interpretation of the market situation and produced a shared understanding of market success (Fligstein, 2001, p. 35). It is difficult to tell whether the new collective understanding emerged spontaneously or whether it was deliberately constructed. But by the mid-2000s, this understanding prescribed that the supplier had to work with the chain stores to ensure good performance.

It should be pointed out that in a pure economic sense, this statement is not obvious. Of course, the advantages of the chain stores providing economies of scale and promotion of new products are evident. However, resource dependence also presumes the non-availability of alternatives (Emerson, 1962), and in this respect the resource dependence of suppliers on the chain stores could be questioned. The point is that chain stores still do not prevail in the Russian retail trade. They accounted for less than 30 percent of retail turnover by the end of the 2000s. Open-air markets accounted for about 15 percent of sales, while the majority was still provided by independent stores.

The results of our own quantitative survey also did not demonstrate suppliers' dependence on the chain stores as a market channel. In our 2010 survey, 216 suppliers in five regions of Russia responded to our question about the share of chain store companies in their sales. The median value was just 40 percent. This share is higher than in official statistics because we surveyed the suppliers who already dealt with the chain store companies. Still, chain stores provided more than 50 percent of the suppliers' sales for only one-third of respondents (36 percent). Most suppliers still delivered a larger portion of their goods to independent stores and retail markets. And for one-third of suppliers, the chain store channel provided less than 20 percent of sales.

This means that the vast majority of suppliers dealt simultaneously with multiple-store companies and independent retailers, including open-air retail markets. Only 22 percent of suppliers reported that their activity was confined to modern trading formats, which were normally developed by the chain store companies. In 2007 when the draft trade law was presented, this share had reduced further to 12 percent (Radaev, 2011). Most suppliers worked both with new and traditional trading formats.

Situations when a supplier works exclusively only with one chain store company are very rare. In the course of in-depth interviews, our respondents reported that the share of one chain store in the sales of any one supplier normally does not exceed 5 percent. At the same time, the share of one supplier in sales of a chain store may be much higher, totaling 50 percent or more for some commodities. It happens most often in the regions in which local producers have a monopoly supported by the long-term habits of local consumers, who may be reluctant to buy “foreign” food products (Radaev, Kotelnikova and Markin 2009).

In spite of these facts, the necessity of entering chain stores as a strategic target was shaped in the minds of suppliers well before the chain stores started to play a critical role in pure economic terms. This idea no doubt benefited retailers, who gained even more bargaining power. It made the introduction of new contract arrangements easier.

However, multiple chain stores were confronted with opposition at some point. New institutional arrangements including additional price reductions, slotting allowances, and fees were contested by the suppliers, who viewed them not only as an additional burden but also as unjustified (“unfair”) demands. It means that retailers failed to provide cognitive and sociopolitical legitimacy for the new organizational forms, which desperately needed this legitimacy at the initial stage when they suffered from the liability of newness (Aldrich, 2000). It was a lack of legitimacy that largely caused relational conflicts in supply chains. The financial crisis in 2008 aggravated these tensions and became a trigger for further state intervention.

The suppliers’ bargaining power became limited as they moved from a position of market makers to position of market takers. They demonstrated inability to build strategic coalitions among their competitors. At the same time, they could not use the instruments of private litigation effectively, given the profound institutional distrust to courts in Russia and reliance on personal relations (Hendley, 2005). They tried to compensate for the lack of their market power by appealing to public enforcement and insisting upon Federal government intervention to handle the disputed issues. This appeal was supported by an active populist public campaign that spread ideas of “domination of the trading mafia and speculative capital”. Finally, the Russian

President supported a demand for the new formal regulatory norms. It created a space for the state intervention.

Was it possible to avoid the state intervention to the contract relationships? In our opinion, there was a chance to settle major disputed issues on a horizontal level between market leaders and their business associations. For example, experts from the National Research University “Higher School of Economics” as an independent expert agency assisted some brokering efforts in this area in Spring 2007. The author of this paper chaired two meetings of the working group initiated by the Federal Anti-Trust Service to arrange negotiations between leading retailers and suppliers. The future of “unfair contract practices” was discussed at these meetings. The top managers of the chain stores complied with some of the demands and announced their willingness to eliminate at least some of the additional contract requirements. A draft joint agreement letter was prepared to be sent to the Head of the Federal Anti-Trust Service, Igor Artemiev. However, these brokering efforts eventually failed, disagreements prevailed, and the agreement letter was not even signed.

As a result, the control of business relationships was shifted from strategies of private ordering and private litigation to strategies of public enforcement through the state regulation (Shleifer, 2005). Political mechanisms heavily loaded with para-political practices were put into operation (Sakwa, 2010) that made formal institutional change irreversible in the end.

Thus, in accordance with our Hypothesis 3, political lobbyists of the large suppliers did play a significant role in the anti-chain store opposition (Radaev, Kotelnikova and Markin, 2009). However, suppliers did not recognize the benefits resulting from the introduction of the new trade law, as we see below.

Outcomes: did the trade law affect contractual relationships?

The new trade law was largely aimed at balancing the market power in contractual relationships. To what extent was this aim achieved in practice? To answer this question, we use data from our 2010 standardized survey of 512 managers representing retailers and suppliers in the grocery sector and the home electronic appliances sector in five major Russian cities. We asked our respondents to estimate changes in retailer-supplier relationships which had occurred over the last two or three years before the survey. Our intention was to see whether there was any positive impact of the new trade law.

The first question is whether it is difficult to sign procurement contracts with the exchange partners. Suppliers still complain of difficulties related to the conclusion of these contracts more than retailers (for retail companies, the contract process is less complicated).

Only a few suppliers (5 percent) report that it has become easier to make contracts with large chain stores by the end of 2010 (for small chain stores, 15 percent of suppliers claimed that the process has become easier). At the same time, 20 percent of suppliers point to increasing difficulties in making contracts with large chain stores (it is only 9 percent of suppliers in the case of small chain stores). This observation is supported by our previous research, confirming that it has been always easier for suppliers to deal with the small chain store companies (Radaev, 2011). But what is most important here is that 75-80 percent of suppliers and retailers do not see any serious changes in access to the market exchange (see Table 1).

Table 1. Changes in procurement contract process over the period of 2007-2010 as viewed by retailers and suppliers

Making contracts with large exchange partners	Retailers (N = 249)	Suppliers (N = 220)
Became easier	12%	5%
No change	81%	75%
Became more complicated	7%	20%
Making contracts with small exchange partners	Retailers (N = 244)	Suppliers (N = 236)
Became easier	15%	15%
No change	80%	76%
Became more complicated	5%	9%

Now we turn to the direct impact of the new trade law on contractual relationships. Retailers and suppliers provide very similar answers here, demonstrating a remarkable absence of positive changes. Only 1-3 percent of managers believe that contractual demands on the suppliers decreased by the end of 2010. At the same time, about one-fourth of both retailers and suppliers report that contractual requirements to the large suppliers have even increased (14-15 percent in both groups of respondents point to the increasing demands imposed on small suppliers). And again, nothing has really changed for a vast majority of market sellers (from 71 to 84 percent depending on the group and the issue: see Tables 2-3). Managers in the grocery trade sector give similar estimations, which do not vary by the size of the surveyed companies. It means that introduction of the new trade law did not produce any substantive change, and its minor effects were rather negative if we compare them with the proclaimed aims and purposes of this law.

Table 2. Changes in contract requirements to large and small suppliers as a result of new trade law as viewed by retailers (December 2010) (N = 241)

Contract requirements from chain stores	To large suppliers	To small suppliers
Decreased	1%	3%
No change	76%	82%
Increased	23%	15%

Table 3. Changes in contract requirements to suppliers from large and small chain stores as a result of new trade law as viewed by suppliers (December 2010) (N = 209)

Contract requirements to suppliers	From large chain stores	From small chain stores
Decreased	3%	2%
No change	71%	84%
Increased	26%	14%

We next examine changes in the terms and conditions of contractual relationships in more detail. We asked our respondents to assess recent changes in contract elements which were considered the most painful in retailer-supplier relationships, including price discounts, payments delays, slotting allowances, marketing fees, and penalties for noncompliance with contract obligations (Radaev, 2011).

The surveyed managers do not recognize any serious improvement over time in this respect. Although retailers publicly complain that the new trade law restrains their bargaining power over suppliers, only 7-11 percent of retailers report that they actually reduce contract requirements they make on their suppliers (it is 17 percent in case of marketing fees but this level is still relatively low). At the same time, only a small percentage of retailers (14 percent) admit that they increase their demands on the suppliers, even in the case of increasing price discounts which were declared as a major instrument for compensation of retailers' losses from the new administrative constraints. In all other cases, increases in contractual demands are even less frequent (see Table 4).

As for the suppliers that are supposed to benefit from the new law, their estimations are remarkably more negative. Only 3-5 percent of suppliers report experiencing some decrease in contract requirements. In case of marketing fees, this group increases to 10 percent, but still it is not enough to claim that the trade law produces any significant positive outcomes for suppliers. Negative outcomes are faced much more frequently and reported by 14-34 percent of suppliers depending on the contract elements. We might expect it in case of price discounts, which are not

limited by the new trade law. But we might expect better results in relation to payment delays and slotting fees that have been restrained by this law.

As for the main empirical results of this part of the study, the situation has not changed for 75-85 percent of retailers and 70-80 percent of suppliers regarding nearly all contractual elements (see Table 4). In sum, the changes are not very significant and largely contradict previous expectations.

Table 4. Changes in contract requirements to the suppliers from large and small chain stores over the period of 2007-2010 as viewed by retailers and suppliers

Price discounts	Retailers (N = 243)	Suppliers (N = 218)
Decreased	7%	3%
No change	79%	71%
Increased	14%	26%
Payment delays	Retailers (N = 243)	Suppliers (N = 231)
Decreased	11%	5%
No change	77%	61%
Increased	12%	34%
Slotting allowances	Retailers (N = 233)	Suppliers (N = 210)
Decreased	11%	4%
No change	83%	78%
Increased	6%	18%
Marketing fees	Retailers (N = 223)	Suppliers (N = 184)
Decreased	17%	10%
No change	78%	76%
Increased	5%	14%
Penalties	Retailers (N = 236)	Suppliers (N = 221)
Decreased	7%	5%
No change	85%	80%
Increased	8%	15%

Who benefited from the new helping hand policy?

It would be reasonable to ask market sellers which groups of actors have benefited from the new legislative arrangements. Considering the most widespread justifications provided by proponents of the trade law, we could expect at least three necessary results:

- (1) Small business should win as compared to large companies;
- (2) Suppliers should benefit much more than retailers; and

(3) Consumers should benefit from the law more than public officials.

To test these propositions, we asked a set of direct questions to our respondents trying to reveal which groups benefited from the trade law almost a year after it was implemented. According to our data, none of three predictions came true.

First, only 35 percent of retailers and 19 percent of suppliers point to positive effects for small suppliers, while 47 percent of retailers and 42 percent of suppliers report positive effects for large suppliers. At the same time, only 30 percent of retailers and 22 percent of suppliers believe that small chain store companies benefited from the trade law while 41 percent of retailers and 44 percent of suppliers point to the large multiple-store companies as winners. In other words, if anyone has benefited from the law, it may be large market sellers.

Second, contrary to previous expectations, no significant advantages of suppliers are observed as compared to retailers. The share of retailers pointing to the suppliers as winners from the trade law arrangements is just 5-6 percent higher than the share of retailers who believe that they themselves have won. Suppliers express even more criticism and point to benefits for themselves even less frequently (see Table 5). Thus, none of the partners of the market exchanges recognize a significant positive impact of the new trade law on the bargaining power of suppliers.

Third, many of the trade law proponents referred to the interests of final consumers. Our obtained data demonstrate that consumers also did not benefit much from this law. Only 24 percent of retailers and 22 percent of suppliers think that the trade law affected final consumers in a positive way (see Table 5). Retailers and suppliers at least believed that consumers benefited much less than the large market sellers.

Public officials are regarded as winners from the new law much more often than consumers; 40 percent of retailers and 56 percent of suppliers make this claim in our survey. It is remarkable that the number of suppliers pointing to the public officials as winners is significantly higher than that of retailers. It indicates the suppliers' disappointment with regard to the trade law and state regulators claiming that they were defending the interests of suppliers.

Table 5. Groups winning from the Federal trade law as viewed by the retailers and suppliers

Groups winning from the new trade law	Retailers (N = 219)	Suppliers (N = 186)
Small suppliers	35%	19%
Large suppliers	47%	42%

Small chain store companies	30%	22%
Large chain store companies	41%	44%
Final consumers	24%	22%
Public officials	40%	56%

We can conclude that, contrary to widespread political rhetoric in support of the Federal trade law, small market sellers benefited less than their large competitors and suppliers did not gain a visible advantage as compared to retailers. The first evidence obtained in 2010-2011 after adoption of the new trade law proves that this law was not able to protect the interests of the suppliers effectively. The chain store companies managed to master new institutional arrangements and change contracting forms in a way that allowed them to maintain their dominant positions and secure relatively stable revenues. Yet another attempt “to restore market balance” through the administrative regulation seemed to fail.

At the same time, the trade law enhanced the capacities of public officials rather than capacities of market sellers and final consumers, in accordance with our Hypothesis 4. Administrative costs for all market sellers have increased. It would be reasonable to assume that the basic intentions of the trade law initiators could be different from the announced goals.

Subversion of anti-trust policy

It was demonstrated in previous research that fragmentation of power had a positive effect on trade liberalization in the post-Communist countries in the 1990s, though this argument was applied not to domestic trade but to foreign trade (Frye and Mansfield, 2003). Taking these results into account, one could expect that consolidation of state power in the 2000s could stimulate a rise of control not only in strategic industries dominated by the state, but also in highly competitive and privatized industries like domestic trade. But this general statement should be specified to delineate interest groups within the public authorities that backed the state intervention.

The state is obviously not a monolithic entity, and the new helping hand policy with regard to domestic trade was elaborated through continuous contestation between state ministries. The Ministry of Agriculture was one of the most active agencies in defending the interests of domestic suppliers. It aggressively exploited a traditional public aversion to trade activity and cultivated hostility to “speculative capital”. The Ministry of Agriculture was supported by most of the State Duma elected members while the Ministry of Industrial Development and Trade, on the contrary, was on the retailers’ side. The Ministry of the Economy went silent after removing its prerogatives to regulate domestic trade in 2008.

However, a most important impact (and not only in trade policy) was provided by the growing involvement of the Russian Federation Anti-Trust Service. Its representatives were most active in designing and promoting the new restrictive trade law. This state regulator became a major controlling state agency appointed to enforce the new law arrangements. FAS officials started searching actively for noncompliance to formal regulations. According to our 2010 survey data, within less than a year after the introduction of new trade law, about 25 percent of surveyed companies (including both retailers and suppliers) were subjected to controlling inspections from territorial departments of the Anti-Trust Service. Sixty percent of those who were audited received official reprimands from the controlling body, meaning that they were supposed at least to make some improvements.

The results of controlling inspections are not confined to mere reprimands. Companies may also be brought to court. According to data from the Anti-Trust Service, in the period from August 2010 to July 2011 188 legal cases began against market sellers for violations of the new trade law (totaling 22 percent of all legal cases initiated by 76 territorial departments of the Anti-Trust Service during that year). The courts wrote 164 decisions on the basis of these cases, including 101 cases (62 percent) in which violations were proved, 38 cases (23 percent) in which the legal procedure was stopped due to voluntary improvements carried out by the companies, and only 25 cases (15 percent) which were cancelled because the companies managed to prove the absence of violations. The average level of penalties was 265,000 rubles, or about \$8,800. While the average penalty may not seem very high, this sum does not cover legal expenses and the cost of documents provided for justifications that could be much more significant, especially for smaller businesses.

We have reasons to expect that the burden of penalties may be raised in the future. By the end of 2010, the State Duma increased the upper limit of fixed penalties from 1 million to 5 million rubles. This amount could be difficult not only for small businesses, but also for medium-sized regional sellers.

It is important to note that the ambitions of the Anti-Trust Service as a major enforcement agency extended far beyond protection of competition within the last decade. Its activity is aimed at maintaining a balance of interests between market players. They want not only to remove administrative barriers, but also to facilitate principles of fair exchange, which is a much more ambiguous task. The head of Federal Anti-Trust Service Igor Artemiev formulated it in the following way in his programmatic article:

“Protection of competition as a public function is based upon values which are similar to values in democratic society that justify any public activity of the state authorities,

namely, on dominant and historically perceptions of freedom and justice” (Artemiev and Sushkevich, 2007, p. 201).

We observe an important shift from the invisible hand mode of governance, treating all market sellers equally, to a helping hand mode, which assumes the existence of power imbalances that should be corrected by administrative measures. The liberal rhetoric of competition protection is now used to conceal differential attitudes toward various groups of market sellers.

It is remarkable that anti-trust regulation was strengthened before the retail trade reached a high level of concentration. Moreover, Federal state regulation was introduced in the grocery sector, which demonstrated a relatively low level of consolidation in Russia both by international and domestic standards. By the end of 2009 when the new trade law passed the State Duma, the share of all chain stores in the grocery sector was about 30 percent in 2009. In contrast, according to ACNielsen data, the share of the three top retail companies was 50 percent in Spain, more than 60 percent in France, and almost 80 percent in Switzerland. As for cross-sector comparisons, the four top companies in grocery retail trade constituted about 10 percent of sales in the domestic market while, for example, the four top companies selling home electronic appliances possessed more than 60 percent of the market. Still, it was the less concentrated but politically more sensitive grocery sector that became subject to exclusive regulatory measures. Thus, it was not a danger of monopolization per se that caused state intervention in this sector.

Public officials were searching for instruments that would enable their control over politically sensitive issues, which became especially important in the years before Presidential and State Duma elections in 2011-2012. We point to price increases on necessities as one of the most sensitive issues of this kind. Political leaders’ serious attention to this issue can be illustrated by their willingness to closely monitor the price dynamics on food products. The Department for State Regulation of Domestic Trade of the Ministry of Industrial Production and Trade is supposed to report to the Federal Minister on changes in retail prices on thirteen food products on a weekly basis, including weekly and average daily pricing indices. Price increases in major retail chain stores are additionally monitored and reported on a weekly basis. Price indices are included into all major monthly and quarterly reports provided by the public officials responsible for the regulation of domestic trade. There was also a special prescription of the Russian Federation President to monitor the price indices on basic consumer goods (No. Pr-3513, December 28, 2009).

When monitoring price dynamics, the state sends a strong signal to the leading sellers persuading them to use more cautious and restrictive pricing policies. Companies that allow

significant price increases on basic consumer goods run the risk of being accused of tacit collusions and taken to arbitration court by the territorial branches of Federal Anti-Trust Service. It means that the liberal rhetoric of the competition protection camouflages the intentions of administrative control over market practices, and we have an example of anti-trust policy subversion. Economically, this kind of populist policy is both controversial and utopian when trying to stop inflation by administrative measures. But at the same time, state officials attain some political results by demonstrating to the public that they are fighting against “dishonest market dealers” responsible for price increases. Their actions are not driven by intentions to protect suppliers, as it was publicly announced, but by a willingness to establish political and administrative control over large and medium-sized business in a rapidly developing market.

CONCLUSIONS

Russian retail trade became subject to the massive state intervention by the end of 2000s. How might we estimate the character of these controversial new rules?

First, the approved trade law is a non-systemic document. It concentrates on the retail trade and focuses on regulation of the chain store companies. It does not address the many alternative organizational forms, like open-air markets, direct selling organizations, off-store trade and e-commerce. Above all, it mainly concentrates on grocery stores.

Second, the law pursues tactical rather than strategic goals to restore a market balance by imposing administrative restrictions. It is a political reaction to the relational conflict between retailers and their suppliers caused by the diffusion of the new institutional arrangements and aggravated by the financial crisis in 2008-2009.

Third, the law intervenes into contractual relations of the market sellers despite the economists’ authoritative conclusions that such an intervention might reduce incentives for investment and contaminate contract discipline (Joskow, 2002). Moreover, the law is aimed at protecting one side of the market exchange from the other. With some exceptions, it does not suggest symmetrical restrictions for suppliers even when their market share is high (which is a frequent case in the local markets)⁶.

Fourth, as a result of political pressures, the law is largely non-transparent and allows ambivalent interpretations by different public officials and lawyers. Market sellers are assured that everything will be clarified through the arbitration court precedents. Thus, final decisions are

⁶ Even at the national level there are examples of higher level of production concentration that are allowed by the anti-trust authorities. For instance, in 2010-2011 Federal Anti-Trust Service easily approved acquisitions of two Russian leading sellers of milk “Unimilk” and “Wimm-Bill-Dann” by multinational companies “Danone” and “PepsiCo” despite the fact that share of two companies was approaching 50 percents of domestic sales.

largely left for judicial discretion, while the court lawyers do not have a sufficient competence and experience in such cases. This kind of uncertainty does not make market sellers happy and does not stimulate further investments.

In sum, the new trade law leads to a new type of institutional trap. Although it was aimed at protecting competition, it is clearly directed against competitive development of chain stores companies establishing new trading formats and may stimulate adverse selection of suppliers.

The introduction of the Federal trade law was justified by the need to protect the interests of domestic suppliers against dominant multiple store companies. Many experts interpreted this intervention as a result of state capture by the large producers, who compensated for their decreasing bargaining power with effective lobbying capacities. This kind of domestic suppliers' lobbying did take place, and there might be some attempts of state capture. However, we suggest an alternative interpretation. According to the obtained empirical evidence, it is public officials rather than market sellers that benefited from the new legislation and regulative practices. We argue that public officials largely pretended to give a helping hand to the domestic producers while they pursued their own economic policies, heavily backed by non-economic considerations. The suppliers' claims were intentionally used to attain a different political goal of developing new instruments of administrative control over the market.

As a result, benefits for market sellers from the new trade law adoption are not so evident. For most sellers, contractual terms and conditions have not significantly changed, and we observe disappointment in the regulatory outcomes. Along with unfulfilled promises, the administrative costs and level of uncertainty caused by additional regulations increased for both retailers and suppliers.

We are reluctant to confine our explanations to public officials' willingness to extend a grabbing hand through additional controlling functions to increase their capacity to raise administrative rent. We would like to avoid this kind of simplification and instead consider the trade law as an attempt to develop new instruments of political control over large and medium-sized businesses, camouflaged by liberal rhetorical statements.

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Vadim V. Radaev
Higher School of Economics (Moscow, Russia). Professor, Head of Laboratory for Studies in Economic Sociology;
E-mail: radaev@hse.ru

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