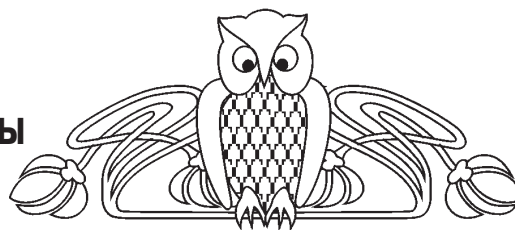




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ОТ «ЛАТЕНТНОСТИ» К «МОБИЛИЗАЦИИ»: МАЛЫЙ И СРЕДНИЙ БИЗНЕС И КАМПАНИЯ В ПОДДЕРЖКУ ИНСПЕКЦИОННОЙ РЕФОРМЫ В РОССИИ В 1998–2008 ГГ.



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Государственные проверки предприятий малого и среднего бизнеса были главным препятствием на пути развития российской экономики «снизу». При координационном содействии со стороны федерального правительства бизнесмены пытались лоббировать реформирование инспекционного законодательства. Экономические кризисы 1998 и 2008 гг. стали поворотным моментом в стимулировании государственной поддержки отечественных бизнес-структур.

Ключевые слова: коллективное действие, малый бизнес, кризис, реформа.

From «Latency» to «Mobilization»: SMEs and the Campaign for Inspection Reform in Russia 1998–2008

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Official inspections of small- and medium- sized enterprises (SMEs) have been a key hindrance to grassroots economic growth in Russia. SMEs have worked to lobby for reform of inspection law. They have been aided by the central government, who has helped them organize for collective action. The 1998 and 2008 economic crises were critical in galvanizing state support for these domestic business interests.

Key words: collective action, small business, crisis, reform.

Throughout the 1990s and 2000s, epidemic corruption hindered Russia's economic performance. At the grassroots level, low-level administrative agents exploited Russia's underdeveloped laws regulating the conduct of inspections to extort rents from small- and medium-sized enterprises (SMEs). In contrast to larger, better-connected firms – who had the resources to engage in «capture» or «elite exchange» models of business-state interaction¹ – SMEs suffered from this «grabbing hand» of the state². While some firms benefitted under Russia's systemic corruption, SMEs tended only to suffer under it.

Unlike their large enterprise counterparts, who can enjoy personal, mutually advantageous ties with administrative officials, *smaller firms' only systemic political leverage can realistically come from pooling their resources into large-scale collective action.* This presents many problems according to collective action theory as put forth by Mancur Olson³. SMEs represent what he calls a «latent» group, in that they are a group in that is so large that no individual member has an incentive to act for the collective good of other members⁴. However, Olson grants

that these groups can be mobilized into collective action under certain conditions. The state can be a key ally in helping latent groups overcome obstacles to collective action.

This is indeed the case with Russia's SME community. They represent what Olson calls a «mobilized latent group». This is his term for a large group that has been co-opted into collective either by coercion or selective incentives⁵. Russia's main business associations representing the small business community (hereafter «SMEBAs»), OPORA and Delovaya Rossiya, are products of the state's effort to mobilize SMEs to achieve modernization objectives and reduce administrative corruption⁶. By sanctioning the creation of these organizations, the Putin administration in effect subsidized SMEs' increased costs of collective action.

This paper presents the story of how and why SMEs were able to consolidate their interest into a unified lobbying effort for inspection reform as a public good for the SME community, despite the obstacles to collective action they face. A key finding is that the two main federal laws on inspection reform, FL-134 of 2001 and FL-294 of 2008, were adopted because the economic crises of 1998 and 2008 called attention to the necessity of domestic economic development, which in turn galvanized state support for the SME cause. Both demonstrated Russia's vulnerabilities as a resource-dependent economy whose economic growth was hindered by widespread corruption. Furthermore, SMEBAs were to play a central role in speeding the reform process in the 2008 case. In the case of FL-134, in which state-sponsored SMEBAs played no role, the lobbying and adoption process took years. In the case of FL-294, in which SMEBAs were central, reforms were adopted in a matter of months.

Inspections, the 1998 Crisis, and the Consolidation of SMEs as an Interest Group

Three agencies are responsible for the vast majority of inspections conducted in the Russia: the Emergency Control Ministry, responsible for management of fire and rescue services; Rospotrebnadzor, responsible for maintenance of trade and health safety standards; and Rosreester, or the Federal Service of State Registrations, Cadaster, and Cartography, responsible for property registrations and other forms of civic land management. These agencies



are tasked with ensuring public welfare, consumer protections, and responsible development. Yet they are at the nexus of the pervasive bribery and corruption that continues to plague Russia. Beginning in the late 1990s, the SME community began to consolidate its interests, and reining in corrupt inspectors touched a chord with politicians and the public. Inspection reform served as a rallying call to many SMEs victimized by the predations of local officials. Important alliances between high-level political actors and local representatives from the SME community began to take shape as the importance of the SME sector became apparent in the wake of the 1998 and 2008 financial crises.

SMEs' organized effort to influence the central government can be traced to the 1st All-Russia Congress of SMEs in Moscow. This was the first conference that brought together high-level government officials and thousands of representatives of the SME community⁷. However, the conference translated into little substantive legislation. President Yeltsin did issue a decree that directed specific funds to SME support, but suspended it after his reelection⁸. In another decree in 1998, «On measures to reduce administrative barriers to business development,» he tasked the legislature with developing a package of laws to reduce corruption. By the time of the 2nd Congress in 1999, nothing had materialized⁹. As Duma Deputy Ivan Grachev stated, «the First Congress and presidential decree were candies that quickly melted away after the elections. In the years following the Congress, virtually nothing was done for small business»¹⁰.

The 2nd All-Russia Congress of SMEs in October 1999 seemed marginalized from the start. The Russian Chamber of Commerce debated whether or not to even have another one, given the lack of results from the first¹¹. It was attended by about a quarter of the delegates of the 1st (about 1,000), was held not in the Kremlin, but in the House of Unions, and its budget – about \$240,000 – was derived solely from the contributions of local business associations and SME owners themselves rather than from federal funds, as was the first¹².

However, the financial crisis of August 1998 had dramatically altered the environment for the formulation of Russia's small business policy. At the 2nd Congress, it quickly became clear that Russia's SMEs had the ear of decision-makers like never before. The financial crisis was affecting them all. SMEBA leader Victor Ermakov noted that political elites in Russia's regions had come to the realization that a genuinely healthy local economy – not one built on promises of development but on actual growth – was crucial to their political survival¹³. When asked if the results of the 2nd Congress would be different than those of the 1st, Ermakov said they would, «for one simple reason: many regions are now on the brink of a social explosion. The widely-held belief that someone would suddenly arrive, build a big factory and start making profits for

the region is simply absurd. This means that people must be given the capabilities to realize this themselves»¹⁴.

Wary of empty declarations, disappointed with the results of the 1st Congress, and reeling from a national financial collapse, the delegates in attendance of the 2nd established a markedly different tone compared with the first. Under discussion would be *specific* measures. At the top of the agenda was a discussion of a draft version of the law «On the defense of legal interests of entrepreneurs»¹⁵. It took center stage as the infringements of local officials (*chinovniki*) against the rights of entrepreneurs were presented¹⁶. One small firm held the unenviable distinction of being the apparent record-holder for having the most inspections in a year, at 402¹⁷. The egregious nature of officials' abuse of SMEs helped inspection reform become a central feature of the central government's campaign against corruption and maladministration. Yevgeny Primakov, then president of the Russian Chamber of Commerce and one of Russia's elder statesmen, commented how in the early 2000s, the challenge for SMEs became how to protect themselves *from* the state rather than seeking protection *by* the state¹⁸.

The outcome of this 2nd Congress was a stark contrast to the 1st. Within one month, a special meeting of the Presidential Cabinet was called to discuss the proposals put forth¹⁹. Victor Ermakov was ebullient about this result:

«The government has given very serious attention to the issues raised, and I must say we did not expect such an understanding of our problems and such full support of our ideas. The package of priority measures to support small businesses and entrepreneurs proposed at the Congress was fully approved. Fifty million rubles was allocated to small business development. A special council of the Prime Minister for small business issues was set up. The federal program of small business support until 2000 was adopted. We were supported by everyone, including tax officials... I am proud of the outcome of this Congress»²⁰.

This special cabinet meeting was held in November 1999. At a follow-up conference held in March 2000, just five months later, minister of Antimonopoly Policy and Support for Entrepreneurship Ilya Yuzhanov announced that 80% of the resolutions proposed at the 2nd Congress had been adopted²¹. By 2001, German Gref, appointed minister of the newly-formed Ministry of Economic Development and Trade, proposed a «debureaucratization» package of reforms for debate in the Duma that included measures to regulate the amount of inspections a government agency would be allowed to conduct of a small business²².

SMEs' organizational efforts were beginning to produce results. After several months of debate in the Duma and three readings on the floor, FL-134 was adopted in August 2001. Two main provisions of the law were the most important to SMEs.



It set the limit of one inspection every two years of one firm by one inspection agency, and that agency had to limit the length of its inspection to 30 days²³. The adoption of FL-134 was a major victory for the small business community. Two surveys conducted in 2002 of 2,000 SMEs in twenty regions showed that the number of inspections per enterprise had decreased by 26 percent²⁴.

Subsidizing the Costs of SME Collective Action

In late 2001 after a meeting with President Putin, Duma deputies and prominent business owners officially registered Delovaya Rossiya, the first national-level, cross-sectoral business association dedicated to the overarching problems of doing business in contemporary Russia²⁵. Although it was not created specifically for SMEs, in focusing so heavily on the problems of corruption and reducing administrative barriers its efforts were naturally weighted to solving their problems. In September 2000, the inefficacy of SME interest articulation at the national level was discussed at the conference «The Role of Associations of Entrepreneurs in the Development of Small Business». Participants discussed the benefits of consolidating Russia's myriad SME interest groups under one banner²⁶. The event was organized by the Institute on Entrepreneurship and Investment, the Russian Chamber of Commerce, and the Eurasia Foundation (ibid)²⁷. About one year later, with the close involvement of the president, OPORA, Russia's first business association dedicated solely to SME concerns, was established²⁸. Rather than having to organize ad hoc conferences, Russia's SMEs now possessed a formalized and sustained conduit to channel their interests and concerns to the highest levels of power.

Enforcing and adapting Russia's law on inspections was to become a key function of SMEBAs' activities. In 2003, OPORA conducted a survey in which nearly 75% of respondents complained that they were still inspected more than once a year, and with 30% saying once a month or more²⁹. One of the main loopholes in the inspection law was that inspection authorities retained the right to conduct unscheduled inspections given probable cause. Furthermore, FL-134 did not stipulate which agencies had the right to carry out which supervisory and inspection functions nor did it standardize a set of infractions by which an SME could be inspected; this judgment remained at the discretion of the inspecting authority³⁰. A lawyer from the Independent Council of Legal Experts noted these shortcomings, saying that «In practice, haphazard, unpredictable inspections will continue despite the adoption of [FL-134], and [SMEs] will continue to have their business hampered and incur losses, and their rights again will be violated»³¹. In 2007, German Gref cited statistics indicating that SMEs were still devoting nearly 10% their revenues to illicit payments to officials, which demanded further changes to Rus-

sia's laws on inspections³². Speaking at a hearing of the Duma in 2008, then Delovaya Rossiya head Nikolai Ostarkov said that despite extensive political efforts to reform the system of inspections from 2001 to 2003, nothing actually changed and inspections remained one of the key hindrances to business growth³³.

The 2008 Crisis: SMEBAs Drive further Inspection Reform

From the adoption of FL-134 in 2001 to the onset of the global financial crisis in 2008, lack of enforcement of Russia's inspection law continually frustrated SME owners and executive authorities. The economy was doing well, so therefore complaints failed to register with much resonance³⁴. However, by 2008 it was clear that Russia would not be immune from the effects of the crisis. A spate of decrees and legislative initiatives were put forward as its effects became clearer. In March, Yuri Chaika, Russia's federal prosecutor, issued order 53 «On the organization of prosecutorial supervision to enforce the rights of entrepreneurial entities». This decree made protection of SME rights a central mission of regional and federal prosecutors' offices³⁵. They worked with the Chamber of Commerce to review and adjust regulations that were contradictory with others or otherwise contained loopholes. Annulled and adjusted acts numbers in the hundreds, to thousands, in some cases³⁶. A central tenet of the decree was that regional prosecutors' priority was to protect SMEs from corrupt inspection regimes. Key to this was to prosecute offending inspectors and agencies³⁷. They became responsible for approving requests for inspections and with publishing the schedules of planned inspections³⁸. Cooperation agreements were established between OPORA, Delovaya Rossiya, and the federal prosecutor's office³⁹.

Two months later and within a week of taking office, President Medvedev issued decree 797 «On urgent measures to eliminate administrative barriers in business activities»⁴⁰. The decree explicitly focused on reforming the inspection regime to curb bureaucratic abuses. It tasked the Duma with developing a number of draft laws to strengthen and enforce anti-corruption measures such as those stipulated by FL-134 within two months of its issue⁴¹. It required a further reduction in the amount of times an inspection agency could visit a given firm on a planned inspection, from once every two years to once every three⁴². The decree also mandated devolution of oversight of inspection agencies to municipal officials. In December 2008, after two readings in the Duma, FL-294 was adopted as a replacement to FL-134. Its more important amendments included a reduction in the amount of planned inspections an agency could conduct (from once every two years to once every three), a reduction in the time an agency



could be present at a firm from 30 to 20 days, and prohibited a kind of «double jeopardy» in that a firm could not be inspected by more than one agency for the same reason⁴³. It established the Council for the Protection of SMEs which was to coordinate efforts between federal and regional authorities to combat corrupt inspections, and was explicitly ordered to include representatives from SMEBAs⁴⁴. Chairman of the Duma committee on political economy Yevgeny Fyodorov commented, «All of Russian business has been waiting for this bill. Now that we're in a crisis, the president, government, and Duma gave special attention to strengthening the position of [SMEs]...»⁴⁵

Solving the problems of implementing FL-294 then took precedence over adopting new legislative measures of SME support. In 2009, despite these legislative reforms, it was estimated that small businesses regularly had to deal with inspections from more than forty different agencies⁴⁶. Each agency was still entitled to conduct fifty hours of inspections per year of one small business⁴⁷. This amounts to over 2,000 hours of inspections which a small business was theoretically obligated to endure⁴⁸. In 2009 the Russian Duma adopted a program of anti-crisis measures which stipulated the strengthening of oversight of inspection agencies as one of its top priorities⁴⁹. Local branches of OPORA across Russia were granted the right to be present during inspections of their members⁵⁰. Delovaya Rossiya, Chambers of Commerce, and OPORA allied with local independent SMEBAs to conduct seminars on business owners' rights vis-à-vis inspectors⁵¹. Information was widely published in local and national newspapers. Although problems remained, the campaign to reform Russia's inspection regime had shown manifest results.

Conclusion

The economic shocks of 1998 and 2008 were crucial turning points in consolidating the SME interest. The 1st All-Russia Congress of SMEs in 1996 produced little if any tangible outcomes for SMEs. However, following the 1998 financial crisis, reducing corruption became a key goal for Russia's political leaders. The role inspections played in hindering economic development was publicized during the (much smaller) 2nd All-Russia Congress of SMEs in 1998. Yet the effects of the financial crisis multiplied the effects of the 2nd Congress. The crisis induced political leaders were ready to give the SME sector what it needed if it could contribute to economic stability.

The pervasive «grabbing hand» of Russia's *chinovniki* drove the consolidation of the SME interest toward a campaign for inspection reform. But, given their individual weakness, SMEs' only means of systemic political leverage came from pooling their resources into mechanisms of collective action.

This presented a number of problems according to the theory of collective action as laid out by Mancur Olson. As a «latent» group, SMEs faced significant organizational costs.

However, the Putin administration subsidized these costs through the creation and empowerment of Russia's main SMEBAs, which in effect mobilized SMEs out of their latency. The synergy of interests between Russia's central authorities and the SME community in reducing administrative abuse as an aspect of national economic development objectives led to the emergence of legislation to regulate Russia's inspection regime and an empowered, organized SME lobby.

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