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New Laws Restricting Foreign Retailers Cause Concern

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Report Highlights:

A proposed law directed at giving local farmers an edge in produce markets and wet markets follows an amendment giving the federal government more control of the types of vendors and products permitted at these markets. A separate law imposes major restrictions on the number of foreign vendors and workers and the goods they can sell. The laws cause concern about potential shortages and higher prices.

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Executive Summary

The Russian government has introduced new laws that restrict the types of vendors, workers, and products allowed within markets. The new laws stem from an amendment passed in November that gives the federal government more control over retail markets. The measures are directed at supporting domestic farmers in consumer markets, which are typically dominated by foreign vendors. Vendors who are also domestic producers will be allotted at least 20 percent of retail space. Alcohol and pharmaceuticals will not be permitted in produce (wet) markets and foreign workers will not be permitted to retail alcohol or pharmaceuticals, or to engage in retail sale in other multi-vendor retail markets.

These measures are cause for concern, as the restrictions may seriously disrupt retail markets. Currently, producer-vendors do not have the capacity to supply 20 percent of the goods, which may result in shortages and upward pressure on prices. In addition, the domestic labor-supply is insufficient to replace foreign workers.

Amendment to the Federal Law “On protection of consumers’ rights”

With unprecedented speed, an amendment was pushed through both houses of Russia’s parliament authorizing the federal government to regulate trade in consumer markets. After receiving three hearings in one day, the amendment was adopted by the Duma on November 10. The Federal Council approved it on November 15 and Putin signed it into law on November 27.

Article 2, Chapter 1 of The General Provisions of the Federal Law “On protection of Consumers’ Rights” now reads (amendment is italicized):

“The Government of the Russian Federation shall have no right to entrust the federal executive bodies with the adoption of acts containing norms about the protection of consumers’ rights.

“The Government of the Russian Federation shall be entitled to issue for the consumer and the seller (the manufacturer, executor, authorized organization or authorized individual businessman, and importer) rules to be observed without fail when making and executing public contracts (retail purchase and sale contracts, electric energy supply contracts, contracts for carrying out works and rendering services).

“The Government of the Russian Federation shall have the right to set the rules of organization of activities on sales of commodities (works, services) to consumers.”

The amendment authorizes the federal government to regulate trade in goods and services, both at the retail and wholesale markets. According to Yevgeniy Fedorov, chairperson of the Duma Committee on Economic Policy, Entrepreneurship and Tourism, the new consumer trade law marks the first in series of amendments that will be adopted over the next year affecting all areas of trade. In the meantime, the consumer law amendment is seen as all-encompassing and immediately authorizing federal regulation of all spheres of goods and services, according to Fedorov. The amendment was intended to create uniform regulations across the nation, since regional efforts to regulate trade were lacking. Only 13 regions had developed a regulatory framework, and even these were not sufficiently strict and specific, Fedorov said.

Draft Federal Laws on Retail Markets

Two separate draft laws have appeared in response to the amendment, one from the Duma and another from the Ministry of Economic Development (MEDT). The bills both outline regulation of trade in agricultural products at farmers' (formerly "kolkhoz") markets. The author of the Duma's proposal, Fedorov, stated that the bills were similar and would not interfere with one another.

The Duma's draft, first hearing on which is set for December, classifies all retail markets into three categories: 1) retail market, 2) food-agricultural market, and 3) agricultural cooperative market. The legislation requires the company that leases the market space to register as a "market managing company" and to monitor the type of vendor and products that are sold. The bill specifies which products can be sold at each type of market and requires that at least 20 percent of the space be allocated to vendors who are also producers, classified as "domestic." Fines of up to 100,000 rubles would be imposed for violations.

MEDT submitted a similar draft law, which classifies retail markets as "universal," "food," and "specialized," and will allow distinct regulations for each. A list of products prohibited for sale in each of the markets will be determined at a future date, according to the Head of MEDT's Department of Macroeconomic Forecasting, Andrey Klepach. At the request of the Ministry of Agriculture, markets of agricultural cooperatives will form a special category, where a minimum of 50 percent of sellers must be members, and alcohol and imported products will be prohibited. This proposal also classifies vendors as "domestic," and requires a registered "managing company" to implement the 20-percent minimum. The law is intended to protect domestic producers, whose interests are defended by the Ministry of Agriculture. MEDT is also hastily working on a more comprehensive federal law "On Retail Trade", which creates a framework suitable for both large retail chains and small producer-vendors.

Resolution on Quotas of Employed Foreigners in Retail Trade

While these drafts await hearings, the government adopted November 15 a related resolution on foreign vendors and workers which has had an immediate effect on wholesale and retail trade in consumer goods. It states that foreign vendors are prohibited from selling alcohol and pharmaceuticals as of January 15, 2007. Moreover, beginning April 1, foreigners can no longer be employed in shops or market stands. Text of the resolution follows (unofficial translation):

Resolution #683 of November 15, 2006

"About establishing for 2007 allowed shares of foreign workers employed by economic entities in the sphere of retail trade on the territory of the Russian Federation"

In accordance with point 5 Article 18 of the Federal Law "On the Legal Status of foreign citizens in the Russian Federation" the Government of the Russian Federation states:

1. to establish for 2007 the allowed share of foreign workers which are employed by the economic entities that conduct on the territory of the Russian Federation the following types of activities¹ in the sphere of retail trade, envisaged by the All-Russian Classification of the Types of Economic Activity:
 - a) retail trade in alcohol products, including beer (code 52.25.1) – in amount of 0 percent of the total number of workers employed by the mentioned economic entities;
 - b) retail trade in pharmaceutical goods (code 52.31) - in amount of 0 percent of the

¹ [Activities are determined in accordance with codes of the All-Russian Classification of Economic Activities, Goods, and Services](#)

total number of workers employed by the mentioned economic entities;

c) retail trade in booths and in the markets (code 52.62) – in amount of 40 percent of the total number of workers employed by the mentioned economic entities, for the period from January 15 to April 1, 2007, and 0 percent - for the period from April 1 to December 31, 2007;

d) other retail trade outside shops (code 52.63) - in amount of 40 percent of the total number of workers employed by the mentioned economic entities, for the period from January 15 to April 1, 2007, and 0 percent - for the period from April 1 to December 31, 2007.

2. Economic entities mentioned in the point 1 of the present Resolution shall adjust the number of employed foreign workers in accordance with the present resolution, and following the requirements of the labor legislature of the Russian Federation.
3. Ministry of Health and Social Development of the Russian Federation shall every year, by November 15, submit to the Government of the Russian Federation proposals on determining for the next year the allowed share of foreign workers, employed in different industries of economy by economic entities, which conduct activity on the territory of the Russian Federation.
4. Ministry of Health and Social development of the Russian Federation shall provide explanations on the present Resolution.
5. The present Resolution comes into force starting January 15, 2007

Chairman of the Government
of the Russian Federation

M. Fradkov

Moscow
November 15, 2006
#1883

End text

Implications of Proposed Law

A number of concerns will arise if the proposals are adopted and implemented effectively:

- There are more than 4,000 retail markets in Russia, with different types of local products, different standards of conducting trade, etc. It is not clear how uniform regulations will apply across the markets or be implemented at the municipal level.
- The legislation allows for detailed lists prohibiting specific goods from entering different types of markets. Thus, it leaves room for groups to lobby for prohibitions on goods based on narrow interests. This is of particular concern to importers, as the Ministry of Agriculture could use the law to limit sale of imported products at the retail level~~exclude all imported agricultural and food products, especially fruits and vegetables.~~
- Prohibiting foreign workers may create a shortage of workers in the big cities, and will likely decrease the variety of services and increase prices.
- It is not clear whether foreign producers who farm on Russian soil will be allowed to sell their produce in the markets.

The Resolution in Action

Several regions, including Moscow, have already begun enforcing the resolutions, clearing out foreign vendors and workers from the "kolkhoz" markets. It did have the intended effect, at least in some markets in Moscow: the supply of staple Russian vegetables (potato, cabbage, carrots) increased and prices dropped. However, variety in the markets is more limited, making non-staple commodities increasingly expensive and difficult to find.

Furthermore, there is skepticism that the intended effect will continue in the long run. Local farmers often do not have means to deliver products to market, and neither the volume nor the variety to meet consumer demand. Moreover, small-scale producers are not likely to increase production by next season because of limited resources. Many are hesitant to invest in increased production because the policy is seen as short-lived and will eventually be undermined by corruption or lack of political will.

Other-Related Measures

In a related policy that may affect the supply of produce, the federal government approved a resolution to handle procurement of agricultural goods through small business. If the policy is enforced, food purchases for institutions such as the military and public schools will be contracted exclusively with enterprises registered as small businesses. The policy threatens to create even more shortages in the farmer's markets, as the already limited small-scale producers would be responsible for supplying government institutions as well as the minimum 20 percent of the consumer market.