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## LAND REFORM

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## Analysis

### Russia's Incomplete Land Reform

By Stephen K. Wegren, Dallas

#### Abstract

Russia's contemporary land reform remains incomplete because very little actual land was distributed to private individuals. The Medvedev government is faced with correcting the shortcomings inherited from previous land reform policies. The task is complicated because original land reform distributed land shares held as collective share property.

#### Shortcomings in the Design of Reform

Russia's contemporary land reform was introduced during a period of political turbulence and massive economic and social change. The foundation of land legislation was adopted during 1990–1993. Perhaps because reformers were trying to remake Russia's political, economic, and social systems simultaneously they did not realize that they were creating an incomplete land reform. Furthermore, because of political divisions in the government land reform policies often reflected what was politically possible rather than what was economically optimal. Moreover, during the 1990s emerging economic elites shied away from rural land acquisition and did not view it as a valuable asset, and thus an important economic impetus to well-crafted policies was absent.

Early reform policies contained two main shortcomings that reflected the incomplete nature of Russia's land reform. The first shortcoming was that during the process of land privatization and distribution very little real land was transferred to individuals. The privatization of formerly state-owned agricultural land had three main elements.

- Operators of private plots (*lichnoye podsobnoye khozyaystvo*) were allowed to convert Soviet-era use rights to ownership of those plots. These plots of land were very small, usually less than .5 hectare, and in aggregate comprised about 1 percent of all agricultural land in 1990 in the RSFSR.
- Land held by state and collective farms was "privatized" and distributed to farm employees and service personnel in the form of land shares during the reorganization of those farms.
- Last, persons wanting to become private farmers received free allotments of real land from either the farm where they had been employed or from a raion land fund. In the early 1990s, of these three forms of distribution, land shares accounted for at least 95 percent of agricultural land.

Land shares were paper entitlements to land but not physically demarcated plots of real land. This type of

reform brought relative simplicity to the distribution process, but it also meant that not much real land was transferred to individuals. There was nothing deterministic about the method of distribution that Russian reformers chose – some post-communist states in Eastern and Central Europe chose to restitute land to pre-communist owners. Other post-communist states chose a mixed system of restitution and land shares. For most rural dwellers in Russia, the reality of landownership usually combined ownership of the household private plot with more abstract land use rights represented through land shares.

On paper it appears that Russia's land reform privatized approximately 130 million hectares during the 1990s. However, by the end of the decade, private individuals used only about 11–13 percent of all agricultural land, a statistic that put Russia at the lower end of the scale of post-communist states. By the beginning of 2008, individuals' use had grown to about 17 percent of agricultural land. But a distinction must be made between "use" and "ownership" of land. By the end of Putin's presidency the amount of privately *owned* real land was considerably less than 10 percent of all agricultural land. If private farmers' landownership is excluded, the amount of real land owned by individuals is minuscule. Even including private farmers' land, more than 90 percent of "privately owned" land is owned as land shares, not real land. A main consequence of the land share system of distribution was that large farms retained control over former state-owned agricultural land because most land shareowners rented their share allotments back to the large farm in return for payment (a secondary land rental market was private farmers).

The second shortcoming in Russia's land reform consisted of numerous constraints on the disposal of land. President Boris Yeltsin's decree at the end of October 1993 legalized the sale of agricultural land other than private plots. This decree was originally intended to remain in effect only a short time, until a post-Soviet Land Code and supporting laws were adopted. No one at the

time expected that debates over the Land Code would become so bitter and drag on for nearly a decade more. While Yeltsin's October decree laid the basis for the development of a land market and went farther than any legislation to that time, it also contained several restrictions on the sale of land. For example, farm members who wanted to sell their land shares had to offer their shares to other members of the farm first, and only if no buyers appeared could the shares be offered to outside buyers. Another constraint was that agricultural land could not change use upon sale. In other words, agricultural land had to remain in agricultural use. Due to these and other factors that existed during the 1990s, the Russian land market was a leasing market. Land leases, numbering several million a year accounted for more than 95 percent of all land transactions during the 1990s, while the number of land purchases was relatively small (see Diagram 2 and Table 1 on p. 6).

Yeltsin's decree legalized rural land sales in principle, but did not specify concrete procedures. Indicative of the weak central government that existed at the time, it was not until four years later that the first regional land legislation legalized agricultural land sales (1997, in Saratov oblast). Throughout the 1990s, as many as 10–13 regions within the Russian Federation had legislation that did not recognize the legality of land sales or the private ownership of land.

### **Land Reform under Putin**

During Putin's first term a new Land Code (2001) was adopted that codified property rights, and in 2002 a Law on Agricultural Land Transactions was passed that came into force in 2003. This law addressed the second shortcoming noted above in that it specified procedures for selling agricultural land and served as a template for regional legislation. Economic growth after 1999 and clarification of sale procedures contributed to a decrease in the number of lease transactions and an increase in the number of land purchases, although Russia's land market remains a leasing market. Land leases in 2007 accounted for about 88 percent of all land transactions, accompanied by an increase in the number of purchases (see Diagram 3 and Table 2 on p. 7). The law on land transactions also has restrictions, the most important of which is the requirement that municipal governments be given the right of first refusal during the sale of all large land plots (small plots used as private plots, collective gardens, or dacha plots are exempt from the law). Therefore, according to this law the sales process is complex and removes direct negotiation between buyer and seller and is open to corruption.

Attendant with strong economic growth that ensued from 1999 through 2007, land began to be perceived as a valuable commodity from which to build wealth. Agricultural land became the new frontier for those with money. By Putin's second term rich urban investors became interested in buying agricultural land, which meant that they had to buy land shares. One method was to approach shareowners directly and to buy their shares, either individually or collectively. A second method was for the urban investor to buy a whole farm, thereby becoming the owner of the shares that had been invested in the farm by shareowners in the early 1990s. When this happened, rural dwellers were dispossessed of their land shares. The second method led to anger and protests in several regions when shareowners found out that their shares had been sold from under them. Former Minister of Agriculture Aleksei Gordeev criticized urban "raiders" and warned of "wars," over rural land. As land "raiding" became more frequent Gordeev advocated greater government regulation of land relations in order to protect the property rights of land shareholders.

### **Land Reform under Medvedev**

The incomplete nature of land reform – that individuals did not receive much real land – has yet to be resolved and the situation remains in flux. The sociological impact of Russia's incomplete land reform has been that only a small percentage of households have been able to expand their land holdings by a significant amount. Survey data demonstrate that during 1991–2006 factors such as profession, gender, employment status, income level, and income structure greatly affected the size of land holdings and the proclivity to acquire additional land. But for the vast majority of rural households, land holdings remain not much larger than during the Soviet period, and for households not engaged in private farming, private plots continue to be the primary method of holding real land.

The 2002 law on agricultural land transactions originally stated that land shares held by large farms and registered as permanent unlimited use must be reregistered and, upon a transaction, converted to real land by January 1, 2004. That deadline was extended several times and now is January 2010. Failure to reregister land shares results in forfeiting the rights to land, something that the government wants to prevent.

Since 2003, a shareowner who wanted to sell or rent his land share had to get his land surveyed and registered, a process that has proven to be both time consuming and expensive. The problems inherent to re-

registration and conversion have not been easy to resolve. First Deputy Premier Viktor Zubkov revealed in February 2009 that among 12 million land shareholders, only 400,000 owners have been able to convert their shares to private property. A litany of hurdles has confronted share owners such as a cumbersome bureaucratic process of registration, an array of documents an owner must obtain, the expense of survey and titling, and the length of time that reregistration may take (up to 6 months). So far, the federal government has taken some easy remedial steps such as lowering its reregistration processing fee. It has also simplified the amount of documentation that is required during the conversion process, for instance not requiring proof of ownership in order to obtain a survey of the land plot.

The most intractable problem lies in the nature of share ownership that was used during the early stages of land reform, during which households received land shares that assigned a general quantity of land to which the household was entitled. For example, a hypothetical three-person household may have been issued land shares that in aggregate entitled them to 20 hectares of land. At the time of distribution, these land shares were legally registered as either collective-*joint* ownership or collective-*share* ownership. Joint ownership did not specify how much land “belonged” to each member. The share system specified a quantity for each recipient. According to Federal Cadastre Agency, in 2007 collective-*share* ownership comprised 98.8 percent of land shares. In both cases the location of land “owned” by an individual member of the household was not specified because land shares were abstract paper entitlements but not real land. The registration method used in the 1990s means that today land registration services routinely refuse to reregister land shares, and technically they are entirely correct in doing so because it is impossible to reregister land for which the location of a plot is unknown. In early summer the Ministry of Agriculture suggested lowering the number of share holders necessary to constitute a quorum that could make allocative decisions about collective-share land, and it proposed that local administrations take the initiative in organizing meetings of share owners.

Local courts have complained about an overload in cases where there are disagreements over location among owners, and there is no guarantee that the untangling

of property rights can be sorted out by the January 2010 deadline. Unless the deadline is extended, there is fear of mass dispossession of land and widespread protest, which would compound regional protests over economic conditions. In late spring the Ministry of Economic Development and Trade began working on amendments to the Land Code, although there is no indication as to when they might be considered by the Duma.

Aside from a flurry of activity in spring 2009 concerning individuals’ property rights, the Russian government appears to be more interested in raising the productivity of agricultural land use, which fits into its strategy of increasing grain production and grain exports, an orientation that does not address the incompleteness of land reform. Draft legislation suggested by the Ministry of Agriculture will:

- give right of first refusal to large farms to lease re-registered land
- give preference to municipal and regional governments to convert unclaimed, unwanted, and abandoned land to state property
- increase fines and/or land taxes for land that is used inappropriately or is not used for its intended purpose
- create a unified system of state monitoring of agricultural land.

Each of these elements is intended to facilitate an increase in the effectiveness of land use.

### Conclusion

The reform policies of the early 1990s created an incomplete land reform. The institutional structure of reform has locked Russia into a situation in which individuals have relatively little real land. Due to complications in the reregistration and conversion process, agricultural land is often not able to be transferred to the most effective users. This constraint is important because effective land use facilitates economic growth and an internationally competitive agricultural sector. However, attempts to rectify past policy mistakes have confronted problems that are inherent to the type of ownership that was conferred at the beginning of reform. Structural constraints embedded within the institutional design of land reform complicate efforts to increase agricultural production.

#### *About the author*

Stephen K. Wegren is Professor of Political Science at Southern Methodist University, Dallas, Texas.

*(Further reading: please see overleaf)*

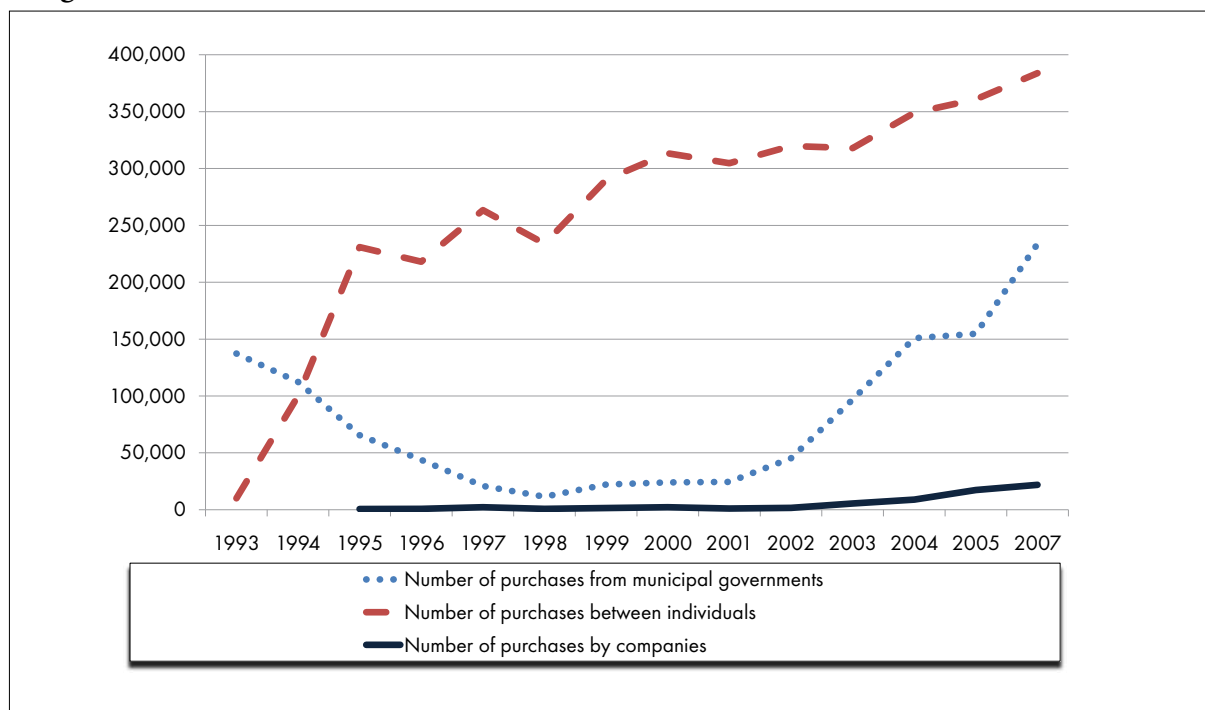
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**Tables and Diagrams**

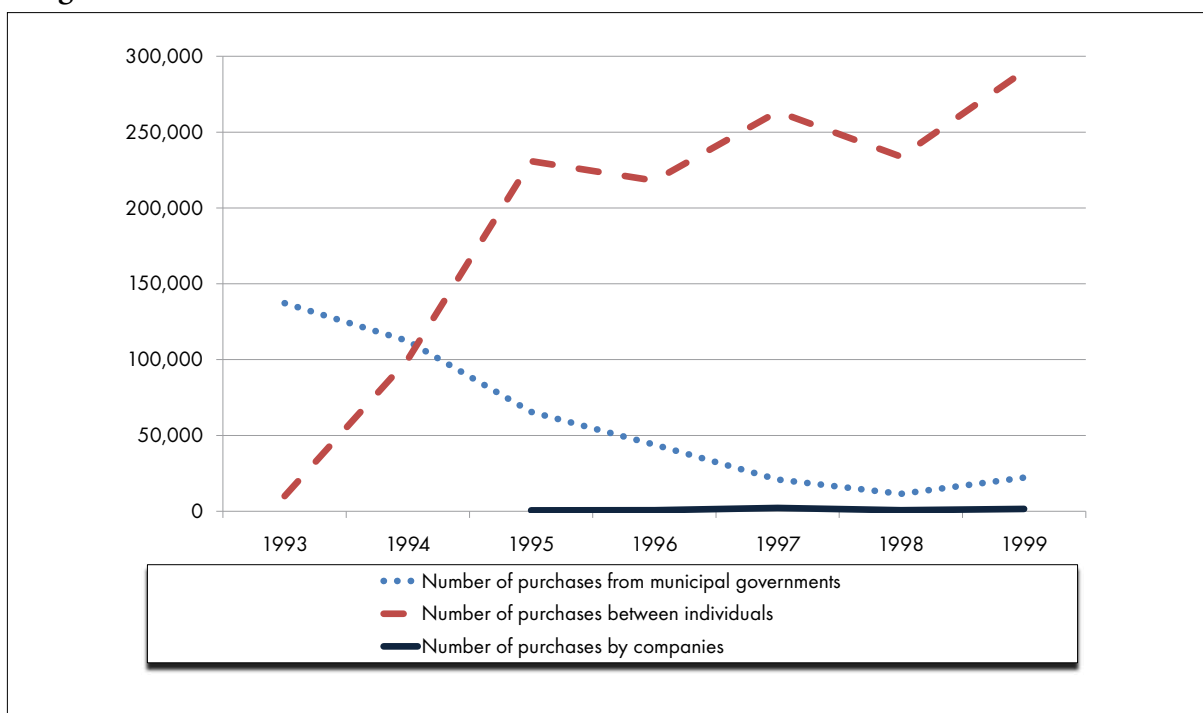
**Land Purchases 1993–2007**

**Diagram 1: Land Purchases, 1993–2007**



Sources and exact figures: please see p. 6 and 7.

**Diagram 2: Land Purchases, 1993–1999**



**Table 1: Land Purchases, 1993–1997**

	1993	1994	1995	1996	1997	1998	1999
Number of purchases from municipal governments	137,263	112,299	65,509	43,907	20,897	11,467	22,191
Number of purchases between individuals	9,990	100,133	230,888	218,052	263,470	233,898	290,268
Number of purchases by companies	NA	NA	566	707	2,219	692	1,503

NA=Not applicable

Sources: Gosudarstvennyi (natsional'ny) doklad o sostoianii i ispol'zovanii zemel' Rossiiskoi Federatsii za 1995 god (*Moscow: Committee on Land Resources and Land Surveying, 1996*), 76, 78, 79; Gosudarstvennyi (natsional'ny) doklad o sostoianii i ispol'zovanii zemel' Rossiiskoi Federatsii za 1996 god (*Moscow: Committee on Land Resources and Land Surveying, 1997*), 53, 55; Gosudarstvennyi (natsional'ny) doklad o sostoianii i ispol'zovanii zemel' Rossiiskoi Federatsii v 1998 godu (*Moscow: Roskomzem, 1999*), 58, 60; Gosudarstvennyi (natsional'ny) doklad o sostoianii i ispol'zovanii zemel' Rossiiskoi Federatsii v 2000 godu (*Moscow: Federal Land Cadastre Service, 2001*), 116, 121; and author's calculations.

Diagram 3: Land Purchases, 2000–2007

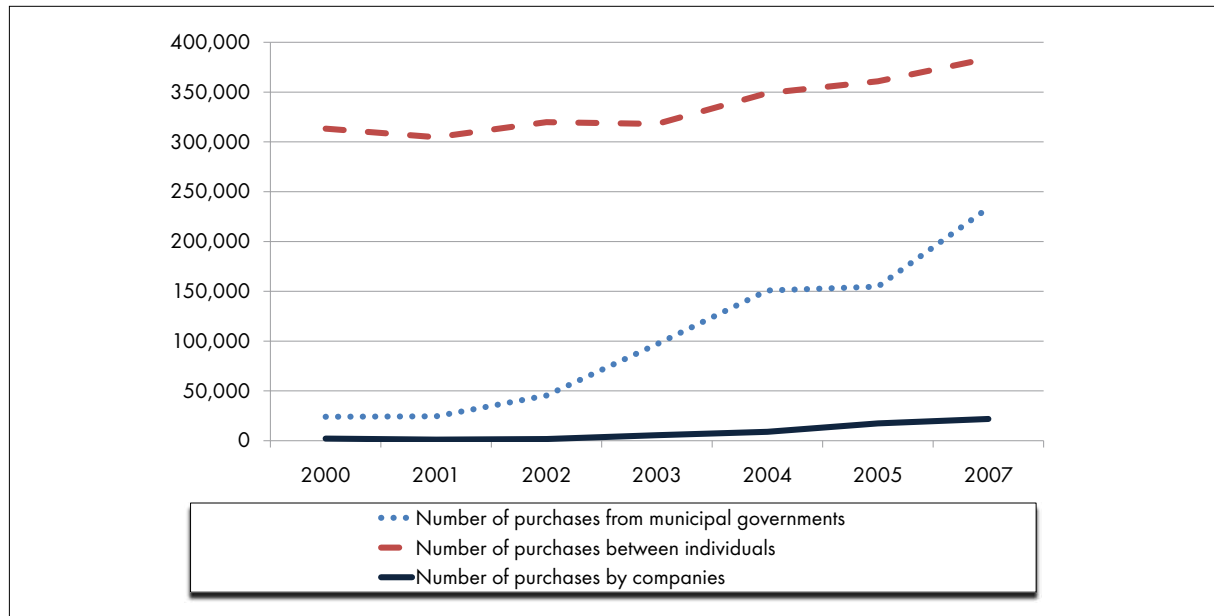


Table 2: Land Purchases, 2000–2007

	2000	2001	2002	2003	2004	2005	2007
Number of purchases from municipal governments	23,969	24,465	45,321	96,876	150,793	154,702	233,706
Number of purchases between individuals	313,367	304,674	319,850	317,997	349,043	360,894	383,818
Number of purchases by companies	2,141	1,018	1,658	5,535	8,894	17,321	21,852

Sources: Gosudarstvennyi (natsional'ny) doklad o sostoianii i ispol'zovanii zemel' Rossiiskoi Federatsii v 2001 godu (*Moscow: Federal Land Cadastre Service, 2002*), 105, 111; Svedeniia o sdelkakh s zemlei i platezhakh za zemliu (*Moscow: Federal Land Cadastre Service, 2003*), 25, 28; Gosudarstvennyi (natsional'ny) doklad o sostoianii i ispol'zovanii zemel' Rossiiskoi Federatsii v 2005 godu (*Moscow: Federal'noe agentstvo kadastra ob'ektov nedvizhimosti, 2006*), 147, 150; Gosudarstvennyi (natsional'ny) doklad o sostoianii i ispol'zovanii zemel' Rossiiskoi Federatsii v 2007 godu (*Moscow: Federal'noe agentstvo kadastra ob'ektov nedvizhimosti, 2008*), 175, 184; and author's calculations.

## Analysis

# The Perpetual Impermanence of Enterprise Land Reforms in Russia

By Andre Khakhalin, Moscow and William Pyle, Middlebury, VT

## Abstract

Despite fifteen years of federal-level efforts to unify ownership over their land and capital, most Russian enterprises still do not own the plots on which they are situated. Indeed, many continue to use their lands under an antiquated, Soviet-era form of tenure. The irresolution of enterprise land reform likely imposes a serious economic burden on the country that might be alleviated by giving firms a stronger financial incentive to convert their land rights – for example, by imposing a tax or rental payment on those continuing to operate under the old form of tenure.

## Early Momentum Lost

A fifteenth anniversary in the history of Russian privatization passed largely un-noticed this past summer. Presidential Decree 1535, issued in July 1994, represented the first clear, official recognition that the land underneath non-agricultural enterprises would be an important part of the general privatization program. By spelling out specific procedures governing acquisitions, Decree 1535, in conjunction with a 1995 decree that reduced the purchase price of enterprise-occupied land, paved the way for a substantial number of privatized enterprises to take ownership of their land plots. Between 1994 and 1997, an estimated 34.5 thousand hectares, across roughly fifty Russian regions, were transferred to private enterprises.

This initial momentum, however, was not sustained. And despite legislative efforts over the past decade, enterprise ownership of the lands they occupy remains a rarity throughout much of the country. Most recently, the long-awaited Federal Law 212, the so-called “Major Amendments to Land Privatization Legislation” enacted in July 2007, seemed to hold out the promise of resolving, once and for all, ambiguities surrounding the ownership of enterprise land. Indeed, in its wake, we observe much less debate and discussion of enterprise land ownership issues.

Over the past two years, most federal legislative work addressing non-agricultural land has concentrated on residential properties: procedures for allocating state plots for multi-family housing and for registering titles for personal holdings, such as those used for gardens and vacation homes. Even the commentators and business community representatives who had been so involved in the heated debates surrounding Law 212, seem largely un-interested in the current state of affairs with respect to the ownership of enterprise land. It is difficult to find any new studies exploring trends in enterprise land transactions. And the relevant Russian pro-

fessional journals are largely devoid of articles reviewing the issues relevant to enterprise land ownership.

Some might interpret this lack of attention as confirmation of the recent legislation’s success. Others might see it as reflecting an inevitable and perhaps even a necessary lull, believing that a new set of discussions and debates can be comfortably postponed. Our perspective is different. Available evidence suggests, first, that ownership rights over enterprise land have not been successfully resolved (nor will they be any time soon) and, second, that postponing their resolution by delaying the realization of the vision laid out fifteen years ago may impose an unnecessary burden on the Russian economy.

## The Evolution and Irresolution of Enterprise Land Rights

Transfer of non-agricultural commercial lands to users and occupants was an important first step in the property rights reform process in much of the transitioning world. Many of the Central and East European countries simultaneously privatized enterprise capital and land, often transferring the latter at a nominal fee. Russia followed a different path. The initial measures governing the corporatization and privatization of Russia’s state enterprises were applied only to equipment, buildings and other structures. The land plots beneath them remained state-owned. A fundamental principle of market economies – that the ownership of surface objects derives from ownership of the land underneath (*superficies solo cedit*) – was thus ignored and, in a sense, inverted. The reason seems not to have been the ignorance of Gaidar and the team who authored the 1991 Privatization Law, nor was it their concern about the special sensitivities of Russians to land tenure issues. Expediency seems to have been the main motive. The potential complexities of resolving property boundaries and the perceived need to develop parallel legislation on title registration and a land cadastre struck Russia’s



privatization architects as potentially too time consuming given the priority they placed, largely for political reasons, on speed. The value of temporary mechanisms, applied successfully elsewhere in the world, such as “conditional title” and “general land boundaries” were not appreciated then (nor are they now).

Privatized enterprises initially held the lands they occupied under the right of *permanent (perpetual) use*, a Soviet-era form of land tenure, which granted its holder a right to use and build on a parcel but not to dispose of it, for instance through its sale to another party. The right, re-enumerated in the Russian Civil Code of 1995, was characterized as permanent only because a termination date is not specified. If the state did dispossess a permanent use holder of its lands, it faces an obligation, according to law, to provide compensation at market value. Many Russian enterprises continue to this day to hold their land under permanent use rights; this requires them to pay a tax, determined by the land’s assigned cadastral value (meant to approximate something like a market value), at the same rate as land owners.

Presidential Decree 1535 marked the first noteworthy effort to unify ownership over enterprise land and capital. And with land prices held at a relatively low level by a complementary decree, the mid-1990s witnessed substantial progress with respect to enterprise land privatization. In May 1997, however, a new presidential decree granted regional administrations near full discretion in establishing land sale prices. Although some officials, looking back, refer to this apparent inconsistency as the result of an error in the drafting process, the measure was entirely consistent with Yeltsin’s strategy of winning over the support of regional leaders by inviting them to “take as much sovereignty as you can swallow!” Thereafter, land prices began to vary significantly across Russia’s territorial subjects. With prohibitively high prices in many regions, the pace of enterprise land privatization decreased dramatically.

Since local administrations were given greater control to set lease rates on state-owned land than tax rates on enterprise-owned land, they have had an incentive to make land privatization procedures complex, expensive and time consuming. And in 32 regions, land privatization was banned either by laws that contradicted federal legislation, by popular referenda, or by provisions added to the region’s constitution. In Moscow, for instance, the city Duma passed a resolution that land plots occupied by privatized enterprises could be leased but not sold.

A breakthrough in the enterprise land privatization process appeared to have been achieved when the new Putin administration successfully pushed through

a package of laws including, most notably, the Russian Federation Land Code, which was adopted in 2001 and came to supersede Presidential Decree 1535. Seeking to reinvigorate the process begun in the mid-1990s, it laid out mechanisms to force divestiture of state lands under privately owned structures and to unify titles to land and buildings. For instance, it called for the ownership of real estate objects to henceforth follow ownership of the attached land plot; it granted exclusive right to purchase or lease state-owned land to the owner of the attached real estate object; it gave to private owners of buildings on land plots owned by other private parties the pre-emptive right to purchase the land; and it prohibited the future privatization of real estate objects without the concurrent privatization of the attached plot.

Perhaps most notably, the Land Code sought to bring an end to the rights of permanent (perpetual) land use by requiring private enterprises and building owners to convert from the Soviet-era form of land tenure to rights of ownership or lease by January 1, 2004. Further, the upper bound limiting the price that regional administrations could charge for enterprise land was reduced and their land sale legislation was to be brought into line with federal law.

Although this legislative push did lead to an increase in the re-registration of enterprise land rights in many regions, its impact was not as great as anticipated. In an effective capitulation to the resistance the new provisions were encountering, the original deadline for converting rights of permanent use was first pushed back two years to 2006, and then again later to 2008. In Law 212, the latest attempt to revive the process, the deadline was delayed once more until January 1, 2010. Since the financial penalty for non-compliance is negligible, many enterprises will no doubt ignore it. Indeed, in a July pilot survey of large industrial enterprises across six Russian cities, we found that two of fifteen reported holding their primary production plots under permanent use rights; neither, moreover, intended to convert them before the end of the year. It is perhaps no surprise that proposals are already being floated to push the deadline back another two years.

Local administrations continue to be a primary source of resistance. Indeed, in our pilot survey, six of fourteen enterprises responded that authorities in their region have actively tried to slow down the process of privatization; only one of fourteen responded that regional authorities have encouraged the process. Of the eight firms that responded to a similar question about the actions of municipal officials, none reported that that their city’s government had encouraged the pro-

cess and four reported that it had actually been working to slow it down. Although Law 212 laid out a new mechanism for establishing the purchase price, requiring that it not exceed 2.5% of the plot's cadastral value (20% in Moscow and St. Petersburg), evidence now suggests that some regions responded by rather capriciously increasing cadastral values so as to discourage land purchases. Since cadastral values are also the basis for rental payments and land taxes, this strategy has had the perhaps unintended consequence of putting additional financial pressures on enterprises already in the throes of a recessionary downturn. In Vladimir, Samara and Smolensk *oblasts*, large groups of companies have filed appeals to regional arbitration courts, arguing that recent hikes in cadastral values, by as much as a factor of seventy, well above what might reasonably be construed as market rates, had pushed them to the edge of bankruptcy.

### Potential Economic Consequences

According to the most recent government data, of the country's 1.6 million hectares of industrial land located outside of settlements, nearly 96% is owned by various levels of government, while only 4% is owned by firms. And of 3.5 million hectares of non-agricultural, commercial land in urban settlements, roughly 89% is owned by government, just over 3% is owned by firms, with the remainder held by households. The dominance of state land ownership captured by these numbers arguably imposes a non-trivial burden on the Russian economy.

The absence of private ownership, for one, may slow the distribution of land according to best-use criteria. But perhaps of greater importance, continued state ownership of land may diminish enterprises' willingness and/or ability to invest in their development. State ownership of land gives public officials an additional mechanism through which to interfere with private enterprise, making for a business environment in which property rights are less secure and the future is more uncertain. In the pilot survey, we found that eight of fifteen enterprises currently lease their primary production plot. But five of these hoped to privatize their lands, and, when asked to select among six possible motives for declaring that intention, the potential to create more secure property rights for their firm emerged as the most popular response.

Not owning land, moreover, limits the assets that can be used as collateral, potentially making it more difficult for firms to access external loans. Data from the 2005 EBRD-World Bank Business Environment and Economic Performance Survey, which targeted small

and medium-sized enterprises, reveals that only 8.9% of Russian firms that posted collateral on their most recent loan used land; the corresponding rate in the other surveyed countries in the FSU (excluding the Baltic states) was 16.3%, while it was 31.9% in the ten former socialist countries now in the EU. Initial results from our pilot survey suggest that the connection between not owning land and difficulties in accessing credit holds for large enterprises.

Although state ownership of commercial lands remains the rule, we do observe, as indicated above, a fair amount of variation in the extent of private ownership across regions. These differences can easily be seen in the most recent state cadastral data. For instance, in Tatarstan, the majority of industrial land located outside of urban settlements is held by firms. But in nearly a third of regions (25 of the 78 for which there is data), all such land is government-owned. Of non-agricultural, commercial land in urban settlements (much of which, necessarily, is given over to public infrastructure and un-developed territories), the ratio of land held by firms to that held by government is 0.035, with the specific figures ranging from zero in eight (of the recorded eighty) regions to 0.250 in Belgorod *oblast*. In the city of Moscow, where the Luzhkov administration prefers signing long-term leases, this ratio is only 0.002. In addition to Tatarstan and Belgorod, regions that might be characterized as more progressive on the basis of these, admittedly imperfect, indicators include Vologoda, Sverdlovsk, Kemerovo, Lipetsk, Perm, Rostov and St. Petersburg.

With available evidence, it is difficult to establish a causal link between these indicators and various measures of development across regions. But simple regression models do indicate that both are strongly and positively correlated with both bank-financed and total capital investment from 2005 to 2007. These relationships hold even after controlling for the value of these variables in 2000, as well as the beginning-of-decade gross regional product, regional branch structure, population, urbanization rate and various political-institutional variables. Whether because of weaker property rights security or a diminished capacity to use land to secure external loans, these findings are at least suggestive that continued high rates of state land ownership may be suppressing investment activity.

### Russia's Eternal "Land Question"

The history of property relations in Russia is full of paradoxes. The country may be the largest in the world and possess vast swaths of underutilized land, even in and

near urban settlements, but strict controls on land access and usage have consistently served as a foundation of state power and as a regulator of social relations. During the late-imperial period, the “Land Question” was central to the build-up of social pressures that climaxed in the October Revolution. And though the Bolsheviks came to power championing “All land to peasants,” the promised rights to land were never realized. Indeed, it is possible to speak of an “unbroken line” – from the tsars, through the Soviet period, and into the present day – tracing a history of the Russian state suppressing the land rights of private properties.

Indeed, the resilience of perpetual use rights can be considered a part of this history. But while history’s weight may be, in part, responsible for the slow pace of unifying ownership over enterprise land and capital, pragmatic considerations of how land privatization affects local budgets are also at work. Further, state land rights confer upon bureaucrats powers that, regardless of century-old norms, might only be expected to be given up with great reluctance. In Moscow, the absence of private property rights gives the city government an ability to rather capriciously expropriate land for unspecified future public uses and to move enterprises, often with little compensation, according to the dictates of the City Master Plan. More generally, local governments’ ability to manipulate rental rates leaves enterprises vulnerable to government predation. Many surveyed companies report having been threatened by state officials that their lease rights could be unilaterally and abruptly terminated. For enterprises that cannot afford, in these times, to buy their land, it is thus not terribly difficult to understand why they might not regard leasing as a more attractive option than perpetual use.

Thus, despite the potential cost that it imposes upon the Russian economy, it is not clear that there are forces

in play in Russia that will either bring an end to the perpetual use form of land tenure or promote further privatization of enterprise lands. Although evidence suggests that most enterprises would prefer to hold their lands privately, it is not clear that they have the political will or economic wherewithal to change the *status quo*. Nor is it clear that at the federal level, there exists a desire for a renewed push on land rights reform. The lessons of the last fifteen years suggest that enterprise land reforms are doomed, at least in the medium run, to a state of perpetual impermanence.

### A Policy Suggestion

If we are incorrect in suspecting that policy makers have lost either interest in or the willingness to confront anew the problems of permanent use rights, we would hope that they might still be receptive to a suggestion. Enterprises with permanent use rights, we believe, should be better incentivized to convert them. If the tax payments that they were required to make were to be raised above those required of land owners, financial considerations alone would create pressure to bring an end, once and for all, to the Soviet era land rights regime. Varying tax rates according to land tenure rights would not contradict any current Russian legal provisions. The change itself would only require a minor amendment to the Tax Code. Alternatively, a land rental payment could be added to the land tax already being paid by permanent users. Whichever approach is chosen, careful analysis and financial modeling would of course be needed to ensure the optimal additional payment for permanent users. Under current conditions, such approaches may represent the best hope for eliminating enterprises’ rights of permanent use.

#### *About the authors*

Andre Khakhalin is a real estate investment consultant, who manages international projects and has, for many years, acted as a leading advisor to the World Bank and IFC on Russian legal issues.

William Pyle is an associate professor of economics at Middlebury College.

#### *Further Reading*

- Andre V. Khakhalin and Stephen B. Butler, “Privatization of Enterprise Land in the Russian Federation: 1992–2003”. See at the website of the Russian American Rule of Law Consortium, Events Section, 2–3 March, 2007 (<http://www.rarolc.net/events/detail.php?cid=222>).
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## About the Russian Analytical Digest

Editors: Matthias Neumann, Robert Orttung, Jeronim Perović, Heiko Pleines, Hans-Henning Schröder

The Russian Analytical Digest is a bi-weekly internet publication jointly produced by the Research Centre for East European Studies [Forschungsstelle Osteuropa] at the University of Bremen ([www.forschungsstelle.uni-bremen.de](http://www.forschungsstelle.uni-bremen.de)) and the Center for Security Studies (CSS) at the Swiss Federal Institute of Technology Zurich (ETH Zurich). It is supported by the German Association for East European Studies (DGO). The Digest draws on contributions to the German-language Russlandanalysen ([www.laender-analysen.de/russland](http://www.laender-analysen.de/russland)), the CSS analytical network on Russia and Eurasia ([www.res.ethz.ch](http://www.res.ethz.ch)), and the Russian Regional Report. The Russian Analytical Digest covers political, economic, and social developments in Russia and its regions, and looks at Russia's role in international relations.

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The CSS runs the International Relations and Security Network (ISN), and in cooperation with partner institutes manages the Comprehensive Risk Analysis and Management Network (CRN), the Parallel History Project on NATO and the Warsaw Pact (PHP), the Swiss Foreign and Security Policy Network (SSN), and the Russian and Eurasian Security (RES) Network.

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Research Centre for East European Studies • Publications Department • Klagenfurter Str. 3 • 28359 Bremen • Germany

Phone: +49 421-218-69600 • Telefax: +49 421-218-69607 • e-mail: [fsopr@uni-bremen.de](mailto:fsopr@uni-bremen.de) • Internet: [www.res.ethz.ch/analysis/rad](http://www.res.ethz.ch/analysis/rad)