

**THE RUSSIAN FEDERATION****2000****Introduction**

1. In 2000 the activities of MAP Russia and its Regional Offices was aimed at ensuring of stable forward economic development, formation of the global economic and legal area, encouragement of economic freedom of entrepreneurship, overcoming of the administrative barriers. These tasks are defined as those of priority in the Fundamental Directions of Social and Economic Policy of the Government of the Russian Federation for a long-term prospects. In order to perform the functions given, MAP Russia established 71 Regional Offices, which exercise their activity in 86 subjects of the Russian Federation. The activity of Regional Offices are provided in the Statute on Regional Offices of the Ministry of the Russian Federation for Antimonopoly Policy and Support to Entrepreneurship, which was adopted by enactment of MAP of 17.11.99 and was registered as the act of governmental department in the Ministry of Justice of the Russian Federation. The Statute has been amended with the object of insertion of the provisions on ensuring of cooperation between the Regional Offices and the Plenipotentiary Representatives of the President of the Russian Federation in the federal okrugs (regions).

2. The intensifying process of economic concentration, redistribution of spheres of influence in the goods and financial markets between groups of economic entities, which are taking place in Russian economy, have manifested themselves in getting control of one economic entities over others. Therefore the enhancement of antimonopoly control on the goods and financial markets, exercised for the purpose of preventing the establishment of new integrated monopolistic structures and of averting conclusion of anti-competitive agreements within the framework of these, has come to be a matter of the great importance. A serious obstacle in the way of the economic growth, as well as competition and entrepreneurship development, are the administrative barriers built by monopolists' practices of the executive power bodies – the practices which are purposed to victimise economic entities' interests and to destruct the vertical of state authority as well as to decrease the effectiveness of administrative procedures performed by the federal government. These problems have brought about the adjustment of state antimonopoly policy, activity for support to entrepreneurship, regulation of the domain of natural monopolies.

3. The Report contains an overview of the basic changes in Russia's Competition Law, information on the scope of antimonopoly legislation enforcement, sample cases involving the most typical and prevailing violations of antimonopoly legislation, additionally it gives the outline of the prospects of antimonopoly bodies' activity.

**Changes in competition policy*****Changes in competition legislation***

4. Amendments and additions, which appear to be quite important under the present economic conditions, were introduced into the legislative base, which, in its turn, forms the line of pursuing state competition and entrepreneurship policy. The Law "On amendments and additions into article 18 of the Law of the Russian Federation "On Competition and Limitation of the Monopolistic Activity in the Goods Markets" of 02.01.2001 №3 FL, aimed at enhancement of state anti-monopoly control over the process of economic concentration, was passed by State Duma. The amendments, inserted into article 18 of the Law

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of the Russian Federation "On Competition and Limitation of the Monopolistic Activity in the Goods Markets", enabled the anti-monopoly bodies to ascertain the actual conclusers of transactions in order to prevent monopolisation of the Russian economy and to terminate transfer abroad of valid assets of Russian enterprises. Besides, the amendments presuppose the submission of the information on sources, conditions of the receipt and the rate of money funds required for the transactions, furthermore they provide procedural terms of anti-monopoly bodies approval to be given for conclusion of transactions (1 year).

5. The Federal Law "On Protection of Competition in the financial markets" has gone into effect in the December of the year 1999. For the purpose of its implementation, a number of legal acts has been developed and passed, namely: The Regulation of the Government of the Russian Federation "On the terms of the antimonopoly control in the financial services markets and on ratification methodical principles for estimation of total turnover and limits of the financial organisations markets"; "The Procedure of ascertainment of the facts of dominant position maintenance by insurance market participant, private pension funds, leasing companies in the markets of lease, of a financial securities management companies. In addition, a number of legal acts on the issues of control over the concentration in the financial markets have been passed.

6. New normative legal acts aimed at realisation of the state entrepreneurship policy, including:

- the Federal program on the state support of the small entrepreneurship in the Russian Federation on 2000-2001(it has been ratified by the Regulation of the Government of the Russian Federation of 14.02.2000 # 121). Measures presupposed by the Program are aimed at legislative support of the small entrepreneurship, development of advanced financial technologies for the small entrepreneurship support, realisation of trends of priority of the small enterprises promotion, including creation of new vacancies and import-substituting production support, scientific and methodic securing of small entrepreneurship; peopleware for it, promotion of the entrepreneurship by the means of the public relations;
- The Regulation of the Government of the Russian Federation of 05.08.2000 # 581 "On the Council for Entrepreneurship subordinated to the Government of the Russian Federation", in accordance with which The Council for Entrepreneurship subordinated to the Government of the Russian Federation has been appointed, functioning for the effective co-operation of the Federal Government Agencies and economic entities.

7. MAP has focused its efforts on improvement of the legislative base of the state regulation of the activity of natural monopoly entities in the sphere of telecommunications and transport.

### **2. Other relevant measures**

8. It is urgent to establish close co-operation with law-enforcement agencies (the bodies of Public Prosecution, the Courts, Domestic Affairs, Tax Police, Federal Security Service of the Russian Federation, etc.) for MAP Russia to be successful in its activity of. Co-operation with these bodies is being permanently carrying out joint revisions of economic entities activity. The practice of the co-operation of the Regional Office with the Public Prosecution bodies, aimed at elimination of the anti-monopoly legislation violations, removal of both the administrative barriers and separatism of the bodies of the executive authorities of the subjects the of Russian Federation is wide-spread.

9. It has become customary that MAP Russia together with the bodies of the Court of Arbitration and of the Public Prosecution holds conferences and seminars on the issues of the Anti-monopoly

legislation enforcement. There are the presentations on cases of the Anti-monopoly legislation violation in the goods and financial markets at such seminars

10. A number of the Regional Offices of MAP Russia works actively in close contact with the regional departments of Justice, regional bodies of bailiff service of the Ministry of Justice of the Russian Federation. The work is made in the field of examination of conformity of the acts of the regional governments to the requirements of the anti-monopoly legislation; getting information about registration of the transactions with realty, securing fine payments imposed by the anti-monopoly bodies. Most of the Regional Offices MAP Russia have contacts with the bodies of juridical persons registration; these bodies help ascertain violations of the anti-monopoly legislation, when establishing economic entities.

11. According to the Decree of the President of the Russian Federation, of 13.05.2000 №849 «On the Plenipotentiary Representative of the President of the Russian Federation in the Federal Okrug» and Decree of the Government of the Russian Federation, of 12.08.2000 №592 “On Co-operation of the Government of the Russian Federation and the Federal Executive Power Agencies with the Plenipotentiary Representatives of the President of the Russian Federation in the Federal Okrugs and the Plan of its Allocation in Regional Bodies of the Federal Bodies of Executive Power”, MAP Russia affirmed the Procedure of the co-operation of the Central body with Regional Offices with the Plenipotentiary Representatives of the President of the Russian Federation in federal okrugs, thus the structural departments of the central body, responsible for coordination coordinate interaction of the Ministry and its Regional Offices with the Plenipotentiary Representatives of the President of the Russian Federation, were determined.

12. The Regional Offices situated in the centre of the okrugs are responsible for the Information co-operation in the federal okrugs. According to the established order MAP Russia provides the plenipotentiary representatives of the President with analytical materials about the results of the activity of the Regional Offices in the federal okrugs, first of all about the anti-competitive acts and practices of regional authorities of executive power that have been ascertained, such as: restriction of the entrepreneurship and infringements upon economic entities interests, as well as about issue of new legal acts, contradicting the Federal Laws, the edicts and decrees of the President of the Russian Federation and regulations of the Government of the Russian Federation.

### **RF Government proposals in the field of the legislation changes**

13. With a view to improve the legal base of the anti-monopoly policy, the state regulation of the monopolies activity in transport and in telecommunications, state support to entrepreneurship, control over advertising, MAP Russia conjointly with the federal bodies of executive power is elaborating a set of draft laws. Particularly the following draft laws are being prepared for the consideration of the Russian Government (otherwise have already been introduced to the State Duma of the Russian Federation);

- Draft Federal Law “On Amendments and Additions into the Law of the Russian Federation “On Competition and Limitation of the Monopolistic Activity in the Goods Markets” (aimed at bringing the Law “On Competition...” into conformity with the provisions of the Civil Law and of the Tax Code of the Russian Federation and other federal laws, improvement the State control mechanism over anti-monopoly legislation observance by economic entities, increase of efficiency of the control over the anti-monopoly agreements and concerted practices of economic entities, enhancement of liability of goods markets participants for violation of the anti-monopoly legislation. These amendments presuppose introduction of the provisions on change of the trademark or on limitation of its usage with the object of consumer deceit. With a purpose of suppression of unfair competition, related with trademark

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registration, certain regulations are being introduced, which are to enable enforcement agencies to declare the actions of the owner of a trademark as an act of unfair competition, in case they are aimed at obtaining advantages in entrepreneurship activity and if they may cause losses for other competitors. An essential addition to the substantive Law is the introduction of the preliminary state anti-monopoly control over conclusion of anti-competitive agreements between economic entities, especially those aimed at unfair price maintenance policy, prevention competitors from entering a market);

- Draft Federal Law “On State Aid” (provides for the establishment of anti-monopoly rules on granting the state share to certain undertakings, branches of industry and regions. The problems of the legal regulation has come to be especially urgent after the signature of the Agreement on Partnership and Cooperation between the Russian Federation and the European Union (EU), furthermore the anticipated access to the World Trade Organization (WTO) calls for correspondence of Russian legislation on state aid to the international regulations and standards.

14. The conclusions and amendments to the Draft Federal Law "On amendments and additions to the Federal Law "On advertising"(the amendments to be inserted are destined for enhancement of efficiency of state control over the advertising)

- The Draft Federal Law "On amendments and additions to the Federal Law "On state support to the small entrepreneurship in the Russian Federations"(it is to specify the criteria of ascription enterprises to the small entrepreneurship category, which concerns those acting in agriculture, industry, scientific technologies. It is to be the essential addition insertion of the regulations aimed at establishing legal scope of cooperation of the government bodies with the credit co-operative societies. Promotion of the credit co-operative societies will allow to create the system of real micro-financing of the subjects of small enterprises at the expenses incurred by population and by enterprises themselves);
- Draft Federal Law “On Mutual Insurance” (the Law is to facilitate the formation of favorable legal environment for small enterprises, there are the regulations on partial ensuring of small enterprises insurance as well as establishment and promotion of mutual insurance societies);
- The Draft Federal Law "On amendments and additions to the Federal Law “On Natural Monopolies” (provides for expansion of enforcement scope of the law through including services of local natural monopolies (heat, water-supply and sewerage system) and services for air-navigation of civil aviation flights, as well as expansion of powers of regulatory bodies in the part of control over the activity of natural monopolies by means of reduction of threshold index for the state-controlled transactions as well as submission of the capital investments scheme for the approval to the regulatory bodies);

15. Conclusions on the Draft Federal Laws “On Sea Ports of the Russian Federation”, “On the Russian International Register of Vessels”, “On Air Ports in Russia”, “On Aviation Leasing”, Draft Code on Interior water transport of the Russian Federation are prepared. Their aim is to improve the regulation of economic activity of the natural monopolies.

## Realization of Competition Policy

### *Actions directed at prevention of anti-competition practices, including abuse of dominant position and collusions.*

16. Abuse of dominant position is a rather wide-spread infringement in the Russian goods markets, which is witnessed by annual growth of claims made by economic entities. In 2000 the number of claims on abuse of dominant position by economic entities increased by 19%, and made almost half of all the claims received by anti-monopoly bodies (in 1999-46%). Anti-monopoly bodies enhanced their activity on ascertainment and prevention of abuse of dominant position, the number of proceedings instituted on this kind of infringement increased more than 35% in 2000. In 2000 MAP Russia and its Regional Offices investigated about 2500 facts (claims together with the initiative of an anti-monopoly body) on signs of violation of Article 5 of the Law "On Competition..."(abuse of dominant position in a goods market by an economic entity). Violations were proved in 1073 cases. 43% of violations were eliminated voluntarily without bringing actions, 728 cases (57%) were brought to action. One sixth of decisions of the anti-monopoly bodies was appealed in the court, about a quarter of all appealed decisions were declared invalid. It should be mentioned that the proving of the violations related to the abuse of the dominant position is one of the most difficult in the Anti-monopoly legislation. As a rule in such processes powerful structures with the strong legal staff stand against the anti-monopoly bodies.

17. Most of applications on the abuse of dominant position is related to the electro- and heat energy markets, gas, railway services, telecommunications services. The number of applications in this sphere is growing from year to year. Their share in the general amount of applications on Article 5 made in 2000,1999,1998 is, accordingly, 61%, 60%, 56 %. It serves as the evidence of the non-decreasing level of monopolistic activity of economic entities in the Russian goods markets, especially in those of natural monopolies. The most widespread violations remain the same – imposing of disadvantageous terms of contract, unjustified refuse to conclude contract, as well as violation of the order of the price-setting prescribed by the law, monopolistic pricing.

18. MAP Russia has investigated the actions of a group of affiliated persons, viz "Gasprom" firm, "Astrachangasprom" firm, "Orengburggasprom" firm and (herein after the Group) towards the Interregional Association of phosphorus fertilizer producers "Phosagro". The group unjustifiedly refused "Phosagro" to conclude a contract on delivery of liquid sulphur though the delivery was possible, thereby hindering the access to the market. MAP Russia Commission ascertained the domination of the Group in the sphere of transportation services of liquid sulphur in special tanks (the share of the Group is more than 65% of the general quantity of tanks in Russia). The group transferred to the rent of the "Ortofert" firm almost the whole fleet of tanks, so that the possibility to sublease tanks and to conclude contracts on sulphur transportation was eliminated. This way the Group forced the consumers of liquid sulphur to conclude contracts on sale of liquid sulphur with the "Ortofert" firm and it outraged the rights of liquid sulphur consumers. Following the results of the investigation, MAP Russia Commission issued the prescription to the Group to stop the violation of point 1 Article 5 of the Law "On Competition..." and demanded the Group to stop its practice of conclusion of exclusive contracts on liquid sulphur delivery and agreements on the lease of the specialized tanks for liquid sulphur transportation with certain economic entities, including those of the Group, and as well as the Group to create no obstacles in making direct agreements of liquid sulphur delivery to the economic entities, which use this raw material for their production process. The further investigation showed that the Group had fulfilled all the prescriptions.

19. Rostov Regional Office following MAP Russia request examined the application of "The Oil Company "Rosneft" organization and "Rosneft-Stavropolneftegas" organization on the actions of the SeveroKavkasskaya Railway (SKRW), which demanded of these companies payment for transportation of

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raw oil in the interior communication as for the export transportation and stopped in a unilateral order the dispatch of railway tanks. Due to the actions of the Severokavkasskaya railway, companies suffered material damage about 5 mln. USD. The investigation performed by Rostov Regional Office showed that the SKRW outraged interests of economic entities, violated anti-monopoly legislation. The Commission of the Regional Office issued a prescription to the SCRW on the elimination of the violation within two days after its receipt. The prescription was fulfilled on the date fixed. This example is typical.

20. The growth of expenditures on both the hydro-carbon raw material and other expenditures for the production of liquefied hydro-carbon gases (LHG) led to the decrease of demand for their delivery to the Russian markets for household needs at state regulated prices as compared with the delivery of the liquefied gas for production needs and for export, where is free pricing. Besides, the LHG markets are monopolized. In 2000 MAP Russia together with the Regional Offices examined all the LHG market participants on the subject of observance regarding the regulations of the antimonopoly legislation. It was ascertained that the "SG-trans" enterprise was abusing its monopolistic position when delivering the LGH to the consumers, took both the payment for the rendered services of the liquefied gases transportation and the railway tax, took from the consumers the additional expenditures (about 250 Rub/t from the organization) for gas delivery that increased the sale price of the liquefied gas to the population. The administrative proceedings were instituted against "SG-trans" on the evidences of violation of p.1 Art.5 of the Law "On Competition..." in the part of fixing monopolistically high prices and violation of the rules of pricing. In the process of the investigation, the cost of the additional organizing expenditures was reduced to 141Rub. 57 kop. per tonne for transportation of LHG and the administrative proceedings were stopped.

21. The practice of ascertainment and of suppression of agreements (concerted practices) of economic entities, which restrict competition (Article 6 of the Law "On Competition..."), as compared with 1999 reduced for two thirds. In 2000 45 facts of violation of this article were examined, in 18 cases violations were proved, through the given facts 12 administrative proceedings were instituted. The increased quantity of applications on facts of this article violation is noticeable, though, according to the results of examination, almost two thirds of application cases were rejected. It should be mentioned that most of the applications, as it was in 1999, contained complaints on the Anti-competition agreements of economic entities related to fixing maintaining prices, tariffs, discounts, additional payments, extra-charge in the sphere of natural monopolies. The complications of substantiation of anti-monopoly agreements (collusions), ambiguousness of definitions, insufficiently close cooperation with the law enforcement agencies are the main reasons of low-scale efforts on application of the provisions of this article.

22. In May, 1999 the Southern Siberian Regional Office of MAP Russia administrative proceedings against 76 owners of petrol stations (PS) of Krasnoyarsk by the signs of violation of article 6 of the Law "On Competition..." on the fact of simultaneous leveling up oil-products prices. The single prices increase in the PS let classify the actions of their owners as monopolistic collusion aimed at establishing and maintaining single prices bringing excess-profit...The Commission of the Regional Office stated that the action of 25 economic entities competing in the market of the oil-products retail trade in Krasnoyarsk and having the joint share in the market of the retail trade of petrol marks AI-76, 80, AI-92, 93 exceeding 35%, was aimed at establishing and maintaining higher prices for the pointed petrol marks. The fact of coordination of actions on fixing and maintaining the prices is proved by simultaneity of the price rise and maintenance of their level in the period under review. The Commission issued a prescription to transfer the profit received with violation of the Anti-monopoly legislation into the federal budget by the participants of the agreement. Three economic entities appealed this decision in the Arbitration Court, in two cases the decision of the Regional Office was declared legally valid. The prescription of the Regional Office was fulfilled, the profit made thanks to the infringement of the antimonopoly legislation were transferred to the federal budget.

23. In 2000 the litigation was instituted in the Court of Appeal on the base of the lawsuit brought by a number of oil products sellers against the Regional Office (Saint Petersburg and Leningradskaya Oblast). The Regional Office had issued the prescription on both cessation of violation of article 6 of the Law "On Competition..." and transfer of the profit made to the federal budget, which had been issued in accordance with the case on anti-competitive price agreement proceeded against the above-mentioned economic entities in 1999. The Court deemed the actions of the Regional Office lawful. Thus the illegally made profits were requisitioned and used for the needs of the State budget.

***State control over re-organization of non-profit making organizations and associations of those, observance of antimonopoly legislation in case of acquisition of shares in authorized capital.***

24. The process of re-distribution of rights to property have been enhancing recently. It was shown by the data obtained through examination of the petitions and notifications of the economic entities with regard to establishment, reorganization, liquidation of enterprises, associations and unions of commodity producers; acquisition of share in authorized capitals of economic entities etc (articles 17,18 of the Law "On Competition..."). In such conditions, state regulation of the economic concentration process comes to be one of the primary instruments to maintain competition, economy stability and economy safety. There were about 16 000 such petitions and notifications (56% more than during 1999) in the year 2000. On the article 17 of the Law "On Competition...". Under article 17 of the Law "On Competition...", the total number of petitions and notifications increased by 32% in comparison with the year 1999 and amounted 3882 applications. The total number of petitions and notifications on acquisition of shares and in other cases stipulated (article 18 of the Law "On competition...") increased by 65%% in comparison with the year 1999 and amounted 12092 applications. Within the Ministry itself, the number of applications examined has increased twice to those of the year 1999. Thereupon, the conclusion can be drawn that big business structures (with assets holdings of 10 mln. Rubles or more) are taking an active part in the process of proprietary rights re-distribution.

25. The markets of fuel and energy complex (FEC) still remain attractive for the market participants whose actions are provided by articles 17 and 18 of the Law "on Competition...". One third of all the applications (both petitions and notifications), examined by MAP Russia in 2000, was related to the FEC transactions. The transactions with a foreign capital taking part continue to gain weight. The number of petitions and notifications related to the transactions and actions with foreign investments participation has increased by 45%, including the share purchase transactions - almost by 57%.

26. Foreign participants of the market are most interested in investment into the undertakings of the consumer market branches, the second place belongs to the fuel and energy complex, the third – to the timber industry and to the market of the synthetic detergents. Large vertically integrated structures are the most active in the capital re-distribution, especially in the ferrous and non-ferrous metallurgy, chemical and oil-chemical complexes, the machine-building branch, the pulp and paper industry, in the agricultural complex, in particular, in the markets of grain, meat and products of its processing, sugar, etc. The process of concentrations in the aluminium-alumina, copper ore industries through consolidation of shares in the hands of one group of owners could serve as the examples. The aim of the transactions on buying share of the largest ferrous plants is formation of several vertically integrated companies.

27. Till the year 2000 on the market of the primary aluminium production in Russia there were 11 economic entities. From the beginning of 2000 active processes of property repartition through carrying over of the aluminium plants shares to other owners started. MAP Russia on the basis of the analysis of the process concluded that the goal of all transactions made with the largest aluminium plants shares is the formation of several vertically-integrated companies which are to have the complex of raw materials, processing enterprises and providing the whole production and technological circle from the raw material

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and the marketable aluminium to the rolling semi-made goods and production of high level aluminium, which reflects objectively the process in the world market. In today's circumstances only large structures, uniting enterprises, mining bauxites and producing, alumina, producing aluminium and electric energy, can compete with the transnational aluminium corporations in the world market. As the result the decision to clear the transaction on creation of three holdings competing with each other was made. In December 2000 MAP Russia allowed the petition on the takeover by the firm "Siberian-Uralian Aluminium Company" of two enterprises "Bogoslov Aluminium Plant" and "Kandalaksha Aluminium Plant". In January 2001 "The Russky aluminium" firm was created, the control packet of shares of a number of aluminium producers was brought into its authorized capital. "The Ryssky Aluminium" firm presents vertical-integrated company, providing more than 31.4% of alumina delivery, more than 85% of raw aluminium production in Russian Federation (about 27.5% aluminium delivery in the Russian market), 45.5%-52.8% delivery of aluminium rolling products. In December 1999 MAP Russia allowed the petition of the founders of the firm "The Holding Company "The Aluminium of the North-West", which acquired the firms "The Pikaljev enterprise " Glynozjom", "Boksitogorsky glynozjom", "The Plant "Slantzy", " Volchovsky aluminiy" and "Volgogradsky aluminiy". The work on the formation of the company has not finished yet. Thus, on the basis of 6 enterprises engaged in the bauxite production, 5 - of the alumina production, 11 aluminium plants, a number of energetic and other enterprises three vertical-integrated companies are being formed, which have divided the markets of production and deliveries of alumina, bauxite, raw aluminium into the domestic market. Besides, large companies created in the aluminium complex will be able to compete in the world market of aluminium and the raw material for its production.

28. In the course of examination of notifications on entering of four natural persons the Board of Directors of two and more economic entities of Tumen Oblast the fact of monopolization of the regional market on gas rendering services was established. These people become apart the staff of the Board of Directors of the regional natural gas undertakings and made up more than 50% of their members. In the resolutions of the relevant petitions of the Tumen and Kurgan Regional Office of MAP Russia demand that the mentioned physical persons should leave the Board of Directors of some economic entities. On the date set the information about the fulfillment of the request was received.

29. Simultaneously it is necessary to support the process of substantiated concentration providing stability of Russian enterprises and competitiveness of their products in the domestic and world markets. This positive tendency of vertical integration can be viewed in products markets of agro-industrial complex, where economic entities are being involved in both trade and production and the processing, acquiring relevant enterprises. The example of such an integration in the grain market is "Razgulyay-UkrRos" company group. Inside the group the investment structure – a professional participant of the securities market and a company accumulating the share holdings acquired under the Group activity plan were created. The Group also comprises 7 elevators, 3 sugar and 1 meat-processing plant. The other bright example of the vertically integrated structure within the agro-industrial complex is the firm "Tcherkysovsky Meat-processing Kombinat" (Moscow), which includes enterprises working in different markets of agro-industrial complex (services of grain-keeping, the mixed fodder production, the poultry keeping and the stock-raising, the sausage and meat goods production, the retail and the whole sale production). The formation of such structures allows to achieve decrease of the expenses at production process, and therefore lets producers propose the consumer the quality goods at more moderate prices and compete successfully in the market.

### ***State Control over acts and actions of the executive power bodies, which impede competition.***

30. In 2000 the Anti-monopoly bodies paid special attention to solving the task of the State authority vertical strengthening, to the creation of the general economic and legal area, ensuring of economic freedom of entrepreneurship, removal of administrative barriers. Different titles and under the pretext non-

quality goods struggle. Restriction of entrepreneurship activity by Regional authorities in the market of consumers' goods and services, as well as the processing and realization of ferrous and non-ferrous metals scrap are widespread.

31. On the basis of the collective letter of the Heads of 8 oil companies the administrative proceedings against The Ministry of Railways (MRW Russia) were instituted on the fact of introduction of illegal demand for the oil products suppliers should make deliveries for the Railway of Russian Federation at lower prices. Besides, the suppliers should agree the plans of export oil products transportation with the commercial-mediatory organization "Roszheldorsnab". As the result, the supply for loading of wagons-tanks for pouring any oil-product was stopped, the threat of the oil delivery failing appeared and consequently the lost of currency profit. The MAP Russia Commission issued the prescription to the MRW Russia to stop the violations of the anti-monopoly legislation through the abrogation of the relevant acts. On the appointed date the Ministry of Railway Russia did not fulfill the prescription and sent a petition to the Moscow Court of Arbitration for declaring void of MAP Russia decisions. The MRW Russia is one of those who performs anti-competitive practices very often. Of all the administrative proceedings initiated by the Central body against anti-competitive acts, actions of federal bodies of executive power, almost 40% are covered by violations made by the MRW Russia and by its subsidiaries. In 2000 the case on The Ministry of Transportations Russia on facts of violation of Article 7 "On Competition..." was investigated. The Ministry suspended the license validity of the firm "Balttravel" in the market of international passenger transportation and so unjustifiedly hindered the activity of the economic entity in the market. The results of the examination allowed to make the decision and issue the prescription, which was fulfilled in a month period.

32. As it was in 1999, the most typical dispositions in the monopolistic activity are unjustified impeding of economic activity and unjustified granting of privileges. In 2000 there were the following administrative barriers established by the bodies of executive power: introduction of compulsory attestation of meat processing enterprises (Tchelyabynsk Region); compulsory certificates on providing conditions for the activity of small enterprises in trade, public catering and consumer services (Sverdlovsk Region), ban for the farmings on the cattle export into other regions (Orenburg Region); illegal registration of juridical and natural persons, producing agricultural goods and selling food products (Kyrovsk Region), etc. The number of violations related to granting privileges to certain economic entities, which gives them advantages in competition is not decreasing. So the State Committee for Estate Administration of Novosybyrsk Oblast Government provided by its Regulation the coefficients determining the rent rate on the State property objects. For state and municipal pharmacies this coefficient is equal to 0.3, and for other pharmacies and optics –1.3. Upon request of the Novosybyrsk Regional Office the Committee inserted into the act relevant amendments, thus it created equal rent conditions for all forms of property. In Orenburg Oblast the Administration Decree "On Enhancing the State Monopoly in the Area of Spirituous Liquors Production and Turnover..." established preferences for one group of economic entities and this way put others in discriminated position. Orenburg Regional Office issued a prescription of elimination of this violation, which was fulfilled by the Regional Government. The spirituous liquors production and sale market is mostly influenced by anti-monopoly actions from the side of executive power bodies, expressed in the protectionism towards local producers, illegal tax and dues increase, etc.

33. In 2000 the number of ascertained violations on anti-competitive agreements with participation of Federal bodies of Russian Federation subjects, the executive power of Russian Federation subjects and of the local governments (Article 8 "Law "On Competition...") increased almost 30% as compared with 1999. On this article 73 petitions are examined (1999 – 82). The prevailing violation is creation of barriers to entry to the market (34%) and the market sharing (29%). The Government of Tambov Oblast decreed the structural subdivision and "Talvis" firm to make agreements with the Heads of the City and Regional Governments on alcohol production delivery to the enterprises of these regions in fixed volumes. Tambov region administration, "Talvis" firm, the city and regional governments of the Tambov Oblast were given

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the prescription to stop the violations on Paragraph 3 Art.8 of the Law “On Competition...”, which were fulfilled in time. The Government of Tambov Oblast abolished from the decree illegal clauses, and the city and regional governments of Tambov Oblast and “Talvis” firm revoked the illegal agreement on sale of spirituous liquors by “Talvis”.

34. In 2000 the anti-monopoly bodies examined under procedure of preliminary control 3.000 draft legal acts and enactments of the legislature (33% more than in 1999), which helped prevent many violations in the phase of acts’ elaboration.

### *The State Control of Unfair Competition*

35. Prevention and suppression of unfair competition contributes to the establishment of civilized goods market. These activities are exercised under Article 10 of Law “On Competition...” The results of prevention and suppression of unfair competition display that the sale of goods through illegal usage of the intellectual activity outcome is the most frequent one. Compared with 1999 the amount of cases on unfair competition has increased. Most petitions deal with sale of goods with illegal usage of the trade mark (42%), on misleading consumers (24%), giving publicity false information (15%). The situation arisen when it is very to protect difficult brand name rights. Pursuant to Article 54 of the Civil code of the Russian Federation (SC RF) the order of registration and of brand name usage is provided by the Law and other legal acts. The absence of the special legislation on brand names allows the State bodies to register juridical persons with names not corresponding completely but similar to such a degree that there is a danger of misleading consumers. The possibility to influence with this plight is limited by point 2 Article 2 of the Law “On Competition...” and by absence of the anti-monopoly powers on introduce limits for brand name usage or of demand to insert the changes in one. In order to ascertain and suppress unfair competition practices, MAP Russia together with other federal bodies of the executive branch carries out relevant activities. So the Ministry organized vast work on ascertainment and on elimination of facts of falsified mineral water “Borgiomi” sale. As the result of investigation only MAP Russia Regional Offices gave 184 prescriptions of elimination of the violation of the anti-monopoly legislation and the consumers rights property legislation to unfair producers and sellers.

### *5. Statistics*

36. On the whole the work on ascertainment and elimination of violations, falling within the provisions of the Law of the Russian Federation “On Competition...” in 2000 can be presented in the following way:

<b>Title of articles of the Law “On Competition...”</b>	<b>Facts been under investigation on signs of the Law violation</b>	<b>Cases brought about</b>	<b>Taken decision on the results of investigation</b>
In all:	10119	6510	5113
Art.5 (abuse of the dominant position)	2478	728	438
Art. 6 (agreements, restricting competition)	45	12	9
Art. 7,8 (acts, actions, agreement of executive power bodies, restricting competition)	2386	895	633
Art. 10 (unfair competition)	310	164	111

<b>Title of articles of the Law “On Competition...”</b>	<b>Facts been under investigation on signs of the Law violation</b>	<b>Cases brought about</b>	<b>Taken decision on the results of investigation</b>
Art. 17 (control over establishment, mergers, reorganisation, liquidation of economic entities)	2071	2015	1827
Art. 18 (control over acquisition of shares)	2068	1949	1771

### ***6. The state anti-monopoly control in the financial services market***

37. The anti-monopoly regulation is one of the most significant instruments of the situation improvement in the financial services market. In 2000 the anti-monopoly bodies examined 793 petitions and notifications, 447 were considered by the Central department. Of all the petitions 77.5% deal with the market of bank services, 10.2% - with the insurance services market, 10.8% - with the valuable papers market and 1.5% - with the leasing services market, and from the given petitions accordingly – 16.1%, 20.7%, 52.8%, 7.6%. The analysis of results of petitions and notifications’ examination proves that the process of financial redistribution is intensifying not only in the financial centres but also in Russia in general. There is growth of quantity of organizations in the Stock Exchange. Vice Versa, the amount of credit organizations is reducing. It is caused by the post-crisis process, which have enhanced the concentration of the bank capital, and also by the financial policy of Bank Russia, which has toughened the requirements for licensing and registration for start up banks. Most financial institutions deal with acquisitions, this fact displays the structural reforms enhancement and the activation of re-distribution of the property rights in the financial services market. Home and foreign investors-buyers of shares are especially interested in financial organizations working in the sphere of banking services and in the Stock Exchange.

38. In 2000 the antimonopoly bodies examined 83 facts of violation of the anti-monopoly legislation in the financial services market. In 39 cases the administrative proceedings were initiated, in accordance with the results of the investigations 23 prescriptions on elimination of violations were issued, 83% were fulfilled by the end of 2000. The quarter of all the cases was initiated by the Central Body of MAP Russia (10 cases), 70% were connected with the acts of the federal bodies of the executive power, aimed at restriction of competition in the financial services market. The great amount (67%) of verifications of legality of economic entities practices were conducted on the investigation of restriction of competition by the executive branch power bodies in the financial services market. Thus, following MAP Russia’s order, Regional offices examined the conformity of legal acts issued by the departments of the State Fire Service (SFS) of Russia to the antimonopoly legislation on the issues of the fire insurance organization. During the verification in 12 regions legal acts and guidelines aimed at competition limitation were found out. The anti-monopoly bodies took measures against the violations. Great attention was paid to the ascertainment of agreements and concerted practices of financial organizations, impeding competition (almost quarter of all the acts of verifications). Among the investigated violations the prevailing violations were those connected with the acts and actions of the executive bodies and of the local governments, aimed at competition limitation in the financial services market. There were large amount of cases on granting by financial organizations (mainly insurance companies) exclusive rights for service rendering, access to the limited resource, etc. 51 petitions were investigated on these matters, 43% of found out investigations were investigated without instituting proceedings.

## **The Anti-monopoly Bodies Role in Elaboration and Application of the Regulatory Reform of Trade, Industry and Other Policies**

### ***Natural Monopolies Regulation***

39. In 2000, as in 1999, MAP Russia pursued the policy of non-increasing transport and communications tariffs taking into account the balance of the State, consumers and natural monopolies interests. Tariffs increase of natural monopolies services in transport and telecommunications was introduced on the serious grounds and considered to be the forced step. Tariffs of cargo railway transportations inside the state had not increased since July of 1997 till November of 1999. During IV quarter of 1999- IV quarter 2000 4 act updating of tariffs were made. The balanced tariff policy secured success in the domain of cargo transportation. So the cargo-turnover in 2000 inside state railway communication increased by 15.8% as compared with 1999. At providing the tax policy it is necessary to solve the problem of the general cargo tariffs system. It is unacceptable that there is an alternative price-list of the railway tariffs of transportation of export-import and transit cargoes as it creates the ground for mass corrupt practices. One of the consequences of such a state of affairs is illegal, in the Ministry's opinion, export-import transportation prices fixing within Russia, on the base of the international railway communication tariffs. As a result of that, tariffs for the same transportation inside Russia differ in 3-5 times. It is necessary to establish the general tariffication criteria for all domestic transportations, including export-import cargoes, conveying as transit goods along Russian territory.

40. At conducting the State control over the passengers railway transportation MAP Russia pays its attention primarily to the accessibility of it for consumers of all categories. The work on setting tariffs of the passengers railway has been done on the background of remaining of unprofitableness of this kind of services, which should be explained principally by a large amount of citizens, who have privileges on transport utilization (about 30% of population of Russia). Yet there is no compensation of lost profits from the budget of all levels. Cross-subsidizing of passengers transportations is rendered on the account of cargo ones. So the Ministry follows the policy of phase increase of passengers railway tariffs. The main result of the price-updating made is that trips to any part of the country by railway still remain available. It is necessary to mention that the Ministry does not allow momentary price leap in 1.5-2 times as the Ministry of the Railway Russia proposes, but taking in mind social significance of the passengers transportations keeps the price-updating at the level of 10-30%. Nowadays the traditional approach to the passengers railway tariffs regulation with the general index of prices introduction for all the kinds of long-distance transportations in the, when all of them are being updated equally, is not efficient at the present. On changing tariffs for passengers trips MAP Russia propose to use differential approach for fixed ticket prices to depend on the demand level of transportations in certain directions, passengers overturn, etc.

41. The main role is given to the pricing policy, which prime goal is to realize the principle of economic validity of regulated telecommunications services tariffs and their adjustment.

42. In 2000, as in 1999, the tariff policy was aimed at maintenance of availability of communication services and activation of services volume growth. The indexes of communication services tariffs increase did not exceed the index of price growth for industrial production. Some positive tendencies of the cross-subsidizing reduction and transition to the tariffication of telecommunications prices by two categories of consumers have started to show themselves. The work on co-ordination tariffs with demands in development and modernization of telecommunications nets is kept on. In 2000 the realization of given trends of tariff policy together under the services volume increase has brought 78 bn profit. And 90 % of funds, obtained via tariff correction, were used for financing development of telecommunications facilities. Tax revenue of the branch into consolidated budget made 20 bn rubles in 2000.

43. One of the key trends of the Ministry's activity is regulation of economic relations of telecommunications operators (so called co-settling). The work on improvement of price setting methodology on the subject of setting maximum price for regional operators reckoning with "Rostelecom" Ltd. for the trunk-line traffic, as well as consideration of disagreements between operators on co-settling. In 2000 92 applications on the issue of the price regulation in the process of their co-operation were examined. To regulate disagreements between telecommunications operators on the co-settling for rendering net resources and participation in net services providing, in 2000 the Ministry ratified the Procedure of Consideration of disagreements, which appear in the co-settling process between operators of electro-communications nets. The Methodological Instructions on settling up between the electro-communications operators for the telegraph communication services were revised, furthermore the reckoning prices used at co-settlings were ratified.

44. MAP Russia provides State regulation of natural monopolies activity in transport and telecommunications. The Registers of natural monopolies in transport and communication were formed. The State regulation and control over these economic entities are exercised. Principles of the Registers formation are provided by the Federal Law "On Natural Monopolies". They were further developed in the statutes on registers issued in Oct. 2000 and registered by Ministry of Justice, as well as at the registers' completion practices. In accordance with the data of 01.01.2001 there were 260 economic entities (end of 1999 –about 70) in the Register of Natural Monopolies In Transport, including 18 – in the area of railway transportation; 68 – airport services; 171 – river and sea ports; 3 – transport terminal services. With a view to provide equal conditions in the market of telecommunications services, the work on insertion of all the relevant natural monopolies into the Register is being done. In 2000 the inclusion of natural monopolies of telecommunications of all the operators of telephone communication on the base of the information submitted by Regional Offices was begun. On 01.01.2001 there were 192 economic entities in the sphere of telecommunications, 84 economic entities provide services of the public mail and 108 – public electro-communications services. " Vserossiyskaya Gosudarstvennaya televisionnaya and radioveshchatelnaya company" (VGTRC), providing broadcasting services Russian tele- and radio programmes was included into the Register.

45. During 2000 tariffs of loading-unloading works and services and ones concerned with them for more than 40 stevedoring companies, working at seaports were considered. At the present, tariffs of all biggest sea trade and fish ports were examined and ratified by the Board of MAP Russia. Board's decisions, as a rule, did not presuppose any significant tariffs changes for inter-trade cargo transportations, and for cabotage had as a goal the minimal change of tariffs level. Regulation of sea port administrations activity belongs to the pressing issues in the area of trade ports. Sea ports administrations responsibility for sailing security maintenance relates to the port services and falls within the provisions the Federal Law "On natural monopolies". Pursuant to the requirements of the Anti-monopoly legislation, it is obligatory to divide the administrative powers, concerned with the sea-sailing security and proper order within a port, and economic functions, including the State non-privatisable property administrating. Functions performed by the State control and supervision bodies should be performed on the non-compensation of basis, rendering of paid services should not be connected with the power authorities, while unjustified demands of financial properties transfer to the controlling bodies should not be allowed in practice. Due to the large quantity of economic entities, which provide river ports servicing, are available, there is no developed competition in this domain. River ports separated from the State steamship line, have local dominant position in the market of port services, possess exclusive right on port facilities, arrangements, territories, being the sole lessee of the State property. Since 1999 MAP Russia commenced systemic tariffication of river ports services fixing. In 2000 the medium scale level of the tariffs increase in river ports did not exceed 25-30%, while the level of price growth in industry, in 2000 is 32%. At the

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46. At decision making, MAP Russia proceeds from the investment policy of an enterprise, running by a part of social significant for a region programs, the degree of economic validity of tariffs calculation, transportation expenditures, the level of users demand and interests of as the whole.

47. Revision of the dues and tariffs level for overland service of aircraft of Russian exploiters in the airports of Russia. The Board of MAP Russia examined price tariffs situation in 44 airports. As the result, under the taken decision the increase of the airport dues and tariffs did not exceed on average 30%, in 2000 the growth of the wholesale prices in industry is 32%. This approach played the positive role in the stabilization of industrial activity of the Civil navigation. The important measure aimed at the development of the Civil navigation is the promotion of investment attractiveness of airports services via mechanisms of the State price regulation. In the sphere of the airport activity such tasks as completion of the separation process of airports from the staff air-companies, legal support of non-navigable activity development, transfer of the objects of social sphere of airports to the executive bodies of regional government still remain important. The structure of the air fleets market calls for an optimization.

### **Competition aspects of foreign economic activity**

48. With a view to provide the Anti-monopoly policy rules during tariff and non-tariff regulation measures introduction, control over maintenance of effective competition environment in the domestic goods markets, MAP Russia participates in the Commission of the Government of the Russian Federation for protective measures in the foreign trade and customs tariff policy (herein after the Commission), examination of applications of Russian producers on introduction of protective measures and adjustment of import customs duties. In 2000 the Ministry examined 64 applications of Russian producers on customs duty adjustment on industrial and agricultural technological equipment and medical care goods. MAP Russia proceeded from the necessity of the aid for progressive domestic producers, increase of their competitiveness with account of their positions in the domestic market and the capability of domestic producers of responding the demand in the domestic market. On the problems examined by the Commission with the participation of MAP Russia, 10 Decrees of the Government of the Russian Federation were issued. MAP Russia took an active part in preparation of the Decree of the Government of the Russian Federation, providing simplification and rationalization of the import tariff structure of the Russian Federation.

49. In 2000 international activity of MAP Russia was aimed at assistance of integration of Russia's economy into the World economic society, creation of non-discriminative conditions of access of Russian exporters to foreign markets, formation of the global economic space of CIS, carrying out international commitments of the Russian Federation on issues fall within terms of reference of MAP Russia, application of advanced foreign achievements in the field of competition policy and support to entrepreneurship. Development of co-operation of MAP Russia with European Union is kept on, inter *alia* within the framework of Agreement of Partnership and Cooperation on issues covered by the terms of reference of MAP Russia, particularly on points of development of bilateral trade-economic relations, change of the trade regime between Russia and EU, etc. The principal result of the cooperation of MAP Russia with relevant EU structures is the EU's recognition of the fact of fulfillment of commitments, originating from international agreements between Russia and EU; EU's recognition of the market status of some economic branches of Russia, creation of prerequisites on this base for taking into account of these circumstances when examining possibility of change of the trade regime between Russia and EU.

50. The work on Russia's access to the World Trade Organization within the framework of the Commission of the Government of Russian Federation on issues of WTO (herein after the Commission on WTO) was performed, according to the task of mutually benefit liberalization of the foreign trade regime, elimination of discriminative limits for Russian exporters. MAP Russia participated in examination and

negotiation of the revised Primary Tariff Proposals of the Russian Federation, the Schedule of Specific Commitments on services and the Schedule of Exceptions from the Regime of the Most Favored Nation Treatment, and also issues, connected with the observance of fair competition conditions at regulation of anti-dumping argues, suggested upon institution anti-dumping procedures towards Russian exporters.

51. In order to create the global economic space on the territory of CIS, MAP Russia continues to strengthen co-operation with The Member-States of Community on problems of anti-monopoly control, suppression of unfair competition practices, consumer rights protection, support to entrepreneurship, regulation of natural monopolies activity. Co-operation with the Organization of Economic Co-operation and Development (OECD) has been developing. This allowed the Ministry to obtain information of recent achievements of this organization in the sphere of competition policy in time, to participate in the discussion as well as to inform OECD about achievements of Russia in this sphere. Taking into account urgency of structural reconstruction of natural monopolies, in December 2000 the experts meeting with the Head of OECD on the issues of reformation and competition development on railways was held. Cooperation of MAP Russia with such a respected international organization as UNCTAD, Asia-Pacific Economic Co-operation (APEC) gives an opportunity to use international experience on issues of competition regulation and entrepreneurship promotion and enables to influence decisions that are being taken by UNCTAD in this field in accordance with Russia's interests. In 2000 the group of representatives of MAP Russia took part in a set of meetings of these international organizations. Realization of projects on technical aid was held under the aegis of the International Bank of TACIS Program.

#### ***Development of Small Entrepreneurship***

52. In the end of 2000, 879.300 small enterprises operated in Russian economics (1.3% less as compared with the last year). The achieved level of development of small entrepreneurship was insufficient. Per 1000 citizens of Russia there are, on average, only 6 small enterprises (in the status – EU members – not less 30). Only Moscow and St-Petersburg approached in density of small entrepreneurship distribution to the level of that of the Western Europe: per 1000 inhabitants there are accordingly 21 and 23 small enterprises.

53. Within the framework of fulfillment of the Complex of measures on development and state support to small enterprises in the area of material production and their innovative activity, the Methodological Recommendations on small enterprises involvement into products (services) delivery for Municipal needs; propositions on simplification of order of granting of investment credits to the entities of small entrepreneurship were worked out, proposals on small venture enterprises support were worked out and submitted to the Government of the Russian Federation the draft Accreditation and Registering Small Enterprises Procedural Order, being able, according to their economic and production indexes, to participate in tendering for the distribution of production (services) delivery for State needs was prepared conjointly with interested executive power bodies. A complex of measures on limitation and regulation of the examinations of enterprises and organizations by executive power bodies, and on removal of excessive barriers has been prepared. In 2000-2001, within the framework of implementation of clauses of the State Aid Federal Program for Small Entrepreneurship, conjointly with the Federal Foundation for Support to Small Entrepreneurship (herein after – the Federal Foundation) were working out and introducing up-to-date forms of financial cooperation with domestic and foreign banks. Usage of the unutilized State property should become another instrument of small entrepreneurship promotion.

54. The program of sale and lease of property of liquidated enterprises and scientific- experimental institutes, uncompleted buildings of production infrastructure, freed property of military campus and economic infrastructure installations to small enterprises. Nowadays, the net of electronic informational exchange of small and medium business SIORA is being developed on the basis of the Global net Internet.

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An important objective is creation of regional business information systems, projecting standards of complex automation of small enterprises activity, that are to secure wider application of advanced informational technologies available for small enterprises. Taking into account strategic significance of informational support for entrepreneurship promotion, propositions on creation of Common National Net of informational centres in the RF subjects and municipal territorial entities were submitted to the Government of the Russian Federation.

55. The functions of control and supervision over activity of small enterprises are performed for several decades by different verification bodies. More than 50 bodies perform control functions at Federal level. It is necessary to simplify the State regulation procedures towards small entrepreneurship (simplification of registration procedure, reduction of the number of licensed spheres of activity, unification of administrative procedures, minimization of number of regulating and supervising bodies, simplification of procedures and forms of documents submission, etc.). A set of Federal Draft Laws elaborated by the Ministry of Economic Development and Trade of the Russian Federation jointly with MAP Russia is aimed at resolution of these problems. Small enterprises have limited scope of abilities on advertising and advancement of their production into the inter-regional markets. One of the forms of support to small enterprises activity is encouraging their exhibition and fair activities, organization of collective stands of small productive enterprises. In 2000, 15 regional and inter-regional exhibitions, devoted to small business, 29 exhibitions and 72 fairs organized without assistance or else thanks to the State aid foundations support, inter alia the Federal Foundation, were held. MAP Russia coordinates the activity of educational and consulting structures on staff training for small entrepreneurship, participates in the formation of staff education policy and consulting development, organization of seminars and conferences on this matters. The work on training and engagement of the refugees into small entrepreneurship is being carried out.

### **Resources of Competition Office**

#### *Annual budget*

56. In 1999 the annual budget of the Competition Office (MAP Russia) amounted 96062 th. Rub. (US\$3.9 mln). In 2000 – 130 538.3 th. Rub. (US\$4.6 mln) (the converting was made on the base Ruble currency rate, fixed by the Bank of Russia, in mid-annual calculation).

#### *Human Resources*

57. On 01.01.2001 1804 people were employed in the Ministry (386 people – in the Ministry's central body, 1418 – Regional Offices), among them – 589 were economists, 408 – lawyers.

58. In 2000 more than 900 people were engaged in central MAP Russia body and Regional Offices to work on the problems of the anti-monopoly legislation enforcement in the goods and financial markets, 100 –advertising legislation, 320 – consumer rights protection.

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#### **New words to the list of key-words**

- obstacles to access to the market
- transportation services
- agreements
- aluminium
- competition policy
- foreign economic activity
- small entrepreneurship
- budget
- economics state
- content of the report
- administrative barriers

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- statistics
- re-structuring
- co-operation with the law enforcement agencies
- co-operation with the Plenipotentiary Representatives of the President of the Russian Federation