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"Russian Experience Regarding the Impact of Competition Policy on FDI Flows"

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1. Globalization, foreign direct investments and multinational enterprises

The current stage of international economic relations is characterized by increasing globalization which is an objective process expressed in growing international trade, foreign investments, integration of financial markets, fast development of new technologies.

Foreign direct investments (FDI) are playing in these processes a substantial role, promoting world integration processes. In recent years the growth rates of FDI were higher than these of foreign trade. FDI is a mutually beneficial process, enabling recipients to attract the newest foreign technologies, capital and managing experience and opening for the directed countries new foreign markets.

The FDI criterion is now used for determination of national economy' integration into the world economic system. The ratio of world FDI inflows to GDP increased dramatically in recent years while the ratio of foreign trade to GNP remained the same. Thus the conclusion is made that in the last time the global integration is undertaken rather through FDI than through foreign trade.

FDI provide the basis for the dynamic development of international production, which becomes a significant element of international economy. The international production is now

undertaken on around 63,000 parent firms and 700,000 foreign affiliates of transnational corporations nearly in all the countries of the world. Despite the fact that a significant share of FDI is still realized on a regional level, the international production is generally moving from regional to international level.

The decisive role in the growth of FDI belongs to transnational corporations (TNCs) which are considered as the principal drivers of international production. According to the UNCTAD' "World Investment Report-2000", the foreign affiliates of the top 100 TNCs employ over 6 million persons, and their foreign sales are of the order of $2 trillion.

2. FDI, competition and restrictive business practices

The main part of FDI and international production is realized via mergers and acquisitions (M&As) with growing share of transnational and big-scale operations. So FDI promote transnational concentration on the markets which may raise certain concern from the point of view of effective competition.

M&As can be classified functionally as horizontal (between firms in the same industry), vertical (client-supplier or buyer-seller operations), or conglomerate (between companies in unrelated industries). In terms of value, about 70% of cross-border M&As are horizontal. But vertical M&As are increasing in recent years also.

Cross-border M&As increased by 35% in 1999, reaching, according to UNCTAD estimates, $720 billion in over 6,000 deals. The growing economic concentration is influencing the character of competition, which also becomes international. The current international competition can be characterized as a battle of giants. The competition becomes more and more keen, and a choosed competitive strategy may predict not only the perspectives but the very existence of the company.

The main part of cross-border M&As is undertaken by TNCs, based in developed countries. But the number of such operations is also growing in developing and transitional countries. TNCs orient usually on the high-concentrated markets, thus promoting economic concentration on international scale. The consequences of TNCs activity for competition on the recipient country market may be different and depend on many factors, including market access conditions, size of TNC, sufficient number of domestic competitors etc.

M&As undertaken by TNCs usually bring positive effects for recipient country thank to effect of scale, first of all in new technological industries, enabling to overcome the high barriers of expenses needed for introduction of innovations.

But sometimes such M&As may have negative consequences for competition, for example when a foreign company –former exporter- acquires its competitor on domestic market, thus creating dominant position on the market or when two former foreign exporters are merging or when such transaction strengthen a market position of the new company.

Such consequences are usually analyzed by competition authorities in corresponding countries which subsequently issue their prescriptions to merging companies. A preliminary notification of economic concentration in antimonopoly authorities has usually an obligatory character.

3. Russia: the impact of competition policy on FDI flows

The competition policy may influence FDI flows in two ways.

First, through application of the antimonopoly law which eliminates anticompetitive actions of companies on the market.

Second, through active participation of the antimonopoly authorities in economic reforms, thus safeguarding their procompetitive character.

AN APPLICATION OF THE RUSSIAN ANTIMONOPOLY LEGISLATION TO FOREIGN COMPANIES

Russian antimonopoly law may be applied both to Russians and foreign economic entities and natural persons, if their activity may have a negative result for competition on the Russian goods markets.

According to art.2 of the Russian Antimonopoly Law (the Law "On Competition and Limitation of Monopolistic Activity on Goods Markets"), this law extends to relations affecting competition on goods markets in the Russian Federation involving Russian *and foreign legal persons*, federal executive bodies, bodies of the subjects of the Russian Federation, bodies of local governments, as well as natural persons.

The Law shall also apply in those instances in which the pursued activities undertaken by said persons *beyond the boundaries of the Russian Federation* lead or may lead to a restraint of competition or have other negative effects on markets in the Russian Federation.

The Russian Antimonopoly Law does not contain any special provisions concerning foreign companies. *The principles of national treatment* and *most favored nation (MFN)* are applied by the conducting competition policy in Russia.

ANTIMONOPOLY CONTROL OVER M&As INVOLVING FOREIGN COMPANIES

The state antimonopoly control over economic concentration constitutes one of the main conditions of the normal market economy' functioning. In accordance with international practice the Russian antimonopoly regulation provides for a preliminary notification of big concentrative operations. Art.18 of the Antimonopoly Law contains provisions on the preliminary control of certain kinds of operations. The Law contains criteria in accordance to which transactions shall be obligatory notified in advance to the Ministry for the Antimonopoly Policy and Support of Entrepreneurship (MAP) with a purpose to obtain its consent to transaction. There are inter *alia* such transactions as acquisition by a person (group of persons) of voting stock (shares) in the authorized capital of an economic entity giving such a person (group of persons) the right to dispose of more than 20% of such stock (shares).

MAP has the right to reject the application for an economic concentration if it considers that this transaction will result in the creation or strengthening of a dominant position or in a restriction of competition.

Transactions concluded in violation of the procedure established by the Law, leading to creation or strengthening of a dominant position and/or restricting competition may be nullified in a general court based on a suit of the federal antimonopoly body.

Taking in mind that a big part of transactions with a participation of foreign investors constitute big-scale transactions, the most of them fall under provisions of the preliminary antimonopoly control.

There are no special provisions in the Russian Antimonopoly Law concerning the treatment of transactions on economic concentration with participation of foreign companies. The regulators are not concerned with the nationality of companies – the same rules are applied to all companies.

The share of negative replies of the Antimonopoly Ministry to the applications on economic concentration is rather small and constitutes about 2% of the total number. The main reason for declining the notified deals is usually the expectation of creation or strengthening dominant position on the market as a result of such deal.

In the Russian antimonopoly practice there are only few cases where MAP had rejected the transaction with participation of foreign companies. The principle of national treatment and most favored nation are fully applied in the Russian antimonopoly control over economic concentration. But the most part of consents to the transactions (both national and international) is granted by MAP under certain (usually behavioural) remedies.

Among such remedies the following could be mentioned:

- regular informing MAP on volumes of production and realization of the goods with justification of changes in these volumes;
- informing MAP on prices on the produced goods with justification of their changes;
- advance informing MAP on intentions to change the policy on supply and realization, etc.

In the previous years it was believed that a system of informing MAP on forthcoming changes will enable it to prevent the cutting of the production by the monopolistic entities as well as to avoid price increases and discriminations of purchasers and customers. But taking into account the limited resources of the Antimonopoly Ministry, this approach seems to be too ambitious and hardly realized. That is why MAP is now changing its approach and is going to make not behavioural but mainly structural remedies while approving mergers.

As it was mentioned above there are no discriminatory provisions vis-a vis foreign companies in the Russian Antimonopoly Law. But in practice the foreign companies face sometimes rather strong opposition on the side of regional authorities which try to prevent a dominance of a foreign company on the regional market. The voices contra “total monopolization of the Russian economy by foreign companies” are especially strong in the regions where the communist influence is high.

For the purposes to make a situation with international transactions more transparent, the new statistical reporting form was introduced in MAP some years ago. The results of the consideration of the transaction with the participation of foreign companies in the antimonopoly authorities (including information from the territorial bodies) are available now. That will assist to have a more transparent picture about the impact of competition regulation on foreign investments flows.

From the point of view of antimonopoly legislation the most dangerous are mergers joining economic entities-rivals, producing and supplying to the market similar or mutually-substituted goods – i.e. horizontal integration. Bearing this in mind, antimonopoly control in case of merging economic entities producing similar goods, is stricter.

When investigating mergers, especially horizontal, antimonopoly bodies use the following criteria, enabling to define the rate of risk for competition:

- whether the merger would result in a significant concentration of the market;
- whether there are reasons to consider that the merger would have a negative affect upon competition (i.e. whether the merger may create, strengthen market power or facilitate its application);
- whether the new economic entities on the market may create entry barriers for competitors;
- whether the merger would be a factor of increasing effectiveness which the merging enterprises could not reach by any other means;
- whether there is a probability that the merger would result in a bankruptcy of one of the parties to the deal and its assets would be lost for the market in case the merge fails.

Despite of the financial crisis of 1998 the activity of foreign investors in acquiring shares of Russian enterprises has increased. In the fuel and energy sectors, where the concentration processes are developing very fast, transaction with a foreign capital are growing rapidly. The number of petitions and notifications related to the transactions with foreign investors in this sector has increased in 2000 by 45%, including the share purchase transactions – almost by 57%.

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-, 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.

In the circumstances of growing economic concentration on Russian and world markets, antimonopoly control of economic concentration becomes one of the primary instruments to maintain competition and economic stability on the markets.

ANTIMONOPOLY CONTROL OVER ANTICOMPETITIVE PRACTICES

The abuse of dominant position is a rather wide-spread infringement 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. 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 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 antimonopoly practices. As a rule in such processes powerful structures with the strong legal staff stand against the antimonopoly bodies.

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 61%. 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.

In 2000 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.

The practice of ascertainment and of suppression of agreements (concerted practices) of economic entities, which restrict competition is undertaken on the basis of Article 6 of the Law "On Competition…". 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-competitive agreements of economic entities related to fixing maintaining prices, tariffs, discounts, additional payments, extra-charge in the sphere of natural monopolies.

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 levelling 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 co-ordination 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.

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.

OVERCOMING ADMINISTRATIVE BARRIERS

A significant place in the enforcement practice of the Russian Antimonopoly Ministry take cases connected with elimination of anticompetitive acts and actions of the governing bodies (art.7 of the Law). The most claims submitted to the Ministry in this regard, contain facts about acts of governing structures which hinder the economic activities of enterprises, prohibit free trans-regional movement of goods, provide ungrounded benefits or establish prohibitions for certain companies, or constitute the prohibited by the Law unification of governing and commercial functions.

Generally the Ministry has considered in 2000 more than 2 thousand acts of governing bodies, and almost half of them took negative conclusion of the Ministry. MAP issues prescription both to regional authorities and federal regulatory bodies. In 2000 MAP issued prescription for the Ministry of Railways to stop violations of antimonopoly law, which was further confirmed by the decision of Moscow Court of Arbitrage.

This problem is of high interest for foreign investors, and MAP is paying big attention to elimination of such violations.

Taken in mind that the acts and actions of governing bodies, especially of regional bodies, exert a significant influence on the situation on the markets, MAP initiated the practice of *preliminary agreeing* such acts with the regional antimonopoly authorities with the purposes of preventing acts which restrict competition. In 2000 the antimonopoly bodies examined under procedure of preliminary control 3000 draft legal acts and enactments of the legislature (33% more than in 1999), which helped prevent many violations in the phase of acts' elaboration.

In the process of stopping anticompetitive actions of governing bodies, the antimonopoly bodies interact with the Ministry of Justice and the Prosecutor' offices. The activity of MAP in this sphere is especially important for safeguarding the single economic area in Russia and to provide free movement of goods and capitals.

INTELLECTUAL PROPERTY RIGHTS

Prevention and suppression of unfair competition contributes to the establishment of civilized goods market. These activities are exercised under Article 10 of the Antimonopoly Law.

Art.10 of the The Russian Antimonopoly Law prohibits *unfair competition*,[1] including:

- the dissemination of false, inaccurate, or distorted information capable of causing losses to another economic entity or causing damage to its business reputation;
- misleading consumers as to the character, method (means) and place of production, consumer properties and quality of a good;
- making an incorrect comparison of goods produced or sold by an economic entity with the goods of other economic entities;
- the sale of a good involving illegal use of the results of intellectual property and means of differentiation of a legal person, individualization of output, or performance of work and provision of services, equated with them;
- the receipt, use, or disclose of research and technical production or trade information, including a commercial secret, without the consent of its owner.

Art.10 has been actively used in the law enforcement practice of the Antimonopoly Ministry. 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%).

[1] "Unfair competition" is defined in the Antimonopoly Law (art. 4) as "any actions by economic entities designed to gain advantages in the course of entrepreneurial activity which contravene the relevant provisions of current legislation, usage and practices of business dealings, dictates of respectability and straight dealing, and reason and fairness, which may cause, or have already caused, damage and losses to other economic entities - competitors, or may damage their business reputation".

In order to 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' regional offices gave 184 prescriptions on elimination of the violation of the anti-monopoly legislation and the consumers rights property legislation to unfair producers and sellers.

COMPETITION AND TRADE POLICY

MAP has rather broad responsibilities for influencing trade policy.

In accordance with art.11 of the Competition Law, the Antimonopoly Ministry *may give recommendations to the executive bodies* and local governments relating the implementation of measures directed towards promotion of development of markets and competition. In accordance with art.12 of the Law, MAP may *submit proposals* to executive bodies concerning the introduction of licensing and its cancellation, changes in customs tariffs, introduction and abolition of quotas.

Art.16 of the Law stipulates that
with the aim of further development of goods markets and competition, support of entrepreneurship, and demonopolization, a federal antimonopoly authority may forward to the relevant federal executive authorities recommendations relating in particular to:

- the licensing of export-import operations and modifications of customs tariffs,
- the making of modifications in the list of activities subject to licensing and the licensing procedure.

As it could be seen from these provisions, the Antimonopoly Ministry has the right to influence a foreign trade and investment policy, but the scope of this *influence is limited by the recommendative character of possible actions*. However MAP is actively using the provided responsibilities to influence foreign economic policy, submitting recommendations to the Ministry of Economic Development abd Trade and to the Government concerning rates of import tariffs and quotas, system of licensing and access for foreign investments.

It could be concluded that the legally fixed rights and practical activities of the Antimonopoly Ministry in this area have positive effect for trade safeguarding its non-protectionist and non-discriminatory character.

It is widely recognized that national trade policy can affect competition on internal market. Of particular concern are high tariffs, quantitative restrictions, discrimination in public procurement system, etc.

Despite the fact that WTO rules foresee the consideration of competition aspects while introducing trade measures, the measures introduced often reflect mostly the interests of the lobbing industries (competing domestic producers) but not the interests of consumers or the goals of the national economy' efficiency. This situation may be to a great extent explained by the current system of decision- making in this area: in most countries introduction of trade measures belongs to the responsibility of trade authorities, and the competition bodies have usually very limited possibilities to influence trade policy. However trade restrictions represent a serious harm for competition, and that is why they should be regarded as not only trade policy' area , but as a common area of trade and competition policy. Only such an attitude could guarantee the real economic efficiency of trade measures.

For countries- non members of WTO (as Russia) the observation of this principle is especially important because such countries are not bounded by strong international obligations concerning liberalization of their trade regime. In the circumstances, when the national trade authorities are free to introduce protectionist measures, the antimonopoly bodies shall pay additional

attention to the possible competition infringements in trade area and try to prevent and to stop any restriction of competition.

The participation in forming national trade regime constitutes for a long time one of the most important directions of MAP' activities. With a goal to safeguard a comprehensive, analytical approach to trade measures, the Methodological Recommendations there were elaborated and are used by MAP for assessing the impact of trade measures on competition on the national market. MAP is participating in preliminary consideration of each case of the proposed trade restrictive measures and submits its decisions to the authorized executive structures.

The MAP' approach to dealing with proposed trade measures is based on the analysis of a number of factors, such as:

- import penetration ratio,
- existing barriers to import ,
- structure of the national product market,
- competitiveness of the "protected" domestic product,
- type of product to be protected.
- the applicant' share in the total volume of the production (shall be not less than stipulated in the Law),
- deterioration of the situation in the corresponding sector,
- strong relationship between deterioration of this situation and growing import.

4. Russia: FDI - general view, trends and problems

Till the recent time the volume of FDI in Russia was very moderate. FDI into the fixed capital was dramatically declining during the last decade. But beginning 2000 the positive tendencies became evident. In 2000 FDI inflow increased to 4,26 bln.$ US. In the first half of 2001 FDI inflow in Russia increased by 40% as compared with the first half of the previous year - up to 2,5 bln.$US.

The accumulative volume of foreign investments in Russia was 27,2 bln.$US in 1999, 29,25 bln.$US in 2000 and 33,84 bln.$ US in 2001. The main part of them constitute direct investments (12,76 bln.$US in 2000 and 17,6 bln.$US in 2001).

The leading foreign investors in the Russian economy are as folows: (share in foreign investments volume):

Germany – 18%
USA - 15,9 %
Cyprus – 15,2 %
France – 10,5%
United Kingdom – 9,6%
Netherlands – 6,6%
Italy – 4,9 %
Sweden – 2,1 %
Switzerland – 1,8%
Japan – 1,6 %

As regards different economic sectors, so *fuel - and food sectors* are keeping leading positions on volume of FDI inflows with 23% and 28% correspondingly. These sectors are followed by trade, transport and telecommunication sectors. The share of machinery, timber and other sectors remains insignificant.

The main investment initiaves in Russia with FDI are the following:

The biggest investment projects are concentrated in *oil and gas sectors*. There are created about 50 joint ventures in oil- processing sector with American, British, French, German, Canadian, Japanese and other companies.

In *food industry* we have now numerous projects in the form of joint ventures as also as pure foreign companies. The biggest foreign companies show their interest and bring investments - first of all in pastries and meat industries, in production of non-alcohol drinks, beer and tobacco.

In *aero-cosmos industry* it is realized the joint project "Sea Launch" with participation of Russian, Ukrainian, Norwegian and American companies. The first demonstration and the launching of commercial sattelite took place in 1999. A group of Russian companies, together with Egyptian participation realized joint project on production of aircrafts type "Tupolev".

In *machinery sector* the joint production of turbines was started together with the company ABB. This company has already established about 20 joint ventures in Russia in electro-technics.

A number of projects with participation of German and Japanese, American and Norwegian companies are started recently in *telecommunication sector*, mostly in modernization of telecommunication systems.

(The Source: "Survey of the Russian Economy", Working Centre for Economic Reforms by the Government of the Russian Federation, 1/2000)

FDI are now mostly concentrated in the big industrial towns and regions as Moscow, St.Petersburg, Nigni Novgorod. A big share of FDI is accumulated in central and north regions of Russia, in particular in Leningradskaya, Novgorodskaya, Kostromskaya oblast. In Tatarstan regional authorities managed to create attractive conditions for foreign investments.

Generally it may be underlined that investment climate in Russia is improving in the last years.

The macroeconomic indexes show positive tendencies. GDP rose in 2000 by 8%, in the first half 2001 – by 5,4%. Industrial growth constituted in the first half of 2001 5,5%, the real incomes of population 5,4% . The inflation was 21% in 2000, 18% in 2001.

Big structural reforms are started in the last years. The new Land Code is adopted, as well as 1st and 2 part of the Tax Code. A number of new laws in the framework of deburocratization of economy have been adopted this year. The reform of rail ways system is already started, under discussion is reform of banking sector.

But still in numerous ratings of FDI-attractiveness Russia unfortunately is keeping last lines.
The most important remaining problems faced by foreign investors in Russia are the following:

- complicated tax system
- infringement of investor rights, inter *alia* in the procedures of bankruptcy
- infringement of intellectual property rights
- contradictory and insufficiently transparent legislation, problems in its implementation
- week courts system
- corruption
- week banking system
- high administrative barriers
- non-adequate accounting system

5. Governmental policy towards FDI. The role of the Russian Antimonopoly Ministry.

The attraction of FDI and creation of a good investment climate in Russia is now considered by the Russian Government as one of the most important economic tasks.

The intergovernmental agreements on promotion and mutual protection of investments, signed between Russia and 54 foreign countries is contributing to improvement of investment climate. Besides, there have been signed 80 intergovernmental agreements on avoiding double taxation.

The most bulk of the work on improvement of investment climate is undertaken in the framework of the Consultative Council on Foreign Investments (CCFI), which incorporates the main foreign investors into the Russian economy. The President of the Russian Federation Mr.V.Putin and the Prime-Minister of the Russian Federation Mr.M.Kasjanov personally take part in the sessions of this Council. Through CCFI a regular direct dialog between Russian authorities and foreign investors is taking place.

Russian authorities proclaimed that they do not distinguish between domestic and foreign investors, no discriminatory approaches are applied, and existing problems are considered as common problems which need to be eliminated.

With the purposes to improve investment climate, the Russian Government has elaborated 4 blocks of draft laws: on taxes, on structural changes, on labor relations and on court reform. The adoption of these laws will lead to stabilization of rules of games on the Russian market.

The Russian Ministry for Antimonopoly Policy and Support of Entrepreneurship (MAP) participates actively in this work. The role of MAP is not limited by antimonopoly policy, it consists also in promoting procompetitive reforms and economic development. The main current directions of this work include:

First, the *modernization of the Antimonopoly Law* is undertaken now, and a number of amendments to the Law will be considered soon in the Parliament. With these amendments the antimonopoly legislation and practices will become more effective.

Secondly, MAP plays a significant role in current process of *deregulation*, restructuring of natural monopolies, promoting competition principles in their functioning mechanisms. MAP is working close together with other ministries in reforming rail roads and energy sectors, proposing division of real natural monopolies and competitive sectors.

Third, MAP continues its activities on support of entrepreneurship, initiating the processes of *deburocratization* of economy. The Government is undertaken now serious actions to eliminate high administrative barriers, organizing this work on the basis of recently adopted laws, such as “On Protection of Rights of Legal Persons by State Control Measures”, “On Licensing of Certain Types of Activities”, “On State Registration of Legal Persons” and others. These laws establish a single principle of licensing on the whole territory of Russia and simplifies radically the whole system of licensing. When earlier about 2000 types of activities needed licenses, so now there are only 104. The new law on state registration (which will take in force in July 2002) establishes “one window” principle by registration of legal persons. This will make the registration of legal entities much easier, faster, cheaper and transparent, eliminating many different intermediate instances.

Fourth, MAP undertakes concrete steps for safeguarding *intellectual property rights protection* and fair competition on the territory of the Russian Federation.

Fifth, working together with the Russian Ministry for Economic Development and Trade, MAP contributes to *eliminating or reducing trade barriers*, creating competitive environment in Russia and prevents unjustified protectionism. The foreign economic legislation is now also

modernized in accordance with WTO rules. The accession of Russia to WTO will also contribute to stable business environment in Russia. One of the very important documents - the Customs Code - was adopted recently by the Russian Parliament in the first hearings. The Customs Code will establish much more simple and transparent customs procedures in accordance with the WTO principles. A special group with participation of foreign investors is preparing radical changes to existing complicated system of certification, marking etc. The draft Law "On Certification" will introduce new system of technical requirements in accordance with international practice. In the near future the legal basis for agreements on product sharing will be completed, which is extremely needed for attraction of more foreign investors into the fuel sector.

Thus, the Russian antimonopoly authorities are playing now an import role in supporting general Governmental policy directed at creation of attractive investment climate in our country.