

COORDINATED ANTIMONOPOLY POLICY AGREEMENT

(Moscow, January 25, 2000)

The governments of the states being the parties hereto, hereinafter referred to as the Parties, in pursuance and further development of the [Agreement](#) on Antimonopoly Policy Coordination of March 12, 1993,

reaffirming the commitment to refrain from any actions causing economic damage to the interests of the Parties hereto,

recognizing the need to respect the principles of sovereignty, equality and non-discrimination, seeking to prevent the emergence of the factors affecting the trade and economic development, which may arise due to the monopolistic activities of economic entities,

recognizing the need for the Parties hereto to accept antimonopoly legislative acts and to exercise effective antimonopoly policy,

taking into account the growing impact of transnational corporations on the economic development of the Parties hereto,

given the increasing role of antimonopoly policy is ensuring the economic interests of the Parties hereto,

have agreed as follows:

Article 1

Definitions

For purposes hereof, the following definitions shall apply:

economic entities – legal entities of all forms of property, engaged in the production, sale, procurement of goods and services, as well as self-employed individuals;

commodities market – the sphere of circulation of the goods (products, services, works) that do not have substitutes in the territories of the Parties hereto (hereinafter, the Parties) or parts thereof;

competition – the rivalry between economic entities, when their independent actions effectively limit the ability of each of them to unilaterally affect the general conditions of goods circulation on the relevant market and stimulate the production of the goods essential for the consumer;

dominant position – an exclusive position of an economic entity in the commodity market, enabling it to independently or jointly with other economic entities to dictate the terms to the customers and/or competitors, to impede access to the market for other economic entities or otherwise restrict competition;

monopolistic activity – actions (omissions) of economic entities, public authorities and supervisory agencies contradicting national antimonopoly laws and aimed at prevention, restriction or suppression of competition and/or infringing the legitimate interests of the consumers;

unfair competition – all actions (omissions) of economic entities aimed at obtaining advantage in business, contradicting national antimonopoly laws and business customs and causing losses to other economic entities or damage to their reputation;

antimonopoly laws – regulatory legal acts in force in the territory of the Parties hereto containing the provisions aimed at the prevention, restriction and suppression of monopolistic activity and unfair competition;

competition authority – Party's authority supervising the compliance with the antimonopoly laws;

investigation – application of antimonopoly laws by considering the cases of violation thereof, market research and other activities conducted by the Parties' competent authorities.

Article 2

Goals and Objectives

1. This Agreement aims to create a legal and institutional framework for the cooperation between

the Parties in implementation of coordinated antimonopoly policy and competition development, elimination of the factors affecting trade and economic development and prevention of the acts detrimental to the Parties' economic interests due to monopolistic activity and/or unfair competition.

2. The objectives of this Agreement are as follows:

coordination of joint actions aimed at prevention, restriction and suppression of monopolistic activity and/or unfair competition;

harmonization of antimonopoly laws to the extent necessary for the exercise hereof;

creating the conditions for the development of competition, the efficient functioning of commodities markets and consumer protection;

agreeing a procedure for review and assessment of the monopolistic activities of economic entities, public authorities and supervisory agencies, and creation of a cooperation mechanism based on such assessment.

Article 3

General Principles of Competition

1. Actions that result or may result in restriction of competition, infringement of the legitimate interests of other economic entities or consumers, or bear evidence of unfair competition shall be deemed inadmissible and qualified in accordance with the Parties' antimonopoly laws.

2. The actions referred to in [clause 1 of this Article](#) include:

1) abuse of dominant position, in particular:

imposition (maintenance) of the purchase or selling prices, or other unfair conditions of the transaction to gain monopolistically high profits or to eliminate competitors;

limitation of production or sales aimed at unjustified price increases, creation or maintenance of a deficit in the relevant market to the detriment of the consumers;

unequal approaches to business partners under the same conditions that creates unequal conditions of competition;

creating the obstacles for other economic entities seeking to access the market;

2) anti-competitive agreements between economic entities and other coordinated actions, which may restrict the competition in the commodities markets or the relevant parts thereof, by way of:

segregating the commodities market on a territorial basis, based on the volume of sales or purchases, assortment or range of consumers;

restricting access of other economic entities in their capacity of buyers or sellers to the relevant commodities market;

establishing purchase or selling prices or other terms of the transaction;

controlling the production, marketing, technical development and investment processes;

imposing on the economic partners of the additional terms of the transaction not related to the subject matter hereof and infringing their interests;

employing different approaches to economic partners under equal conditions, which creates unfavorable conditions for competition in the relevant commodities market;

3) unfair competition, in particular:

dissemination of false, inaccurate or distorted information capable of causing losses to another entity or damage to its business reputation;

misleading the consumers as to the nature, production method and origin, consumer properties and quality of the goods;

incorrect comparison by an economic entity of the goods produced or sold with the goods of other economic entities during the promotion;

unauthorized use of a trademark, company name or product labeling, imitation of a form, packaging, exterior design of a product of another economic entity;

collection, use, disclosure of scientific and technical, industrial or commercial information, including trade secrets, without the owner's consent.

3. When evaluating actions or agreements restricting competition, the fact that they contribute to technical or economic progress, commodities markets saturation, improvement of customer appeal of

the products and increasing the competitiveness thereof shall be taken into account.

4. The procedure for interaction of the Parties hereto in accordance with the principles of competition referred to in [clauses 1 and 2 of this Article](#) shall be determined by the Regulations on the Cooperation of the States to Suppress Monopolistic Activity and Unfair Competition ([Appendix 1](#)), which is an integral part hereof.

Article 4

Interstate Council on Antimonopoly Policy

1. For the implementation hereof, the Parties shall establish the Interstate Council on Antimonopoly Policy (hereinafter, the Antimonopoly Council).

2. The main objective of the Antimonopoly Council is to develop criteria and methods of assessment of monopolistic activity and unfair competition, the procedures for investigating the violation of competition rules, as well as development of the rules and mechanisms of impacting economic entities, public authorities and supervisory agencies violating the competition rules in the commodities market and the coordination thereof by the Parties.

To ensure the activities of the Antimonopoly Council, a Secretariat shall be created acting on a permanent basis.

3. Status of the Antimonopoly Council and its objectives shall be determined by the Regulations on the Interstate Council on Antimonopoly Policy ([Appendix 2](#)), which is an integral part hereof.

Article 5

Obligations of the Parties

1. The Parties shall take measures to fulfill the obligations arising out of this Agreement.
2. The Parties undertake to assist the Antimonopoly Council in carrying out its tasks.

Article 6

Information Exchange

1. The Parties shall, subject to the requirements of national legislation, exchange the information on:

the state of the commodities markets, approaches and practical results of de-monopolization in the framework of economic restructuring, on the experience and methods of prevention, restriction and suppression of monopolistic activity and competition;

data contained in the national registers of monopolies supplying the products to the Parties' commodities markets;

consideration of the cases on violation of antimonopoly laws.

2. The Parties shall cooperate in the development of national laws and regulations on antimonopoly policy by providing information and guidance.

Article 7

Final Provisions

1. This Agreement shall enter into force following the signing hereof, and for the states whose laws require the implementation of internal procedures necessary for the entry into force hereof – following depositing the notification on the completion of the above procedures.

Following the entry into force hereof, the [Agreement](#) on coordinated antimonopoly policy of December 23, 1993 and the Renewal [Protocol](#) of June 4, 1999 shall be invalidated.

2. This Agreement shall be executed for a period of five years and renewed automatically each

time for five years, unless the Parties agree otherwise.

3. The disputes relating to the application or interpretation hereof shall be settled through consultation and negotiation of the Parties concerned.

4. This Agreement may be amended or supplemented by mutual agreement of the Parties, which shall be executed in a form of separate protocols, being an integral part hereof.

5. Any Party may withdraw from this Agreement by giving notice of its intention to the other Parties at least three months prior to the withdrawal.

6. Other states sharing the goals and principles hereof and willing to assume the obligations hereunder may join this Agreement.

Executed in Moscow on January 25, 2000 in one original copy in Russian. The original copy shall be maintained by the Executive Committee of the Commonwealth of Independent States, which shall send to each signatory hereto a certified copy hereof.

(Signatures)

Appendix 1
to the Coordinated Antimonopoly Policy Agreement
of January 25, 2000

REGULATIONS ON THE COOPERATION OF THE STATES TO SUPPRESS MONOPOLISTIC ACTIVITY AND UNFAIR COMPETITION

1. General Provisions and Scope

1.1. These Regulations determine the procedure for applying the competition principles and refer to the activities of the Parties hereto related to their abuse of dominant position, associations, agreements (coordinated actions), unfair competition and other actions (omissions), restricting competition in cases if:

these actions involve two or more economic entities carrying out their business activities in the commodities markets;

these actions are conducted by one or more economic entities carrying out their business activities in the commodities markets of any Party hereto, and result or may result in restriction of competition (unfair competition) in the commodities markets of all or any Party or in the infringement of the legitimate interests of other economic entities or consumers.

1.2. These Regulations shall not apply in cases where the agreements (coordinated actions) of economic entities, including the associations thereof, are executed, and an abuse of dominant position, unfair competition and other actions (omissions) of economic entities are undertaken in the territory of only one Party, do not apply to imports or exports between the Parties and do not affect the interests of other Parties.

1.3. Interaction provided for herein shall be carried out by antimonopoly authorities in the form of notices, requests for information, application for case consideration and consultation.

1.4. These Regulations shall be implemented in the territories of the Parties with due regard to the inter-agency distribution of powers in accordance with the national legislation.

2. Notice

2.1. If the competent authority of any Party conducts an investigation and it appears that the circumstances of the case affect or may affect the interests of another Party, it shall notify the antimonopoly authority of that Party. The notice shall be accompanied by the documents evidencing the violation of national competition laws.

2.2. Notice shall be given in advance in order to consider the views and possible actions of other Party or its antimonopoly authority, except when prior notification would be prejudicial to the case.

2.3. Prior to taking any measure, antimonopoly authorities willing to send a notice must be fully convinced that, in the circumstances, these actions will not affect case consideration.

2.4. The notice shall contain:

names of economic entities under investigation;

a brief description of the merits of the case;

relevant laws and regulations;

other information that a notifying antimonopoly authority considers it possible to submit.

2.5. Antimonopoly authority having received a notice shall consider the application of appropriate measures in accordance with the national legislation.

3. Request for Information

3.1. In the cases provided for in [clause 1](#) hereof, the antimonopoly authority of one Party may submit to the antimonopoly authorities of other Parties the request for information relating to the business activities of economic entities. Other Party may refuse to provide the requested information, if such information is deemed confidential in accordance with the national legislation.

The request for information shall contain goal, the circumstances of the case, and shall be accompanied by the necessary documents.

3.2. The requested information shall be sent within the period agreed between the antimonopoly authorities, but no later than three months following the receipt of the request.

4. Application for Case Consideration

4.1. Antimonopoly authority of any Party may submit to the antimonopoly authority of another Party an application for considering the case on violation of antimonopoly laws. Such application shall be filed in writing and supported by the documents confirming the violation of the antimonopoly laws of another Party.

4.2. Antimonopoly authority shall, based on the application of the antimonopoly authority of another Party, consider the violations and make decisions thereon in accordance with the requirements of national antimonopoly laws.

5. Consultation

5.1. In order to minimize the possibility of conflict and to make mutually beneficial decisions, antimonopoly authorities shall consult on the matters relating to the [Agreement](#), if there are grounds to believe that following case consideration the interests of the Parties may be affected.

5.2. Antimonopoly authority interested in the consultation shall send to the competition authority of another Party a written request for consultations accompanied by all necessary documents, as well as a justification for the necessity thereof and the consulting procedure.

5.3. Antimonopoly authorities shall conduct consultations within the agreed period, but not later than three months following the receipt of the request.

6. Records Submitted to the Interstate Council on Antimonopoly Policy

6.1. Antimonopoly authorities shall submit to the Secretariat of the Interstate Council on Antimonopoly Policy the following:

notice of amendments introduced to the national competition laws;

initiative draft agreements and other documents developed for the implementation of the [Agreement](#);

notice of the results of the consultations or of making mutually acceptable decisions otherwise.

7. Application of Information

7.1. Information obtained in accordance with the provisions of [Sections 2, 3, 4 and 5](#) hereof shall be used only for the purposes of the relevant request, case consideration or consultations.

7.2. Antimonopoly authorities, their officials and other servants shall not disclose the information obtained in the course of application hereof.

Appendix 2
to the Coordinated Antimonopoly Policy Agreement
of January 25, 2000

REGULATIONS ON THE INTERSTATE COUNCIL ON ANTIMONOPOLY POLICY

I. General Provisions

Interstate Council on Antimonopoly Policy (hereinafter, the Antimonopoly Council) was established to coordinate the activities of the Parties, to monitor the compliance with the [Agreement](#), to conciliate national competition laws and to develop the legal framework for the prevention, restriction and suppression of monopolistic activity and unfair competition in the commodities markets of the Parties.

The Antimonopoly Council shall be guided by the Statute of the Commonwealth of Independent States, [Agreement](#) on the Establishment of Economic Council and other agreements concluded within the CIS, by the decisions of the Council of the Heads of the States, the Council of CIS Heads and these Regulations, and shall operate in conjunction with the Executive Committee of the Commonwealth of Independent States.

II. Duties of the Antimonopoly Council

The Antimonopoly Council shall:

coordinate the joint activities of the Parties aimed to establish a legal framework for the prevention, restriction and suppression of monopolistic activity and unfair competition in the commodities market;

assist the Parties in the development and improvement of national competition laws;

develop and recommend to the Parties the rules and mechanisms for the implementation of specific activities aimed to prevent, restrict and suppress the monopolistic activity and unfair competition;

assist the Parties in exchanging legal, methodological and other information regarding the competition policy and competition;

discharge other duties related to the implementation of the [Agreement](#).

III. Rights of the Antimonopoly Council

To discharge its duties, the Antimonopoly Council is entitled to:

arrange for the examination of draft documents related to the implementation of the provisions of the [Agreement](#);

establish expert groups for the preparation of the relevant draft documents;

submit in the prescribed manner the documents prepared by the Antimonopoly Council to the Economic Council, the Council of the Heads of the Governments and the Council of CIS Heads for consideration thereof;

request and receive from the Parties the information needed to perform its duties;

develop and approve its own rules of procedure, as well as to introduce amendments thereto;

cooperate with the antimonopoly authorities of third-party states and relevant international

organizations within its competence.

IV. Composition and Structure of the Antimonopoly Council

The Antimonopoly Council shall consist of the Parties' representatives. Each Party shall have the right to appoint to the Antimonopoly Council two representatives and shall have one vote.

The Antimonopoly Council shall elect from among the Parties' representatives the Chairman and two Vice-Chairmen.

The Chairman and the Vice-Chairmen shall hold the office for 2 years. By decision of the Antimonopoly Council, the term may be extended or shortened.

The Chairman shall:

manage the Antimonopoly Council's operations relating to the performance of the tasks arising from the agreements concluded in the framework of the Commonwealth, the decisions of the Council of the Heads of the Governments, the Council of the Heads of the States and these Regulations;

represent, if necessary, the Antimonopoly Council at the meetings of the Council of the Heads of the Governments, the Council of the Heads of the States, the Economic Council and CIS Executive Committee, and other statutory bodies of the Commonwealth pursuant to its powers;

hold Antimonopoly Council meets;

on behalf of the Antimonopoly Council, sign the documents;

organize the work of the Antimonopoly Council between the meetings;

with the consent of the Antimonopoly Council, perform other duties necessary to enable the operation thereof.

In the absence of the Chairman, any Vice-Chairman shall perform his duties.

The Chairman and Vice-Chairmen shall retain the status of their states' representatives in the Antimonopoly Council.

The head of the respective structural units of CIS Executive Committee shall be included in the Antimonopoly Council and granted a consultative vote.

V. Antimonopoly Council Secretariat

Current operations and preparation of Antimonopoly Council meetings shall be carried out by the Antimonopoly Council Secretariat, the functions of which are performed by the relevant structural unit of CIS Executive Committee.

VI. Arrangement of Antimonopoly Council Operations

The frequency of and the procedure for the preparation and conduct of Antimonopoly Council meetings shall be determined by the rules of procedure. Extraordinary meetings of the Antimonopoly Council may be convened on the initiative of the Chairman or at the request of the representatives of least three Parties.

The requesting Party shall bear the costs of secondment of the participants.

Decisions of the Antimonopoly Council shall be valid if two-thirds of the Parties' representatives are present at the meeting.

The Antimonopoly Council shall pass:

the decisions, the binding nature of which shall be confirmed by the relevant decisions of the Parties;

the non-binding decisions.

The Antimonopoly Council meetings may be attended, at its invitation, by the representatives of the Parties' concerned departments in their capacity of observers, as well as by the representatives of the foreign and international organizations.

Antimonopoly Council decisions shall be made by qualified majority (two-thirds of present and voting representatives).

Any Party may declare itself uninterested in decision on either issue, which shall not be deemed an obstacle to the decision-making by other stakeholders. The decisions shall not apply to the Parties

having declared their disinterest.

VII. Final Provisions

Russian is the working language of the Antimonopoly Council.

The headquarters of the Antimonopoly Council Secretariat are located in Moscow.

The amendments and addenda hereto shall be adopted in accordance with the established procedures.
