FEDERAL ANTIMONOPOLY SERVICE OF RUSSIAN FEDERATION

Methodology of analysis and evaluation of the competitive environment at the petrol and motor fuel markets and establishment of a dominant position of the economic entity.

Ruslan Biktimirov
Deputy head of Tatarstan regional office
of FAS Russia

Dominant position of economic entity

Analysis and evaluation of the competitive environment at the product market and establishment of a dominant position of the economic entity are performed by the FAS Russia in accordance with

- Federal Law dated 26.07.2006 No.135-FZ “On Protection of Competition”;
- Procedure of Analyzing and Evaluating the Competitive Environment at the Product Market approved by Order of the FAS Russia dated April 28, 2010 No. 220.

Part 1, Article 5, Law on Protection of Competition:

the position of the economic entity is recognized as dominant

1) whose share in the certain goods market exceeds 50 % if only it would be established that the position of the economic entity in the goods market is not dominant;
2) whose share in the certain goods market is less than 50 % in case:
   - the dominance of this economic entity was established by the antimonopoly body proceeding from stable or subjected to insignificant changes share of the economic entity in the market as compared to the shares of its competitors in this goods market,
   - opportunities for access to this goods market of new competitors,
   - or proceeding from other criteria characterizing this goods market.

Dominant position of economic entity

Part 3, Article 5, Law on Protection of Competition:

the position of each of several economic entities (exc. financial organizations) is recognized dominant if:

1. the aggregate share of not more than 3 economic entities, share of each of these exceeds the shares of the other economic entities in this market, exceeds 50 %, or the aggregate share of not more than 5 economic entities, the share of each of these exceeds the shares of the other economic entities in the relevant goods market, exceeds 70 % (this provision is not applied if the share of at least one of the aforementioned economic entities is less than 8 %);
2. during a long period the relevant sizes of such economic entities' shares are stable, as well as access of new competitors to the relevant goods market is impeded;
3. the commodity sold or purchased cannot be substituted with another commodity in the process of consumption, growth of the commodity price does not condition corresponding to such growth reduction in demand for this commodity, information about the price, conditions of selling or purchasing of this commodity in the relevant goods market is available to indefinite group of persons.

Part 6.1, Article 5, Law on Protection of Competition:

if its share of the goods market is less than 35% and exceeds the shares of other economic entities in the relevant goods market, if:

1. an economic entity can unilaterally determine the level of prices to goods and exercise decisive influence upon overall conditions of goods' circulation;
2. the entry of new competitors to the relevant goods market is made difficult;
3. the goods sold or bought by the economic entity cannot be substituted by other goods in consumption;
4. the change of prices does not cause an appropriate decrease of demand for the goods.

Procedure of analysis

Analysis is needed to be done:

a) when examining cases on violations of antimonopoly law,

b) when making decisions within the framework of state control over economic concentration,

c) when making decisions on compulsory division (separation) of commercial and non-profit organizations engaged in business activity,

d) when forming the register of economic entities having a share in the certain goods market exceeding 35%, or holding a dominant position in the certain goods market, provided other federal laws set cases for recognizing dominant position of an economic entity in relation to such a market.

The procedure of analyzing the competitive environment at the commodity market includes the following stages:

a) determination of time interval for research of the commodity market;

b) determination of product boundaries of the goods market;

c) determination of geographical boundaries of the goods market;

d) determination of a composition of the economic entities operating at the commodity market as sellers and buyers;

e) calculation of the goods market's volume and shares of economic entities on the market;

g) determination of the level of concentration of the goods market;

h) determination of the barriers to entry into the commodity market;

i) assessment of the competitive environment at the goods market.

Determination of product boundaries of the goods market

preliminary determination of a good

identification of a good's properties, which determine the buyer's choice, as well as of goods which may serve as substitutes for this product

identification of substitutes

Herewith the followings are analyzed

functionality, including the aim of a good and its consumer properties;

application of a good (including either resale or personal consumption or professional use);

conditions of sales, including batch size and methods of product sale;

price;

quality characteristics, including kind, sort, assortment, design, packing, advertising, and properties of the distribution and sale system;

technical characteristics, including operating characteristics, transportation restrictions, conditions of assembling, repair and maintenance works (including warranty service), and properties of professional use (industrial consumption);

other features.

Determination of the geographical boundaries of the goods market

preliminary determining of geographical borders of the goods market

preliminary determining of geographical borders of the goods market

determining the territories included into the borders of the given goods market

Herewith the followings are considered:

- requirements to the conditions of transportation of a product (ensuring preservation of consumer properties of goods and other requirements);
- ability to transport the product to the buyer or the buyer to the product;
- expenses related to search and purchase of the product; transportation costs;
- availability, accessibility and substitutability of means of transportation for transportation of the given product (of the buyer of the given product);
- regional properties of demand for the given product (including consumer's preferences);
- organizational and transportation schemes of purchase by buyers;
- properties of the territory in the preliminary geographical borders of the goods market (including the climatic and socio-economic characteristics, the presence of zones of regulated or partially regulated pricing).

ANALYSIS OF COMPETITION ENVIRONMENT ON THE OIL PRODUCTS MARKET IN TATARSTAN

Time gap for the market inquiries: since 2007 till 2012.

Product boundaries of the market:

wholesale markets of motor gasoline, diesel oil

retail markets of high and low octane gasoline, diesel oil.

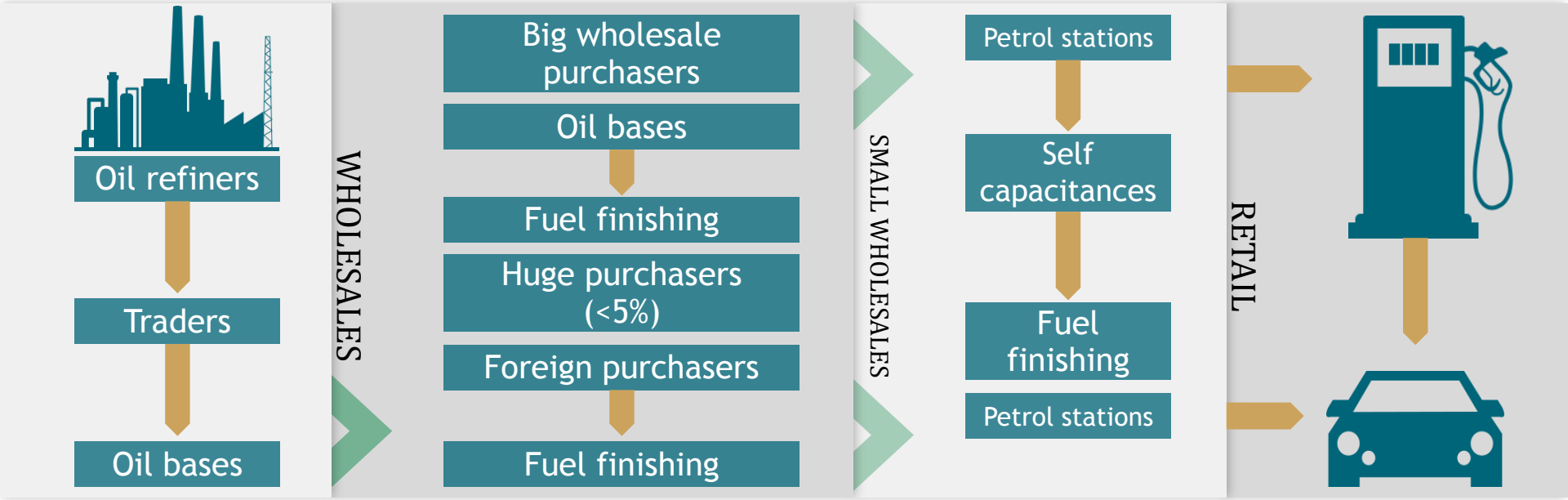
Motor gasoline and diesel oil are not substitute goods.

Geographic boundaries of the markets:

wholesale gasoline market - the Russian Federation,
retail gasoline market - the Tatarstan Republic territory

Determining the product boundaries

Prices in the wholesale segment predetermine situation on the small wholesale and retail markets: price of “the first sale” from the refinery constitutes more than 75% of the retail price for motor fuel



In general structure of oil products petrol is characterized by stable share with increase in production. Collective dominance is typical for petrol in general.

Determining the product boundaries

Structure of wholesale of low- and high-octane petrol

Structure of retail sale of low- and high-octane petrol

The significant share of petrol, supplied for export and internal market, is used not for the end consumption but for further refinement.

“Product boundaries were determined *as low and high octane gasoline markets* in retail (AI80, AI92, AI95, AI98), *Diesel fuel market and gasoline market* at the wholesales markets.

SITUATION IN THE OIL AND OIL PRODUCTS MARKETS IN RUSSIA

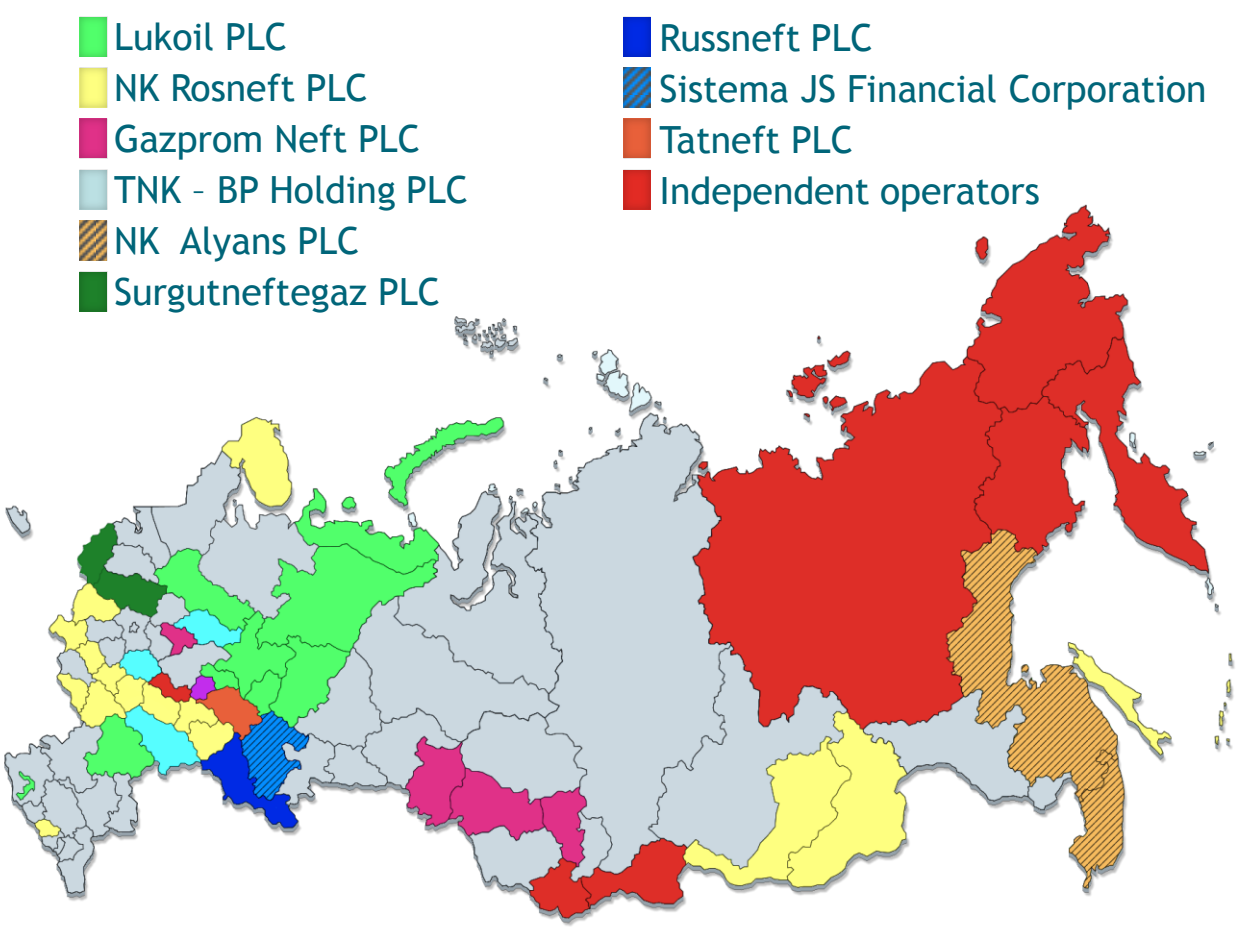
VIOC =

Oil produ ction

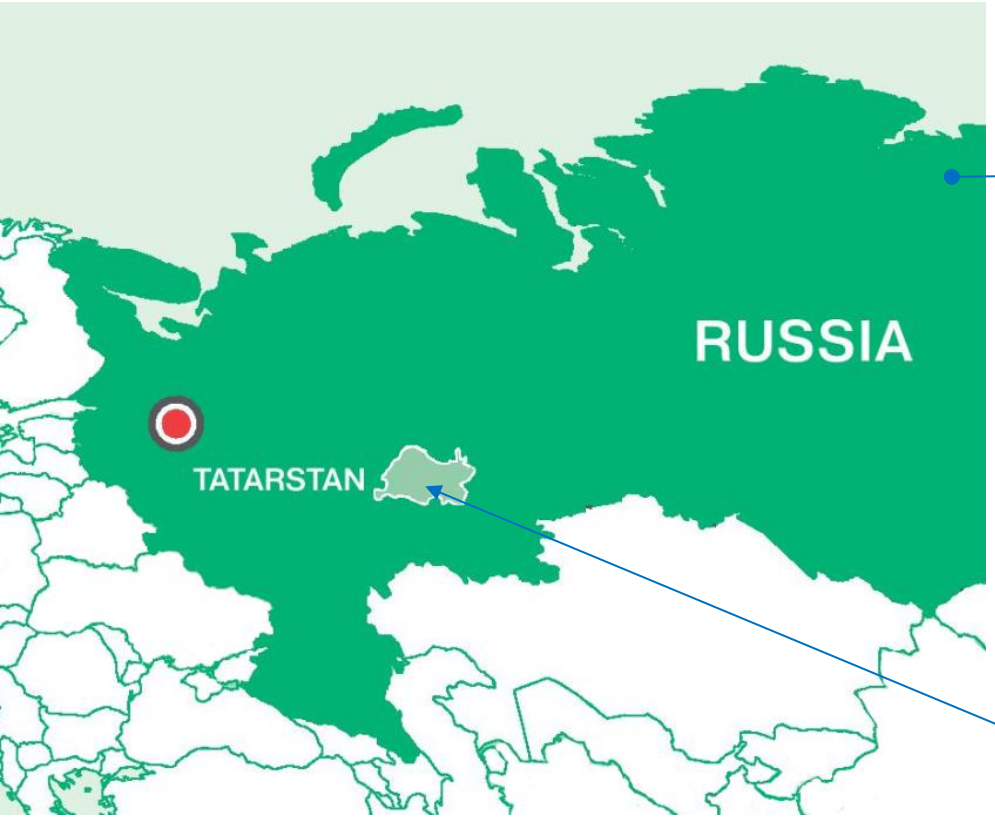
Crude oil processing

Gross & retail sales of oil products

- oligopolistic nature of the market;
- VIOC hold a major share of the market;
- non-transparent pricing (transfer pricing);
- creation of discriminatory conditions;
- impeding access to market;
- overpricing of petroleum products;
- violations of the antimonopoly legislation by vertically integrated companies are systematic



Determining the geographic boundaries



“

Geographic boundaries of the wholsale motor fuel market is the territory of **the Russian Ferderation**

“

Geographic boundaries of the retail motor fuel market is the territory of **the Republic of Tatarstan.**

Statement of competition in the oil products market

TATNEFT

ТАИФ-НК

6

place in Russia by the volume of oil production after Rosneft, Lukoil, Surgutneftegaz, TNK-BP and Gazprom neft.

6.2

billion barrels proved crude oil and condensate reserves, as of 1st January 2013.

26.307

mln tonns of crude oil production by TATNEFT Group in 2012

641

retail filling stations

3.1%

the share of TAIF-NK in total amount of crude oil processing in Russia

95.7%

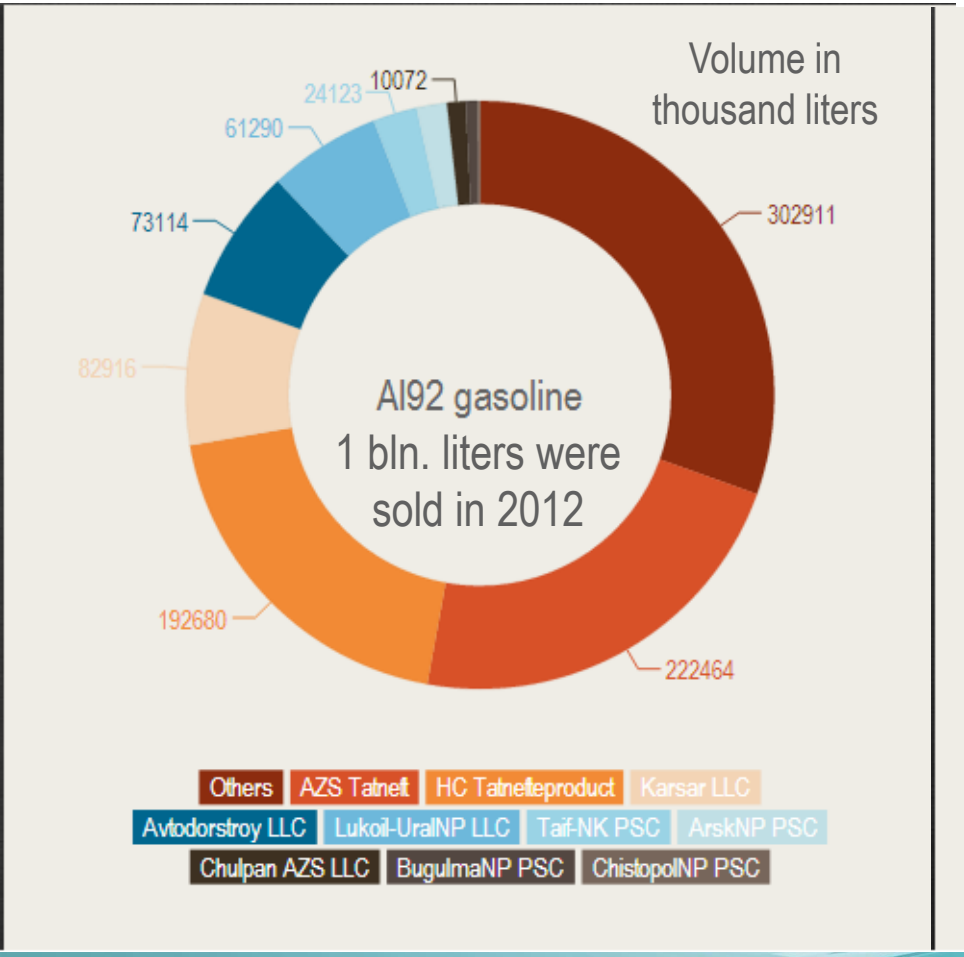
of diesel fuel is produced by TAIF-NK in total amount of diesels produced in Republic of Tatarstan

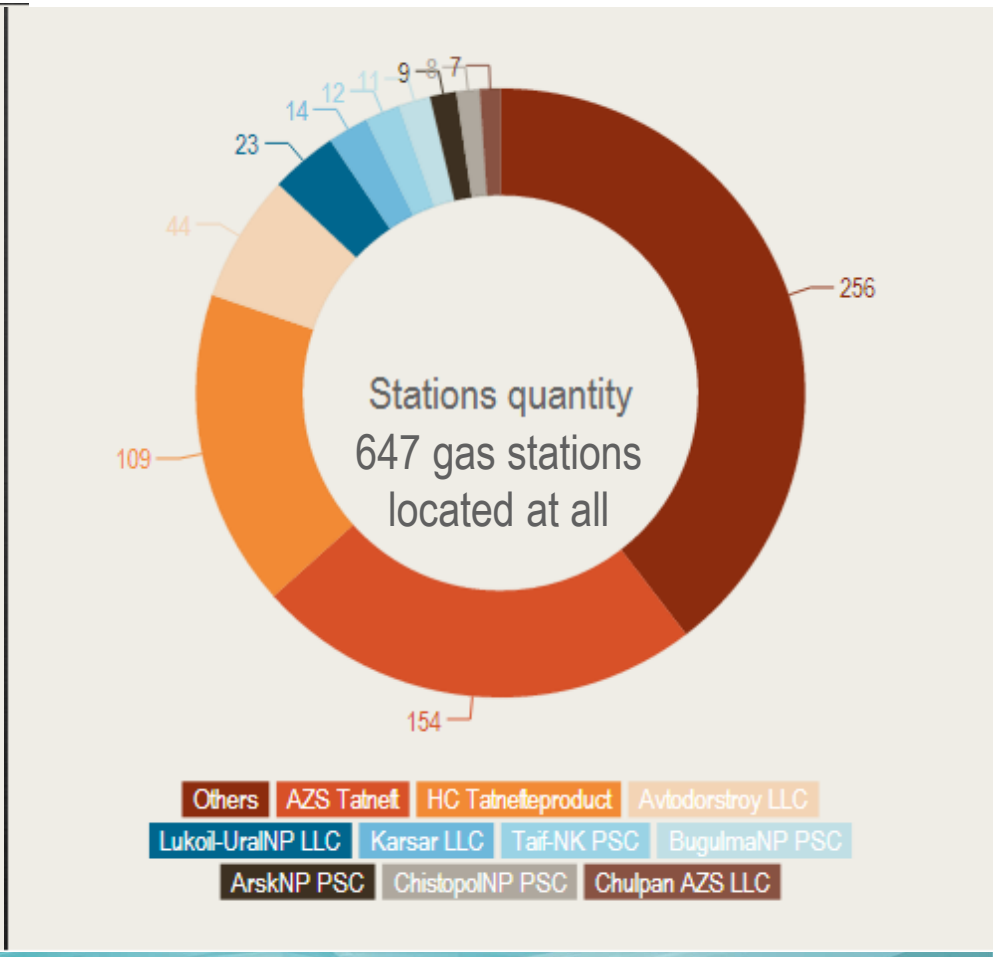
6th

in terms of the feedstock processing depth among the major refineries in Russia

Statement of competition in the oil products market

The shares of the retail sellers of AI-92 gasoline in Tatarstan





Statement of competition in the oil products market

Al-92	Diesel
69,6%	66,7%

total share of 5 groups of companies in the retail markets of motor fuels in Tatarstan

TATNEFT

Al-92	Diesel
22,4%	42,6%

ЛУКОЙЛ НЕФТЯНАЯ КОМПАНИЯ

Al-92	Diesel
6,2%	3,9%

ТАТНЕФТЕПРОДУКТ ХОЛДИНГОВАЯ КОМПАНИЯ

Al-92	Diesel
22,9%	12%

КАРСАР

Al-92	Diesel
10,7%	2,7%

АВТОДОРСТРОЙ

Al-92	Diesel
7,4%	5,5%

Judicial Practice

May 25, 2010 The Presidium of the Supreme Commercial (Arbitration) Court of the Russian Federation confirmed the validity of the decision and the prescription of the FAS Russia in relation to OJSC “TNK-BP Holding”.

February 15, 2011 The Presidium of the Supreme Commercial (Arbitration) Court confirmed validity of the decision and the prescription of the FAS Russia in relation to JSC “Gazprom Neft”. The interpretation of the law contained in the resolutions of the Presidium of the Supreme Commercial (Arbitration) Court of the Russian Federation is obligatory and is subject to the use by commercial courts in considering similar cases.

The resolutions establish the following:

- geographical boundaries of the commodity market is the territory of the Russian Federation;
- product boundaries of the wholesale markets - motor gasoline, diesel and jet fuel, because the mentioned goods can not be substituted for other goods at consumption.

Thank you!

visit

www.fasrt.ru

follow us

UFAS_Tatarstan