

# Regulatory Reform in Finland

Enhancing Market Openness through  
Regulatory Reform



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## FOREWORD

Regulatory reform has emerged as an important policy area in OECD and non-OECD countries. For regulatory reforms to be beneficial, the regulatory regimes need to be transparent, coherent, and comprehensive, spanning from establishing the appropriate institutional framework to liberalising network industries, advocating and enforcing competition policy and law and opening external and internal markets to trade and investment.

This report on *Enhancing Market Openness through Regulatory Reform* analyses the institutional set-up and use of policy instruments in Finland. It also includes the country-specific policy recommendations developed by the OECD during the review process.

The report was prepared for *The OECD Review of Regulatory Reform in Finland* published in 2003. The Review is one of a series of country reports carried out under the OECD's Regulatory Reform Programme, in response to the 1997 mandate by OECD Ministers.

Since then, the OECD has assessed regulatory policies in 16 member countries as part of its Regulatory Reform programme. The Programme aims at assisting governments to improve regulatory quality — that is, to reform regulations to foster competition, innovation, economic growth and important social objectives. It assesses country's progresses relative to the principles endorsed by member countries in the 1997 *OECD Report on Regulatory Reform*.

The country reviews follow a multi-disciplinary approach and focus on the government's capacity to manage regulatory reform, on competition policy and enforcement, on market openness, specific sectors such as telecommunications, and on the domestic macro-economic context.

This report was prepared by Seppo Reimavuo, under the supervision of Anthony Kleitz of the Trade Directorate. It benefited from extensive comments provided by colleagues throughout the OECD Secretariat, as well as close consultations with a wide range of government officials, parliamentarians, business and trade union representatives, consumer groups, and academic experts in Finland. The report was peer-reviewed by the 30 member countries of the OECD. It is published under the authority of the OECD Secretary-General.

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## ACRONYMS

ACP	Asian, African, Caribbean and Pacific least developed countries (Lomé Convention)
ACEA	European Automobile Manufacturers Association
ADP	Agreement on Anti-dumping Practices
AKE	Finnish Vehicle Administration AKE
APK	Finnish Central Securities Depository Ltd (Arvopaperikeskus)
BIS	Business Information System
BSA	Business Software Alliance
CAP	Common Agricultural Policy (EU)
CEECs	Central and Eastern European Countries
CE	European certificate (CE marking)
CEN	European Committee for Standardisation
CEN/ISSS	Information Society Standardization System
CENELEC	European Committee for Electrotechnical Standardisation
COP	Conformity of production
CPD	Construction Products Directive (EU)
EA	European Accreditation
EC	European Communities
ECJ	European Court of Justice
EDI	Electronic Data Interchange
EEA	European Economic Area
EMU	European Monetary Union
EN	European Norm
EPC	European Patent Convention
ERG	European Regulator Group
ETLA	Research Institute of the Finnish Economy
ETSI	European Institute of Telecommunications Standards
EU	European Union
EVA	Centre for Finnish Business and Policy Studies
FDI	Foreign direct investment
FCA	Finnish Competition Authority
FICORA	Finnish Communications Regulatory Authority
FINNVERA	Former Finnish Guarantee Board
FINPRO	Former Finnish Foreign Trade Association
FINTRA	Finnish Institute for International Trade
FSA	Financial Supervision Authority
GATS	General Agreement on Trade in Services (WTO)
GDP	Gross domestic product
GLP	Good laboratory practice
GMP	Good manufacturing practice
GSM	Global System for Mobile Communications (earlier Groupe Spécial Mobile)
GSP	Generalized System of Preferences
HEX	Helsinki Stock Exchange
HPY	Helsinki Telephone Association (Helsingin Puhelinyhdistys)
HS	Harmonized System
ICSID	International Center for the Settlement of Investment Disputes
IAF	International Accreditation Forum
IEA	International Energy Agency
IEC	International Electrotechnical Commission

IMMA	International Motorcycle Manufacturers Association
IPRs	Intellectual property rights
IRG	Independent Regulators' Group
ISA	Insurance Supervision Authority
ISO	International Organization for Standardization
ITU	International Telecommunication Union
LFA	Least favoured area (EU)
MFN	Most-favoured nation
MRAs	Mutual Recognition Agreements
MTC	Ministry of Transport and Communications Finland
MTF	Merger Task Force
MTI	Ministry of Trade and Industry
NCTS	New Computerised Transit System of the Community (EU)
NGOs	Non-governmental organisations
NIS	Newly industrialised states
NordPool	Nordic Power Exchange
NSOs	National standardisation organisations
NT	National treatment
OECD	Organisation for Economic Co-operation and Development
Oy	Private limited company (Osakeyhtiö)
Oyj	Public limited company (Julkinen osakeyhtiö)
PAS	Publicly Available Specification
PECAs	Europe Agreements on Conformity Assessment and Acceptance of Industrial Products
RAY	Slot Machine Association (Raha-automaattiyhdistys)
R&D	Research and development
REIO	Clause for Regional Economic Integration Organisations
RIA	Regulatory impact assessment
SFS	Finnish Standards Association SFS
SPS	Sanitary and Phytosanitary Measures (WTO Agreement)
SITRA	Finnish National Fund for Research and Development
SMEs	Small and medium-sized enterprises
SMS	Short Messaging Service
TAB	Traditional Approval Process
TBT	Technical Barriers to Trade (WTO Agreement)
TEKES	Technology Development Center
TI	Transparency International
TRIMs	Trade-Related Invest Measures (WTO Agreement)
TRIPs	Trade-Related Aspects of Intellectual Property Rights (WTO)
TRIS	Technical Regulations Information System
TS	Technical Specification
UMTS	Universal Mobile Telecommunications System
UNCTAD	United Nations Conference on Trade and Development
UN/ECE	United Nations Economic Commission for Europe
US	United States
USD	United States dollar
VR	State railways (Valtionrautatiet)
VERs	Voluntary export restraints
WAP	Wireless Application Protocol
WIPO	World Intellectual Property Organisation
WTO	World Trade Organisation
WVTA	EC Whole Vehicle Type-Approval System

## EXECUTIVE SUMMARY

### **Background Report on Enhancing Market Openness through Regulatory Reform**

This report assesses regulations and the regulatory process in Finland in terms of their impact on international competition through trade and investment, as well as the extent to which trade perspectives are incorporated into the general policy framework for regulations. The assessment is based on six efficient regulation principles developed by the OECD; namely transparency, non-discrimination, avoidance of unnecessary trade restrictiveness, use of internationally harmonised standards, recognition of equivalence of foreign measures, and competition principles.

The policy stance and administrative culture in Finland, as well as its business environment, is generally positive for trade. Trading partners consider that market principles are deeply embedded in Finland's policies, and that the Finnish market is relatively less heavily regulated because of profound reform over the last 15 years. Trading partners further state that regulation in general does not pose a problem for operating in Finland, though there may be some market-specific problems. The Finnish Government maintains a favourable attitude toward foreign direct investment. The contribution of Finland to international policy co-ordination such as harmonisation of standards is commendable. Finland has also well co-ordinated policies with the EU, as reflected in its high implementation rate of EU directives. As for regulatory reform, the programme is backed by an extensive level of political consensus and has steadily expanded to cover a wide range of issues.

The Finnish telecommunications and electricity markets are successful examples of regulatory reform and transparent models for other countries to study. Finland has deregulated its energy market faster than most European countries. The prices of electricity and telecommunications services have decreased significantly as the result of reform and those prices are among the lowest when compared to other OECD countries. Recent surveys on competitiveness illustrate Finland to be among the most advanced and global countries in the world. There is no doubt that success in competitiveness rankings has brought Finland a great deal of positive attention worldwide. It is obvious that deregulation has forced Finland to improve its competitiveness.

Against this overall positive picture, this report identifies some major policy areas where regulatory reform from market openness perspectives can produce further benefits. A number of recommendations have been issued, especially on the impact assessment. In practice however, impact on trade or cost-benefit analyses are not usually one of the required categories of impact to be assessed when regulations are being drafted. In addition, there is substantial economic potential in introducing more vigorous competition in markets, including international competition. This concerns building materials where national type approval is applied, and retail distribution, which is still rather concentrated, less competitive and often jointly dominated by local companies.

The current major approach to regulatory reform, i.e. focusing on legal aspects and streamlining administrative overheads, can be expanded to incorporate an overall pro-competitive stance. In this regard, it is useful to integrate market openness perspectives that are represented by the six efficient regulation principles so that benefits of the reform can be maximised and shared widely.

## **1. MARKET OPENNESS AND POLICY ENVIRONMENT IN FINLAND**

### **1.1 Overview of market openness of Finland's economy**

Until the late 1980's, Finland was a relatively closed economy with several monopolies, price regulation regime, cartels and important bilateral trade with the Soviet Union. At that time, it was prohibited for foreigners to buy land in Finland or stocks in the Finnish companies traded on the Helsinki stock exchange. In the last 15 years, the Finnish economy has undergone a dramatic change as regards both regulatory and industrial reforms. Today, Finland is an open economy with a competitive business environment, and about 35 per cent of GDP originates in foreign trade, which is 10 per cent more than in the 1980's<sup>1</sup>. Because of market openness, consumer choices have increased significantly, with bribery, corruption and black markets sharply below the international level.<sup>2</sup>

Finland offers a good example of a country that has made its fortune through the smart use of knowledge<sup>3</sup>. Finland has undergone profound reorientation, with growth of the communications sector into a knowledge-intensive economy in a single decade from an exporter of wood, paper and metal products. Three significant factors have supported this progress: deregulation, digitalisation and data transfer<sup>4</sup>. Deregulation gathered speed in Finland with the advent of innovations such as telefax and data communication. These required new legislation, which came into effect as early as the late 1980's. Deregulation of telecommunications began earlier in Finland and was implemented more consistently than elsewhere. This forced Finnish companies to adapt to the dynamism of open competition ahead of their international competitors. Deregulation has forced Finland to improve its competitiveness<sup>5</sup>

A long-term tradition of trade with foreign countries and of foreign investment, underpinned by a well-educated population with a high level of proficiency in English, has undoubtedly contributed to Finland's involvement in international business today. Over 90 per cent of Finns under thirty speak English. Swedish is Finland's second official language<sup>6</sup>.

Today, most Finnish companies are privately owned. Most state-owned enterprises operate on a commercial basis, according to free-market principles. The significant progress in commercialising the state production sector will be analysed in Chapter 5 of this report. International mergers have played a significant role in the Finnish business environment. Typical models have been mergers between the Nordic competitors. Nordic mergers have occurred especially in the banking, paper, energy, food and telecommunications industries. In 2001, one-third of the 500 biggest Finnish companies were owned by foreign investors<sup>7</sup>.

The economic benefits of market openness are readily apparent in Finland, which, as a small nation as regards population, has long been exposed to the vagaries of external factors. The importance of international economic links in Finland was consolidated by its entry into the European Union in 1995<sup>8</sup>. Finland's membership in the EU has resulted in a further opening of the markets to international companies. Finland currently meets the target set by the EU of having only an implementation deficit of 0.9 per cent; in other words, of having passed into the national law 99.1 per cent of Internal Market Directives<sup>9</sup>.

Membership in the EU increasingly influences policies in Finland, and the government of Finland has worked to co-ordinate its decision-making process with that of the Union. Tiered committees, from expert to political levels and Ministries, are in place to identify potential issues for Finland as early as possible. The Finnish system seems to be complicated, as do the corresponding EU decision-making procedures.

Since the admission of Finland to the EU, relations with the Russian Federation have gained new dimensions. The Finnish-Russian land border is about 1300 kilometres long. As the only EU Member State bordering Russia, Finland is a vital channel to markets there. Finland's infrastructure and its geographical proximity to Russia and the Baltic countries, especially Estonia, give Finland an advantage as a gateway to the east. Many foreign companies use Finland as a base for opening their transportation and marketing activities to the former Soviet Union. Over 40 per cent of the EU's road shipments to Russia are shipped from Finland or arrive via Finland.

Long-term traditions with Russia and understanding of the Russian administration and culture have led to Finland's special role among the EU Member States in understanding the Russian business environment. As Eastern European countries open up to the outside world and Member States of the EU, Finland will lose its privileged status of being a Russian expert and gateway to the region. However, this will not effect the role of the Baltic Sea and of the largest trading partners, Germany and Sweden, in Finland's foreign trade.

In 2001, as regards imports to Finland, the EU predominated with a share of 55.6 per cent of total imports. The import shares of Asia and North America were 12.7 and 7.4 per cent, respectively. Developing countries represented 10.3 per cent of total imports. The biggest individual exporters to Finland have traditionally been Germany, Sweden and Russia; this continues to be the case, though the importance of Russia has declined.

In the 1980's, the share of Finland's bilateral trade with the Soviet Union exceeded 20 per cent, largely reflecting political considerations<sup>10</sup>. Typical of that trade were five-year framework agreements, the Finnish-Soviet Economic Commission and annual protocols related to the exchange of commodities and clearing of payments. Under the terms of the bilateral trade agreement, Finland paid for its Soviet oil imports with an equal value of exports. When the oil price rose, so did the total values of Finnish exports. Finland exported big construction projects, vessels, food products and transportation services. For instance, Nokia clearly benefited from the centralized approach in trade with the centrally controlled Soviet economy. Nokia's cable exports had established the company's brand in Moscow, paving the way for electronics exports<sup>11</sup>. The commodity structure of imports from the Soviet Union was predominately crude oil, natural gas, electricity and timber. The importance of bilateral trade helped sustain expansion of exports to other markets. The commodity structure of imports from the Soviet Union was predominantly crude oil, nuclear power reactors, natural gas, electricity and timber.

**Table 1. Major trading partners with Finland in 2001**

<b>Destination</b>	<b>% share of imports</b>	<b>% share of exports</b>
Germany	14.5	12.4
Sweden	10.2	8.4
Russia	9.6	5.9
United States	6.9	9.7
United Kingdom	6.4	9.6
France	4.5	4.6
Japan	4.3	1.9
Netherlands	3.7	3.9
Denmark	3.6	2.9
Italy	3.5	3.6
Estonia	3.3	2.2
China	3.1	2.6
Norway		2.5
Total EU	55.6	53.8
Total	100.0	100.0

Sources: The Finnish Customs Authority.

**Table 2. Categories of merchandise imports**

	<b>2001 Share, %</b>
Raw materials and production necessities	39.3
Energy products	11.7
Investment goods	24.4
Consumer goods	24.6
Import of goods	100.0

Sources: Statistics Finland and the National Board of Customs

**Table 3. Major sources of inward direct investment in Finland (stock at end 2000)**

	<b>in Euros</b>	<b>%</b>
Sweden	13 206	50.7
Netherlands	5 111	19.6
Denmark	1 757	6.7
United Kingdom	1 430	5.5
United States	877	3.4
Total EU	22 801	87.5
Total	26 066	100.0

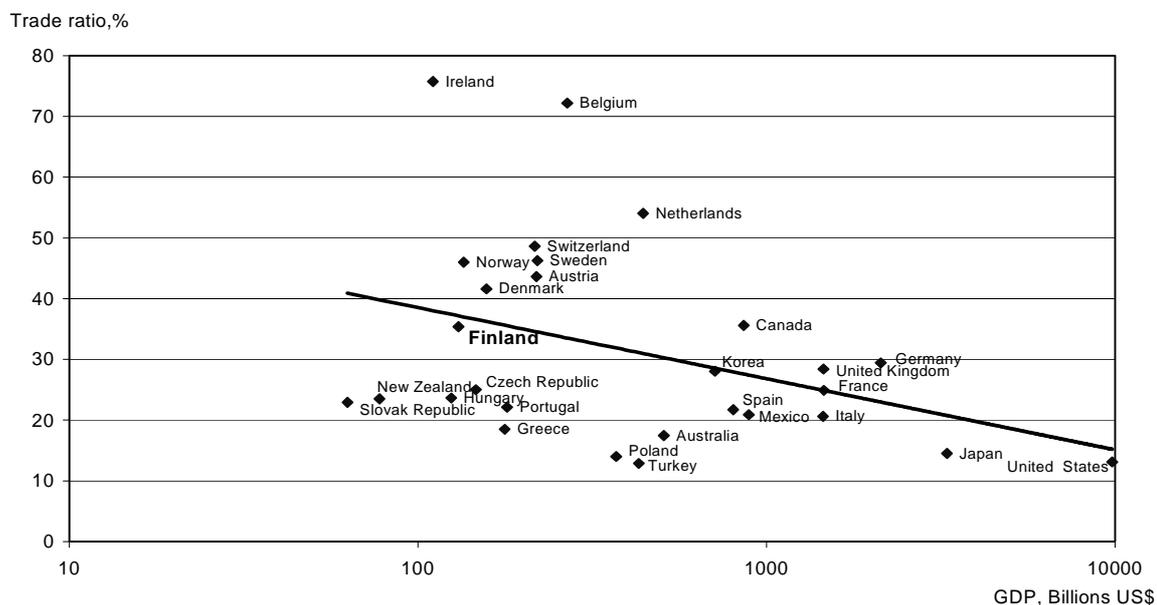
Sources: The Finnish Customs Authority

As regards the commodity structure of Finland's overall foreign trade, machinery and transport equipment clearly dominate both exports and imports. Mining products and chemicals are also important commodity items. Trade in textiles and clothing as well as exports of agricultural products have decreased recently.

The relative importance of trade (i.e. the average of imports and exports) is shown as a percentage of GDP for most OECD countries in Figure A. This ratio is plotted against GDP to allow a comparison among economies of similar size. Although Finland's foreign trade level is near the average trend line, it is slightly less important than in some comparable economies, such as Norway and Denmark.

Table 3 shows the main sources of inward FDI into Finland, and particularly the predominant position of Sweden in this respect. However, the stock of inward FDI is less than half of outward FDI. Finland is slightly below the OECD average for inward FDI. The share of foreign affiliates in manufacturing production is the lowest among OECD countries, after Japan. Cross-border venture capital and investment inflows are relatively limited. There is no simple explanation. One reason may be the small size of the Finnish market and its peripheral location in relation to the EU market. Structural and other factors (such as taxation and a shortage of skilled labour) may be hampering inward FDI. Trade and the perspective of foreign companies do not get special attention in the Finnish regulatory process. The key guidance documents for the preparation of quality regulation (the "Finnish Checklist" and the "HELO Instructions" – see chapter 2) do not specifically cover trade issues. The Regulatory Impact Analysis (RIA) process rarely singles out trade as an issue. Foreigners may be prejudiced by the fact that consultation on the development of regulations is not mandatory but informal, and largely centred on domestic stakeholders (through the EU committees within government, trade associations, unions etc).

**Figure A. Share of trade in OECD economies, 2000**



## 1.2 Overview of regulatory reform to date

High-level political initiatives for regulatory reform were taken in Finland in the late 1980s. From an initial focus on opening foreign trade and capital markets, the campaign came to raise a broader range of regulatory issues, including reducing the administrative burdens that were viewed to have an effect on Finnish business competitiveness. It was considered in Finland that the most effective approach to lower the barriers to market access were structural regulatory reform combined with the efficient enforcement of the competition rules. The advocacy role of the Finnish Competition Authority (FCA) was significant in making initiatives to deregulate the closed Finnish markets of that time. Before membership in the EU, the FCA primarily took structural initiatives to open up markets such as liberalising imports, abolishing licences and reforming technical standards. Several initiatives focused on abolishing monopolies and restructuring state-owned enterprises. Considerable progress was also actually made before Finland joined the EU<sup>12</sup>. The key structural regulatory reforms following in Finland during 1988-1995 in order to promote market openness are presented in Table 4.

**Table 4. Major structural regulatory reform promoting market openness**

Unrestricted competition in data transfer (1988)
Abolishing common price regulation (1988)
Liberalising imports of crude oil products (1991)
Abolishing needs-testing in road transport of goods (1991) <sup>13</sup>
Liberalising the news agency business (1991)
Liberalising entry into hotel and restaurant services (1991)
Abolishing import monopoly in the sugar industry (1992)
Abolishing restrictions related to foreign ownership (1993)
Abolishing needs-testing in domestic passenger airline services (1993)
Opening up competition in telecommunications (1994)
Abolishing needs-testing in driving schools (1994)
Liberalising entry into motor vehicle inspection (1995)
New Electricity Market Act (1995)
Abolishing monopoly of calendars (1995) <sup>14</sup>
Incorporation of the State Grain Storage Centre (1995)
Liberalisation of alcohol imports and wholesale trade of alcohol products (1995).

The current regulatory reform policy has shifted from deregulation to regulatory quality, in other words gradually from market openness towards domestic issues. During late the 1990's, 17 different State offices were restructured or incorporated. For instance, the Finnish national road administration is split into a government office responsible for road planning and contracting, and a separate state-owned enterprise, engaged in road construction. The present approach has broadened the scope of reform, promoted by a number of Ministries and agencies. Improving regulatory quality has been given priority by the government coalition agreements in the 1990's. Reform has benefited from a high level of support among major political parties, trade unions and the business community. Today, the quality issue receives continuous focus when the Ministry of Justice and the Parliamentary Committees draft new legislation.

A systematic approach to regulatory reform in its present form was launched in Finland in the mid-1990s. The Government Resolutions to improve legislative drafting were issued in 1996 and 2000. The main principles of the 1996 Government Resolution were the following: **the role of law drafting in targeting and the operational planning of the Ministries; forecasting and monitoring the impact of law proposals; organizing law drafting and arranging for hearings and opinions; and more intensive training in legislative drafting.** The Government Resolution of 2000 emphasised law drafting as part of the policy work of the Government and the Ministries, well-planned law-drafting processes, alternatives to regulation, regulatory impact assessment (RIA) and consideration in law drafting of legislative and legal policy aspects as well as the EU and globalisation in general.

At the moment, interest is on the quality of RIAs, the use of alternatives and on the more advanced co-ordination of law drafting within the administration. In general, the principles described in the 1995 Recommendation of the Council of the OECD on Improving the Quality of Government Regulation have been applied in the given guidelines and instructions. In practice however, impact on trade or cost-benefit analysis are not usually one of the numerous required categories of impact to be assessed when regulations are being drafted.

One of the most important aspects of the Government Resolution of 2000 is intensifying co-operation with Parliament as early as the preparatory stage. Parliament is to be given more precise information on the Government proposals to be handled during a session of Parliament.

The current regulatory reform programme has built a broad policy framework supported by the central mechanism of reform. Virtually all regulations affecting output, profitability and technological constraints also have implications for innovative activities. On the other hand, the results of innovation raise implications for regulatory policy. A number of innovative schemes are underway in Finland, including the network approach and business environment policy in the new economy<sup>15</sup>.

There is no question that Finland underwent a major turnaround in the 1990s. It was able to make the transition from an investment-driven to an innovation-driven economy in just a few years. The foundations for this were laid in previous decades with continuously rising R&D intensity and level of education along with liberalisation and deregulation.

### **1.3 The structure of the economy**

#### ***Agriculture***

Despite the severe climatic conditions in which fields are snow-covered for half the year, the key agricultural problem has traditionally been overproduction due to the artificially high prices. Today, Finland has introduced EU practices on the import of agricultural products. Some agricultural goods are subject to the standard import licensing system, EU-wide quotas, import taxes or other provisions. The Finnish agriculture sector has undergone significant adjustment in recent years due to the adoption of the EU's Common Agricultural Policy (CAP).

Arable land covers eight per cent of Finland's area and is mainly concentrated in the southern and western parts of the country. Farmers are generally involved in forestry but also have other side jobs. Only one-third of farms are run on a full-time basis. The rural population has been declining over the last decades, and the share of primary production in rural employment has also been falling.

In 1995, the total producer support estimate stood at 69 per cent of the total production, exceeding the already high EU average by 20 percentage points. With EU membership, national trade quotas were removed and replaced by EU tariffs. Exposure to EU competition resulted in an instantaneous halving of agricultural producer prices in 1995. To compensate for the loss of indirect support resulting from lower prices, transitional national support was implemented, but there was nevertheless a significant fall in farm income.

With national aid and EU least-favoured area (LFA) support, agricultural subsidies accounted for a larger share of farmers' income in 2001 than in other EU countries. All subsidies are one-third from the total agricultural incomes in Finland<sup>16</sup>. At the time of the EU accession, national aid was agreed for a five-year transitional period ending in 1999, but in 2000 the European Commission approved prolongation until 2003, with a drop in transitional aid of four per cent per year<sup>17</sup>.

The agricultural reform of the EU, Agenda 2000, did not bring about any dramatic change in the support policy from a Finnish perspective. Price support for arable crops, milk and beef is lowered by degrees, and losses to agriculture are compensated for through an increase in direct payments. This is likely to lead to a further restructuring in the sector and a big drop in agricultural employment. Some level of horizontal integration of farmers into co-operatives prevails as well as does some degree of vertical integration with food processing industries. On the basis of the EU's CAP policies, also price controls, subsidies and price supports survive.

## *The financial sector*

Regulation and supervision of the Finnish financial sector is under pressure to adapt to two fundamental changes: the mergers of banks and insurance companies and the internationalisation of the financial sector. The Finnish government has traditionally played a large role in the economy. During the steep recession of the early 1990s, the Finnish Government's financial position deteriorated rapidly. The government became deeply indebted because, as tax revenues fell, transfer payments under the country's extensive social welfare programs rose dramatically. At the same time, the Government was forced to bail out several major banks whose failure would have prompted a collapse of the banking system. Since then, the major aim of the Government's fiscal policy has been to curb the growth of debt.

The demand for different financial services is increasing in Finland. The whole Finnish corporate financing structure is changing as companies work on decreasing their balance sheet and relying on outsourcing and leasing, for example, to finance new equipment investments. The lack of available security for traditional loans is a continual problem for Finnish companies. Also, companies that are in the growth stage require resources and are looking for available financial services. Today, Finland lags behind in the issuance of so-called secured loans compared with other EU Member States.

The Finnish financial services market is divided between services provided by the traditional banking sector, in-house companies and mostly foreign independent financial institutions. About 30 companies operate in the sector. The market is open to foreign operators. The market share of the banking sector is 70 per cent of the broader financial services market. Most of the in-house financing companies operate in the car dealership branch and provide financial services mainly for new vehicle owners.

Domestic consolidation has continued despite the fact that a profound restructuring has already taken place over the last decade. An important development was the merger between the private insurance company Sampo and the fully state-owned bank Leonia in the beginning of 2001. In 2000, Nordea became a financial conglomerate with major positions in all four Nordic countries through its merger with Danish financial conglomerate Unidanmark and its takeover of the Norwegian commercial bank Christiania Bank og Kreditkassen. The Nordea group was originally established with a merger between the biggest Finnish bank Merita and the Swedish Nordbanken<sup>18</sup>. The Finnish financial sector is unique as the biggest bank, Nordea, has its foreign head office in Sweden.

## *State-owned enterprises*

State-owned enterprises have traditionally held a strong position in Finland's national economy, employing 12 per cent of the Finnish labour force in 2001. They mostly operate in a competitive environment but are administrated and owned by eight different Ministries and at the same time act as regulators of the relevant market. For example, the Ministry of Finance is owner of a bank but supervises the domestic financial markets.

The basic strategy in the privatisation process has been to treat each company as an individual case and act in a rational way in market terms. The programme aims to reduce the Government's stake through stock transactions or to sell off companies to individual investors. Recent example includes the selling of Enso to Swedish competitor Stora. In 2000, Finland's Parliament granted the Government permission to sell the State's entire stake of 53.3 per cent in Sonera (former Telecom Finland) and Parliament broadened privatisation mandates in 2001. In 2002, Sonera and Swedish Telia announced their plans to merge into a leading telecom group in the Nordic and Baltic regions<sup>19</sup>.

### ***Construction and building materials***

The construction market is fairly concentrated and also a large number of national technical requirements and regulations prevail. No reports of competition problems resulting from regulations have been heard. However, Cardiff reports on Finland state that a lack of competition typifies the construction sector, but no further information on this is offered<sup>20</sup>. However, this conclusion is based on international experience since this is one of the sectors of the economy where cartels tend to be active – including special problems in the area of asphalt road construction with market division and bidding cartels<sup>21</sup>. One of the problems has been the alleged inefficiency in land use resulting from the planning monopoly held by municipalities. In particular before membership in the EU, this has been used as a barrier to entry.

The operations of regional building contractors have expanded, which in turn has improved competition and curbed tender price rises. To increase the supply of building sites, local governments in key positions have been encouraged to step up planning. State ownership policy has also been more active to increase the supply of sites by means of faster planning and selling of state-owned sites. An already adopted structural measure consists of investment in developing rail transport, which is expected to increase substantially the potential for building sites in the commuter areas of metropolitan Helsinki.

The market for building materials is also fairly concentrated, and a bulk of national technical requirements and regulations exists, and the FCA has especially focused on that sector from the viewpoint of further deregulation. One problem seems to be that the Ministry of Environment, responsible for the national construction regulations and type approval, does not always due update the National Building Code of Finland. This manual is in practice significant reference for architects and building companies when selecting building materials. This sometimes creates a situation where access to the Finnish market is open for a certain building material approved in another EU Member State, but the material is not used because the Building Code does not list it<sup>22</sup>.

### ***Railways***

The Act on Railway Networks regulating the sector entered into force in 1995. Also the Act on Passenger Transport from 1991 bears relevance in the sector. The former vertically integrated State monopoly was transformed into a state enterprise in 1990, and in 1995 further into a limited liability company: the VR Group. The VR Group has segregated passenger traffic, freight traffic and rail maintenance into separate entities. The management of rail infrastructure was separated in 1995 into a net-budgeted government agency, the Finnish Rail Administration.

The railway network is owned by the State, while the only service provider is the state-owned VR Group. The service provider is free to set its prices. In the Helsinki metropolitan area, the association of the municipalities buys local rail transport services from the VR Group. The Ministry of Transport and Communications Finland (MTC) proposed in 1998 that domestic rail freight and certain regional passenger transport services such as those in the Helsinki metropolitan area be opened to competition.

The incumbent Government has taken a position to follow the European timetable of liberalisation. Thus only international rail freight (amounting to 3 per cent of traffic) will be opened to competition in 2003 in accordance with the EU directive package on railway services. It seems that the sector remains heavily regulated and closed to competition on the basis that in a geographically large country with low passenger traffic the railway business will most probably turn out to be unprofitable and to persist nearly as a natural monopoly. In regard to the railway industry, the Finnish Government follows a sensible policy: competition when possible, regulation where necessary. A technical barrier hampering international competition is the different rail track gauge compared to other European countries.

## **2. THE POLICY FRAMEWORK FOR MARKET OPENNESS: THE SIX "EFFICIENT REGULATION" PRINCIPLES**

An important step in ensuring that regulations do not unnecessarily reduce market openness is to build “efficient regulation principles” into the domestic regulatory process for social and economic regulations as well as for administrative practices. “Market openness” refers here to the ability of foreign suppliers to compete in a national market without encountering discriminatory, excessively burdensome or restrictive conditions. These principles, described in the 1997 OECD *Report on Regulatory Reform* and developed further in the Trade Committee (OECD, 1997b), are:

- Transparency and openness of decision-making.
- Non-discrimination.
- Avoidance of unnecessary trade restrictiveness.
- Use of internationally harmonised measures.
- Recognition of equivalence of other countries’ regulatory measures.
- Application of competition principles.

They have been identified by trade policy-makers as key to market-oriented and trade and investment-friendly regulation. They reflect the basic principles underpinning the multilateral trading system. The intention of this report is not to judge the extent to which Finland may have undertaken and lived up to international commitments relating directly or indirectly to these principles, but rather to assess whether and how domestic instruments, procedures and practices give effect to the principles and successfully contribute to market openness. Similarly, the report does not concern itself with an assessment of trade policies and practices.

### **2.1 Transparency and openness of decision-making**

Transparency in regulatory procedures is important for the efficiency of regulations as it gives authorities the opportunity to receive feedback from potentially affected parties. At the stage of implementation, transparent regulations can minimise information costs, facilitate market access and enhance confidence in regulations among the public. Providing full opportunity for comment on draft regulations, by giving the general public full access to detailed and updated information concerning regulations, as well as by providing appeal procedures, can ensure transparency. Transparency and openness of regulatory procedures are particularly important for foreign parties as they often are newcomers and can easily be disadvantaged by the different administrative traditions and the difficulty of access to informal consultation processes.

#### ***Dissemination of information***

According to the Finnish constitution, legislation must be published in order to be enforced. The same principle applies to administrative rules at lower levels. Legislation and regulations are normally published in the Official Legal Gazette, which is also available on electronic media, for instance on the website of the Parliament. Besides publishing legislation and regulations in accordance with the constitution, the Finnish government is active in making relevant legislation known to the public in an easily accessible manner. Important rules and principles affecting the general public are often communicated by means of booklets and pamphlets and spots in the electronic media.

Finnish regulations are translated into English on an *ad-hoc* basis when it is considered relevant to foreign parties. It is up to the Ministry concerned to decide whether translation is necessary.

Regulations adopted by Parliament but not yet ratified by the President are disseminated on the Internet. Legislation is published in Finnish and Swedish and in some cases also in Lapp. Depending on the competent Ministry, an informal translation of a regulation into English can be performed in the preparatory stage, when relevant. These English translations can be found in part in the Finlex database. However, language might still constitute a trade barrier as regards public procurement. Also technical product specifications must be translated into Finnish when selling technical products to or in Finland. Such requirements generate additional costs for foreign rivals in a small market.

More informal ways also exist to disseminate information on new regulations through the Internet, e.g. the free-of-charge Finlex database, the partially free-of-charge Edilex database and the Finnish Legislation on-line database. Information on regulations harmonised at the EU level is disseminated in eleven official languages in the Official Journal of the European Communities and through the Internet free-of-charge in the Eurlex database or subject to charge in the Celex database.

Interested foreign parties can obtain information from the Invest in Finland Bureau, an organisation promoting foreign direct investment in Finland and funded by the Ministry of Trade and Industry (MTI). It works closely with Finnish industry, providing an effective link between foreign and domestic actors and offering all necessary information, including regulative advice to establish a business in Finland.

Through its embassy network, the Ministry for Foreign Affairs puts out information on Finnish regulations to interested parties abroad. Naturally, also competent Ministries distribute information upon request. Information on specific sector issues can also be obtained from the Trade Associations at Finnish and European levels.

### ***Transparency in the elaboration of regulations***

In Finland, the preparatory stage of regulations, whether primary legislation or lower administrative rules, does not include any legally binding standardised procedures for consultations with affected parties. In principle, each Ministry is responsible for organising the consultation process. In fact, the current political system in Finland, which places great value on consensus and participation, has nurtured practices of consultation. Thus a wide range of consultation takes place before proposals for regulations are finalised.

In general, Ministries invite interested parties, including those affected by regulation and those involved in its enforcement as well as academics, to working groups or committees charged with preparing these bills. The choice of participants in this early process is at the discretion of the Ministry concerned. Industry associations representing business interests and individual companies are generally not invited, nor are foreign interests usually represented at this stage. According to established practice, draft bills are also sent to involved parties for comment. NGOs are often invited to comment at this stage.

Parties involved can make their views known orally or in written form. During the initial phases of the law-drafting process, oral hearings may be arranged. Written comment is most generally invited when the first proposal of the draft is ready – the second draft of the law then considers the comment received and duly takes it into account. Written comment can be requested during the entire law-drafting process before the draft moves to Parliament.

Because consultation is not mandatory in the sense of being required by law, statute or any other regulation, the regulatory authorities are accordingly not obliged to take comment into account. However, the aim of consultation is to compile all relevant information on the issue concerned and to minimise the emergence of sharp conflict in the further decision-making process, so an established practice is that

comment is taken into account at the appropriate level. In this sense, Finland has an informal and consensus-based means of preparing and making decisions. The full participation of social partners seems to function smoothly but may, however well-founded, raise the question of insiders and outsiders.

According to the Constitution of Finland, everyone is equal before the law, which naturally applies to administrative procedure as well. Consequently, foreign parties have the same right as domestic stakeholders to comment and contribute before decision-making. They do not, however, formally belong to bodies such as the law-drafting advisory groups and EU Sections and, *de facto*, their contribution can be slightly more limited. Furthermore, foreign parties can encounter linguistic barriers to lobbying. Finland is a bilingual country in which all official information is available in Finnish and Swedish, and citizens have the right to use either of these languages. Ministries may disseminate informal translations of prospective legislation in English, when seen appropriate.

These practices have, in general, contributed to the quality of regulations in Finland and have resulted in a fairly high level of confidence in regulations among the public. Foreign trading partners have not raised concerns about the Finnish system of consultation, despite the absence of mandatory standardised consultation procedures, as is the case in some other OECD countries.

The incumbent Government Programme of 1999 states that, in its EU policy, Finland endeavours further development of decision-making and administrative powers of the EU in accordance with the principles of transparency, responsibility and effective administrative procedure.

### ***Information on technical standards and regulations***

In the particular field of technical standards and regulations, Finland provides information to its trading partners in the context of carrying out its notification obligations to the EU and the World Trade Organisation (WTO). Draft technical regulations related to products and services, elaborated on by the central government and its authorities, are notified to the European Commission when they are not pure transpositions of EU harmonising directives. National standardisation organisations are also required to provide notification of new draft standards, distinct from international or European standards.

To the extent that notified prospective regulations are not based on relevant international standards, Finland conveys them to the WTO Secretariat and other WTO Members in accordance with the obligation laid down in Article 2.9 of the WTO Agreement on Technical Barriers to Trade. Notifications required under other WTO provisions such as Article 7 of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, or regular notifications within the framework of WTO Agreements on agriculture, rules of origin, import licensing, etc., are made to the WTO by the European Commission on behalf of Member States.

In addition, the EU obliges the Member States to notify and justify to the European Commission and other Member States all individual decisions obstructing or restricting the import or sales of a product legally manufactured in another Member State.

EU rules have contributed to increasing transparency of regulations in EU Member States, especially from the perspective of market openness. In the area of technical regulations and standards, the notification procedure provides opportunities for comment on measures proposed by EU Member States. The effectiveness of this mechanism is backed by an explicit standstill rule, and ultimately by infringement procedures. Similar notification procedures, though less intensive, exist under the WTO Agreement on Technical Barriers to Trade and on the Application of Sanitary and Phytosanitary Measures. In Finland, the Ministry of Trade and Industry, is responsible for notifying draft technical regulations to the European Commission and the WTO, as well as for receiving and dispatching foreign comment.

The EU notification rule has enhanced the level of transparency in Finland in the sense that its European trading partners, as well as the European Commission, have opportunities to comment on proposed regulatory measures in the area of technical regulations and standards. This system, however, is basically an inter-governmental procedure and, in general, the role played by private sector is not paramount. The title and a brief summary in multiple languages of proposed measures are published in the Official Journal of the European Communities, which is accessible to all, Europeans and non-Europeans alike. All drafts are normally translated into the eleven Community languages, although for some long texts, translation into some of the eleven languages may be performed only on request. The European Commission recently decided to put this publication on website.

EU member governments are under no obligation, however, to make the draft text of proposed technical regulations available to the public. Member State governments may, and often do, solicit market players such as local firms when formulating their position on technical regulations proposed by other Member States, but this consultation is at the discretion of the government. In the case of Finland, the notification procedure provides for draft technical regulations to be sent to those private organisations considered to be relevant by the Ministry. Via the publication of the titles and brief explanations, non-European foreign trading partners are ensured of having the chance to know in frequently-used languages that certain regulations are forthcoming in future.

They are not ensured of access to the draft text of regulations in general, however, and neither are they given opportunity to comment. In addition, the transparency requirement is only applied to a specific area of regulation, namely technical regulations and standards. In other areas, there are no general requirements at the EU level for transparent regulatory procedures. Therefore, in areas other than technical regulations and standards, no additional opportunities exist for foreign trading partners to access and comment on proposed regulations in Finland.

**Box 1. Provision of information in the field of technical regulations and standards:  
Notification obligations in the European Union**

In order to avoid erecting new barriers to the free movement of goods which could arise from the adoption of technical regulations at the national level, European Union Member States are required by Directive 98/34 (which has codified Directive 83/189) to notify all draft technical regulations on products, to the extent that these are not a transposition of European harmonised directives. This notification obligation covers all regulations at the national or regional level which introduce technical specifications, the observance of which is compulsory in the case of marketing or use; also fiscal and financial measures to encourage compliance with such specifications, as well as voluntary agreements to which a public authority is a party. Directive 98/48/EC recently extended the scope of the notification obligation to rules on information-society services. Notified texts are further communicated by the Commission to the other Member States and are in principle not regarded as confidential, unless explicitly designated as such.

Following the notification, the concerned Member State must, except in case of urgency related to the protection of public health or safety, the protection of animals or the preservation of plants, refrain from adopting the draft regulations for a period of three months. During this period the effects of these regulations on the Single Market are vetted by the Commission and the other Member States. If the Commission or a Member State emit a detailed opinion arguing that the proposed regulation constitutes a barrier to trade, the standstill period is extended for another three months. Furthermore, if the preparation of new legislation in the same area is undertaken at the European Union level, the Commission can extend the standstill for another twelve months. An infringement procedure may be engaged in case of failure to notify or if the Member State concerned ignores a detailed opinion.

Although primarily directed at Member States, the procedure benefits private parties by enhancing the transparency of national regulatory activities. In order to bring draft national technical regulations to the attention of the European industry and consumers, the Commission regularly publishes a list of notifications received in the Official Journal of the European Communities, and since 1999 on the Internet.

Any firm or consumer association interested in a notified draft and wishing to obtain further information on the text may contact the Commission or the relevant contact point in any Member state. The value of the system for private operators has been enhanced with the initiative of the Commission in 1999 to publish notifications on the Internet. A searchable database of notifications (Technical Regulations Information System -TRIS-)<sup>23</sup> going back to 1997 gives access to the draft text and the notification itself, including the rationale of the regulation and the status of the proposal.

The incentive of countries to notify, and thus the efficiency of the system, has been strongly reinforced by the 1996 *Securitel* decision of the European Court of Justice (Decision of 30 April 1996, CIA Security International SA versus Signalson SA and Securitel SPRL). The decision established the principle that failure to comply with the notification obligation results in the technical regulations concerned being inapplicable, so that they are unenforceable against individuals.

As far as standards are concerned Directive 98/34 provides for an exchange of information concerning the initiatives of the national standardisation organisations (NSOs) and, upon request, the working programmes, thus enhancing transparency and promoting cooperation among NSOs. The direct beneficiaries of the notification obligation of draft standards are the European Union Member States, their NSOs and the European Standardisation Bodies (CEN, CENELEC and ETSI). Private parties can indirectly become part of the standardisation procedures in countries other than their own through their country's NSOs, which are ensured the possibility of taking an active or passive role in the standardisation work of other NSOs.

Notification obligations in the field of technical regulations and standards are complemented by a procedure<sup>24</sup> requiring Member States to notify the Commission of national measures derogating from the principle of free movement of goods within the EU. The procedure has come in response to the persistence of obstacles to the free movement of goods within the Single Market. Member States must notify any measure, other than a judicial decision, which prevents the free movement of products lawfully manufactured or marketed in another Member State for reasons relating in particular to safety, health or protection of the environment. For example, Member States must notify a measure which imposes a general ban or requires modification of the product or withdrawing it from the market. So far, this procedure has produced limited results.

The Finnish Standards Association SFS distributes notifications received from other WTO countries to the Finnish Ministries and business associations. The SFS operates as an independent, non-profit organisation under the auspices of the Ministry of Trade and Industry. The titles of notified draft regulations are accessible at SFS' Home Page. It also provides a brief explanation in English of proposed regulations notified under the WTO. Recent communication efforts by the European Commission to promote a better understanding of the Single Market have also strengthened information dissemination in this area.

### ***Transparency in government procurement***

The EU directives on public procurement and the WTO Agreement on Government Procurement have been implemented in Finland through the Public Procurement Act in 1992, amended in 1994, in 1995, in 1997 and in 2001, and two statutes on above-threshold contracts issued in 1998.

The Finnish public procurement legislation applies to central, regional and municipal administration. The Act on Public Procurement lays down the basic principles of transparency, non-discrimination and equal treatment as well as the general obligations to organise tender competitions in all procurement. The Act is applicable to all contracts regardless of their value, whereas the statute provides detailed procedural rules applicable to the above EU threshold contracts.

Contracting entities are obliged to publish notices about contracts exceeding the EU threshold in the Official Journal of Finland and Public Procurement Magazine. Notices number about 2000 per year. These notices are also sent electronically from the publisher of the Finnish Official Journal to the Official Journal of the European communities.

In below-threshold procurement, contracting entities must publish a notice or otherwise invite a sufficient number of tenders to the tender competition. Notices of below-threshold contracts are published in the Public Procurement Magazine or in the Electric Information Channel for Public Procurement. The aim of the channel is to improve communication between contracting parties and enterprises. SMEs are particularly the target as are the smaller municipalities with fewer resources for sophisticated electric tools and methods. The channel publishes notices and sorts them according to supply code and geographical location. From and via the web site pages in question, the necessary tendering documents can be found and tenders submitted.

Contract award notices on above-threshold contracts are published in the Public Procurement Magazine. Procuring parties are also obliged to inform the tenderers in writing as to the outcome of the tender competition.

Finnish public procurement legislation, EU public procurement directives and other legal and practical information about procurement markets and opportunities as well as all minutes of the meetings and EU protocols can be found on Internet sites.

#### **Box 2. The Public Procurement Act**

The Public Procurement Act has been in force since 1992 and the statutes on contracts exceeding EU thresholds since 1996. There have been two recent working groups to examine the status of compliance with public procurement legislation.

The Ministry of Finance set up a working group to survey the efficiency of public procurement in central government. In June 2001, the working group completed its final report, which proposed an action plan for public procurement. Some proposed actions are:

- special training programme for government officials;
- required procurement strategies and plans at Ministries and central government offices;
- exploiting the potential of e-commerce;
- increasing collaboration between procurement units;

- enhancing the planning and steering of government procurement;

These proposed actions are being implemented.

The MIT also set up a working group to examine the state of competition, especially in local service markets. This working group also came up with proposals to make local public procurement markets in the field of services more efficient.

Efficient appeals procedures operate in Finnish public procurement legislation. The primary appellate power lies with the Market Court (previously the Competition Council). The appeals process has proved to be effective and inexpensive for the parties involved in the processes. The MTI also informally guides procurement entities in fulfilling the obligations of public procurement legislation. Continuous co-operation takes place between the central government, the Association of Finnish Local and Regional Authorities and private-sector organisations to take action in order to improve compliance with procurement legislation in the municipalities.

Today, public sector contracts appear relatively open to foreign bidders in Finland. According to the records, no cases have arisen of discrimination against foreign parties or their subsidiaries established in Finland. On a general level, awareness of the regulations is satisfactory, although there have been some problems with compliance, especially in local administration. Minor acquisitions have caused some problems because business has remained in a local or regional area. There have been constant efforts to improve compliance, for example, by informing and training officials in municipalities and regional offices. Another typical tendency is that the public buyer and the supplier establish long-term partnerships and commitments, in which new entrants face difficulties to intervene. The recession of the early 1990's in Finland helped to achieve a political consensus. In the international environment of today, consensus in Finland works to keep issues in Finnish hands. As regards public procurement, this often means that the larger entities are divided into smaller units in an attempt to avoid international tender competitions, even though this is not only limited to Finland.

In the Helsinki metropolitan area, the result of opening the local bus transport market to competition has been positive, and today several foreign operators have successfully entered the business. After the first round of tender competitions in 1994, the price level decreased by 33 per cent, and despite certain problems of contract churning and service quality in busses, the overall quality of services has not decreased. There was recently an adjustment upwards in prices, but the price level is still 18 per cent below the pre-competition level. The Helsinki metropolitan area has an even more positive story in competition for refuse removal.

Another example concerns the construction sector. The main challenge in stepping up competition in this sector lies in construction in Metropolitan Helsinki. One of the key questions is to find ways to remove the different production bottlenecks in this area. Access to the sector has been eased for new entrants by fostering calls for tenders in public construction projects throughout the country, for instance by exploiting tender calls on the Internet and by disseminating more information on planned projects.

### ***Openness of appeal procedures***

According to the Constitution of Finland, everyone is equal before the law. All have the right to have his or her case duly processed without delay in an established court of law or equivalent authority. Everyone has the right to appeal a legal decision pertaining to his or her rights or obligations to a court of law or other impartial body for the administration of justice.

Appeals concerning civil and criminal law rulings of lower courts of justice are put to a Court of Appeal. Access to a Court of Appeal is not limited but an appeal to the Supreme Court requires a leave to appeal. The Supreme Court, on a legally defined basis, grants or denies the leave. In civil and criminal law cases, a party that is not satisfied with a case decision has the right of appeal.

Appeals against the decisions by authorities are put to administrative courts sitting for cases on taxation, municipal affairs, construction, the environment and social and health questions. With regard to limited case types, a corrective request must first be put to authorities and only the reply to this can be appealed. Administrative court rulings are appealed to the Supreme Administrative Court and only with regard to limited case types. A leave to appeal must first be granted. Ministerial decisions on licenses, permits, investments and establishment issues are appealed to the Supreme Administrative Court. Cases related to public procurement and competition rules are appealed first to the Market Court and then if necessary to the Supreme Administrative Court.

Generally, the right of appeal with regard to authority decisions concerns those to whom the decision is directed or whose rights, obligations or benefits are affected by the decision. With regard to municipal cases, all residents of the municipality have the right of appeal. Government decisions are subject to appeal only on the basis of illegality.

There are no specified time limits for administrative or judicial decisions on appeals, but they must be made without undue delay as stated above. Timetables do exist for filing an appeal, however. In exceptional cases, additional forms of redress are available even after appeal deadline.

## **2.2 Measures to ensure non-discrimination**

Application of the non-discrimination principle aims at providing equal opportunities for market competition, irrespective of the origin of goods and services. In general, Finland, like many other countries, is committed to the non-discrimination principle in regulations, while maintaining certain exceptions to the principle, e.g. stemming from the EU commitments undertaken in the GATS framework and other agreements in the WTO. These exceptions range from those held by EU Member States uniformly to those held specifically by Finland, such as several limitations in professional services and measures taken to promote Nordic co-operation.

Finland has entered into a number of bilateral agreements on the promotion and reciprocal protection of investments, all of which contain a most-favoured nation (MFN) clause. Each Ministry is responsible for ensuring non-discrimination in its legislation, as required by Finland's obligation under trade agreements. Trading partners have not raised any serious criticism about discriminatory treatment encountered by firms, apart from explicitly made exceptions.

In general, the EU framework provides for the application on non-discrimination as far as EU citizens are concerned. In addition, the EU has promoted a system of mutual recognition of qualification between Member States in a number of professional services through various directives. The EU monitors the implementation of the measures through e.g. publication of statistical reports submitted by individual Member States on recognition of professionals from other Members. Finland has in general shown a good record in recognising qualifications of other Member States. However, these measures only apply to EU Member States, and foreign experts from third-countries do not benefit from them.

Finland has in force 38 agreements related to investment protection (Annex I) and currently a further ten agreements are under negotiation. A recent significant initiative concerns a bilateral investment protection agreement between Russia and Finland. At UNCTAD's request, Finland annually reports the status of these agreements. Finland's agreements are available from the International Investment

Compendium. They are also available on the Internet page of the Ministry for Foreign Affairs. Examples of agreements related to investment protection are MFN agreements with Regional Economic Integration Organisations' clauses<sup>25</sup>. Bilateral agreements related to environmental protection do not possess these preferential implications.

Private ownership and entrepreneurship are well respected in Finland. Competitive equality is the official standard applied to private enterprises in competition with public enterprises. Private companies do not face discrimination. This glosses over several layers of detail that will be addressed in Chapter 5 of this report. In most fields of business activity, participation by foreign companies or individuals is unrestricted. As Government pursues privatisation of state-owned companies, both private and foreign participation is welcome except in certain enterprises operating in sectors related to national security.

Finnish tax, labour, health and safety, and related laws and policies are largely neutral towards the efficient mobilisation and allocation of investment. Finnish legislation does not normally influence regional distribution of investments except when specifically designed to so, such as through regional incentive programs.

### ***Preferential agreements***

Through its membership in the EU, Finland is a party to preferential agreements, such as the agreements with EFTA countries, the Europe Agreements with the Candidate Countries to the EU, the Association Agreements with Mediterranean countries, the Cotonou Agreement with the ACP countries and the Generalized System of Preferences (GSP) for the developing countries, the Free Trade Agreement with South Africa and the Free Trade Agreement with Mexico. Information on preferential agreements is made available to third parties in particular through notifications to the WTO.

The Members of the EU are entitled to have in force certain bilateral friendship, trade and navigation treaties and trade agreements with third countries, governing matters covered by the common commercial policy within the meaning of Article 133 of the Treaty of the European Union. This decision has finally been amended by the European Union Council Decision. Annexed is a list of the agreements to which Finland is a party (Annex II).

## **2.3 Measures to avoid unnecessary trade restrictiveness**

### ***Current policy efforts to avoid trade restrictiveness***

Finnish trade policy decision-making is often guided explicitly or implicitly by the concept of avoiding unnecessary trade restrictiveness. Administrative guidelines such as the Government Rapporteur's Guidelines require the assessment of the effects of a regulation. Depending on the issue, potential financial, organisational and environmental effects as well as the regulation's consequences for enterprises are to be assessed.

With respect to the areas covered by the Single Market, Finland as a Member State of the EU is obliged to avoid unnecessary trade restrictiveness in domestic regulations against other Member States, e.g. in the field of technical regulations.

The incumbent Government Programme of 1999 states that industrial policy measures should be aimed at improving market functionality. Also the main focus is to create measures to improve the competitive environment, to enable companies to gain a foothold in the market and to alleviate the regulatory environment.

As regards regulations at the EU level, no specific provisions to assess the effects on trade and investment exist, but the general aim is to avoid unnecessary trade restrictions<sup>26</sup>.

The Finnish Trade Act, as well as specific legislation referred to in it, provides more detailed information on trade practices in Finland. The Trade Act names regulated forms of trade in which a non-EEA resident needs permission from the MTI. Also according to the Trade Act, anyone launching a business in Finland is obliged to submit notice to the Trade Register maintained by the National Board of Patents and Registration.

National measures to reduce administrative and other regulatory burdens among other things, have been aimed at simplifying the various permit and notification procedures, developing electronic communication and setting out to make the system of employer social security contributions more flexible. In addition, a growing tendency has emerged towards decentralisation according to which many of the licensing and permit procedures can be carried out at regional or local levels. Moreover, the availability of Internet to entrepreneurs for electronic downloading, filing and transmission of a number of notifications, applications and authorisations is spreading in various administrative sectors.

For instance, the Business Information System (BIS) was introduced in 2001. The BIS is an information system jointly maintained by the National Board of Patents and Registration of Finland and the National Board of Taxation. The system enables businesses to report their company information in a single notice to both authorities.

### *Trade advocacy*

A Market Access Unit has been established in the MTI with a view to assist firms and private persons faced with export and import problems concerning goods or services on the internal market of the EU or markets outside the Union. Each problem registered will undergo an in-depth analysis. Depending on the nature of the problem and opinion of an appellant, an appropriate mode of action is thereafter determined. Prior to legal proceedings, exchange of information and negotiations are employed to attempt a satisfactory solution to the problem.

Within the framework of the EU internal market, the Market Access Unit of the MTI acts as the single market contact point as part of a network set up comprising all EU Member States. The operation is primarily intended to cover cases in which firms or citizens have evidence or suspicion of violation of their internal market rights in Finland or in any other EU Member State. In the case of a violation of internal market rights, an effort is made to solve the matter unofficially through the contact points of the Member States concerned and through a direct negotiation channel to be set up with the competent authorities.

When a trade barrier to a market exists outside the EU, several operational alternatives are present. A negotiation contact is established as a rule directly with the competent authorities of the country concerned. Bilateral negotiations and discussions can be held between authorities or on the political level. Furthermore, a varied range of EU trade policy instruments including different collaboration and negotiation mechanisms can be resorted to, if necessary, in addition to the national measures.

No particular sector, product, type of firm or plaintiff are excluded from these procedures.

### ***Ways to better assess the impact of regulation on trade***

In principle, the decision-making environment is open in Finland. As explained in more detail elsewhere in this survey, consultation is not mandatory in the regulatory process but is based on law-drafting guidelines and established practice. The Government Resolutions of Law Drafting of 1996 and 2000 also confirm this principle. Accordingly, Ministries must ensure that they obtain or hear opinions on the required scale so that those likely to be affected by the proposed law, or those whose field it impacts, are given a chance to express their views on the proposal. While decision-making is open by tradition in Finland, it is not always enforced and due to informality those left out have means of appeal.

National decision-making on EU issues is prepared within the Finnish Government through a co-ordination procedure in which domestic stakeholders take part in the national decision-making process. This occurs in the EU Sections and Sub-Committees where other Ministries, trade associations, trade unions and i.e. environmental groups are provided a forum to comment to the competent Ministry. The Sections assemble either in a limited forum or on a broader base depending on the preparatory phase of the issue and its confidentiality.

As regards foreign trade, the so-called Committee 133, working under the auspices of the Ministry for Foreign Affairs, is of leading importance. It co-ordinates and formulates national positions that are to be ready when discussions are held first in the Grand Committee of the Finnish Parliament and then at the European level. The business community as well as trade unions and NGOs take part in the drafting work and hearings of the extended composition of the national 133 Committee. Co-ordination and transparency should help to build confidence among those concerned when policy enters into force. It could serve to promote the Finnish position on European policy matters effectively as well as to secure solid implementation once a decision is made at the European level, as also reflected in the high implementation rate of EU directives in Finland. However, in the sections on RIA and regulatory policy, it should be noted that impact on trade is not usually one of the numerous required categories of impact to be assessed when regulation is being drafted.

#### **Box 3. Better collaboration with Europe – the Finnish decision-making process for EU policies**

Responsibility for the preparation and monitoring of issues relating to the European Union and the determination of Finland's positions on EU issues rests with competent ministries. A co-ordination system has been established to ensure that Finland can present a consistent position in line with its overall EU policy, on issues under consideration in the EU at each stage of preparation. In the discussion and co-ordination of EU affairs particular attention is attached to the timely supply of information to and the involvement of the Finnish Parliament and the Provincial Government of Åland.

The Cabinet Committee on European Union Affairs meets once a week, usually on Friday mornings, to discuss politically, economically and legally important EU affairs. The Cabinet Committee agrees on Finland's priorities in all formal and informal Council meetings. The Prime Minister chairs the Cabinet Committee session.

The Committee for EU Affairs meets once a week, usually on Wednesday mornings, and serves as an advisory and mediator body in the co-ordination of EU affairs. The Committee discusses broad issues involving several Ministries and also those issues not resolved in the sub-committees. In addition, the Committee handles issues related to Courts and enforcement and nominates national experts to EU institutions.

Each Ministry, the Prime Minister's Office, the Office of the President of the Republic, the Office of the Chancellor of Justice, the Bank of Finland and the Provincial Government of Åland are represented in the Committee for EU Affairs. Permanent Secretaries or their deputies represent the Ministries. The Committee for EU Affairs is chaired by the head of the Government Secretariat for EU Affairs.

The Committee for EU Affairs has appointed 39 sector-specific preparative subcommittees. The sub-committees constitute the foundation for the preparation of EU affairs at the civil service level. The chair and the secretary of each EU subcommittee usually represent the competent Ministry.

The subcommittees can assemble in a restricted or extended composition. The restricted composition includes civil servants from the competent Ministry and representatives of other Ministries and central agencies. An extended composition comprises representatives from various interest groups and other concerned parties.

The EU Secretariat responsible for the co-ordination of EU affairs is located within the Prime Minister's Office. Its main duty is to oversee the co-ordination of EU affairs and it serves as the secretariat for the Cabinet Committee on European Union Affairs and the chair and secretariat for the Committee for EU Affairs. Moreover, the Government EU Secretariat is represented in each of the preparative subcommittees appointed by the Committee for EU Affairs. The Government EU Secretariat's duties also include the preparation of European Councils, action relating to institutional questions and general development of the EU<sup>27</sup>.

Parliament participates in the national level preparation of the decisions to be made in the European Union. EU affairs are discussed in the Grand Committee and the other parliamentary committees can provide the Grand Committee with opinion on the issues under debate. Matters relating to the EU's Common Foreign and Security Policy are discussed in the Foreign Affairs Committee of Parliament.

### *Some examples of Finnish policies to avoid unnecessary trade restrictions*

#### *Customs procedures*

Customs union membership means that Finland complies with EC trade policy directives as well as with trade agreements that the EU has made with third countries. Finland is covered by EU antidumping legislation and has also adopted the GSP of the EU. For example, Finland's adoption of EU internal market practices in 1995 defines Finland's trade relations both inside the EU and with non-EU countries.

Finland applies import taxes imposed by the EU. In 1997, EU Commitments required the establishment of a tax border between the autonomously governed but territorially Finnish Åland Islands and the mainland of Finland. As a result, trade of goods and services between the rest of Finland and the Åland Islands is now treated as if it were trade with a non-EU area. Even though the Åland Islands are part of the EU, just as Finland is, Åland does not belong to the Union tax area. This exception was drafted in order to protect shipping traffic and tax-free sales when EU countries abandoned duty-free sales.

Finland follows import-licensing procedures of the EU. Licenses can be applied for from the National Board of Customs. Certain agricultural products are subject to import duties and fees imposed in accordance with EU rules and regulations. Among the products subject to these duties and fees are cereals, flour, certain fats and oils, fishery products, butter, cheese, eggs, poultry, meat, cattle and hogs. The transitional period that allowed Finland to maintain its stricter-than-EU import regulations on certain agricultural products expired in 1998.

In practice, Finland's import trade was not greatly affected by EU membership. Changes involving border protection procedures related to non-EU countries. Most of these restrictions concern import of certain types of steel, in particular from the NIS, as well as import of certain articles from China. The restrictions are in the form of quotas, licensing and other control measures. The quotas are EU-wide. The critical point is that access to quotas may depend on whether or not the importer is an established traditional supplier or a newcomer.

Finland supervises almost 2 000 km of the external frontiers of the EU and has in addition about 1 100 km of coastline. Due to long distances and increasing traffic, the promotion of all simplified and efficient customs procedures offered by the EU customs legislation has received top priority for Finnish Customs. Special attention has been given to improving speed of border crossings through cooperation with Russia and the Baltic States. Investment in efficient procedures and customer satisfaction have contributed to the significant increase of gateway traffic between the southern ports and the Russian border.

Management has taken decisive action to ensure the swift and uniform application of procedures. Based upon the EU Common Training Programme, all new employees have been offered six months' basic training at the customs school since 1998, forming the basis for more advanced training. The number of customs districts was reduced from seven to five in 1999. Most authorisations for procedures have been transferred from the central administration to the district level. All this has resulted in more rapid, consistent and predictable customer-oriented service, which is called partnership by the customs authority.

Since 1997, Finnish Customs has actively promoted the use of simplified procedures and local clearance in order to speed up the delivery of goods and reduce visits to customs offices. Finland has taken part in pilot projects in which a single authorisation for simplified procedures has been offered to economic operators in more than one EU Member State. Sophisticated methods for both risk analysis and administration of customer relations have been introduced and further developed to reduce supervision and control of legal trade.

Finnish Customs is focusing its efforts in particular on reforming its information technology system. A completely renewed EDI import clearance system is launched during 2002, and will simplify border crossings as controls can be transferred to the place of destination. The development of an EDI export clearance system will be initiated this year. The planning of the New Computerised Transit System of the Community (NCTS) has been continued with a view to Finland's joining the system in April 2003.

Today after comprehensive reform of the management system, Finnish Customs is implementing regulations cost efficiently and reliably, including focused safety measures against drugs and other illegal trade. In its 1999 World Competitiveness Yearbook, the International Institute for Management Development (IMD) ranked Finland first with respect to the impact of its customs bureaucracy on competitiveness<sup>28</sup>.

### ***Labelling***

Labelling and marking requirements in Finland are based on the Act on Product Safety, which was enacted in accordance with the EU Directive on general product safety. Finland has precise labelling requirements for foodstuffs. A retail-size food package must show the name of the manufacturer, commercial name of the product, net metric weight or volume, ingredients in descending order of weight, last recommended date of sale, and storage instructions if perishable or intended for infants. Mandatory information described above must be provided in Finnish and Swedish.

### ***Intellectual property protection***

The Finnish legal system protects property rights and Finland adheres to numerous international agreements concerning intellectual property rights. Finland has joined major copyright agreements. Patent rights are consistent with the international standards. In 1996, Finland joined the European Patent Convention (EPC). Finland is a member of the World Intellectual Property Organization (WIPO), and participates primarily through its membership in the EU.

Information on copying and copyright infringement is provided by several copyright holder interest organisations such as the Copyright Information and the Anti-Piracy Center. The Business Software Alliance (BSA), a worldwide software anti-piracy organisation, began operations in Finland in 1994. According to a recent survey, the rate of software piracy in Finland is one of the lowest in Europe.

The Finnish Copyright Act, which traditionally also grants protection to authors, performing artists, record producers, broadcasting organisations and catalogue producers, has been adapted to comply with EU directives. As part of this harmonisation, the period of copyright protection was extended from 50 years to 70 years. Protection for data base producers has been defined to be consistent with EU practices. National transition period procedures are defined in Parliament. The Finnish Copyright Act provides sanctions ranging from fines to imprisonment for up to two years. Search and seizure are authorised in the case of criminal piracy, as is the forfeiture of financial gains. The Copyright Act has covered computer software since 1991.

### *Openness to foreign investment*

The Finnish Government maintains a favourable attitude toward foreign direct investment (FDI). However, the actual inflow of FDI has been rather low in comparison with several OECD countries. In 1993, laws restricting foreign ownership were abolished to conform to the already commonly accepted liberal treatment of foreign investments in Finland. Annexes III-V describe foreign ownership and acquisitions in Finland.

There are some requirements not intended to restrict foreign ownership but necessary on legal grounds. In certain areas involving special safety or health hazards or financial risks, specific conditions are laid down for carrying on trade. These regulated forms of trade are governed by section 3 of the Trade Act as well as by specific legislation. A non-European Economic Area resident person or company operating in Finland must refer to the authorities to obtain a license or a notification when starting a business in the regulated forms of trade, including: banking and insurance, nuclear energy-related activities, mining, manufacturing and sale of pharmaceuticals, dangerous chemicals and explosives, private security services, travel agencies, restaurant and catering services.

Supply of mandatory labour pension insurance and workers' compensation is possible only through a company established in Finland. This provision is designed to ensure compliance with social security legislation.

The Åland Islands are an exception to common Finnish practice. Based on international agreements dating from 1921, property ownership and the right to conduct business are limited to only those individuals with particular right of domicile in the Åland Islands.

There are no performance requirements or commitments imposed on foreign investment in Finland. However, to do business in Finland, some residency requirements must be met to ensure that persons liable for the companies' acts can be brought to courts if necessary.

At least half of the founders of a company to be established in Finland, being natural or legal persons, must reside within the EEA. Otherwise, a special permit issued by the MTI is required. Residence requirement can, in most cases, be fulfilled also by appointing a legal representative with residence in Finland to take charge of business. The nationality of the founder thus becomes irrelevant.

The extensively revised Companies Act came into force in 1997. In line with common Western European practices, the law distinguishes between limited liability companies into public (Oyj) and private limited (Oy) companies. New financing instruments, such as capital loan and preferred shares were made available to companies.

All companies registered in Finland have access to government assistance under special development programs. Foreign-owned companies are eligible for government incentives on an equal footing with Finnish-owned companies. The MTI or other Ministries grant assistance and subsidies, depending on the field of business activity, as does Technology Development Center (TEKES), and the Parliament-administered venture capital fund, the Finnish National Fund for Research and Development (SITRA). Companies operating in Finland have access to EU structural funds through national programs. EU funding may cover half of the total costs of a program provided that the other half comes from national sources.

Indirect and direct subsidies are provided in the form of tax benefits, loans, guarantees, and cash grants, investment in equity, as well as in supply of expertise and employee training. Subsidies may be given for manufacturing, tourism and business services. The MTI provides subsidies for investments in the form of regional investment aid, assistance for small businesses or development grants for small and medium size enterprises and aid for improvement of the operational environment of undertakings. Firms established in developing regions are eligible for subsidies for transport costs.

Public authorities in Finland have been keen to promote foreign investment. In 1992, the Invest in Finland Bureau was established as a body currently under the purview of the MTI to assign specific help to firms to set up in Finland. Linked with other bodies, including Finnish Embassies overseas, it offers assistance to foreign firms, in particular to solve regulatory problems.

## **2.4 Measures to encourage use of internationally harmonised standards**

The concept of internationally harmonised measures refers to two distinct scenarios: reliance on global standards as the basis of domestic regulations where this is feasible and acceptance of foreign measures as equivalent to domestic measures. Both approaches provide important avenues for achieving progressive harmonisation of regulations on as wide a basis as possible. WTO rules clearly exhort Finland to rely on relevant international standards as the basis of domestic regulations wherever possible and appropriate. Finland has also created a special agency, the Finnish Standards Association SFS, to oversee use of internationally harmonised standards.

Finland has no discrimination cases related to standards with the EU or non-EU countries. Finland as a small and trade-dependent economy has taken steps and developed a strong tradition of reliance on EU harmonised standards. In most sectors the EU standards are valid, properly implemented and controlled, but there are some exemptions such as construction products and sectors having inconsistencies between new and old regulations as well as where a national approval system exists. Other examples are foreign ciders and energy drinks, which have had market access problems. Sometimes the Finnish manufacturers have not noticed that the EU transition period is overdue. Usually the problem has been in a slow documentation process even though the equipment was manufactured according to new standards. In this case, vigilant foreign competitors can benefit from the new standards.

In the area of technical regulations and standards, the Finnish Standards Association SFS has been designated as an enquiry point for Finland in the EU and WTO notification systems. It provides information on technical barriers to trade, including through the use of the Internet. SFS Standards are voluntary documents and are drawn up by the technical committees of SFS or its standards-drafting bodies.

The total number of SFS Standards amounted to 15 283 at the end of 2001. Of this amount, 17 per cent are original national standards. In 2001, 1984 new standards were approved, of which one per cent were original national standards. The share of European standards was 92 per cent in 2001, which mainly equate to international ISO/IEC standards.

## 2.5 Recognition of equivalence of foreign regulatory measures and conformity assessment

### *Mutual recognition in the EU: the Global Approach and MRAs*

The European Community in its relations with third countries endeavours to promote international trade. For regulated products, this is achieved through the Mutual Recognition Agreements (MRAs) on the basis of Article 133 of the Treaty. These agreements are based on the mutual acceptance of test reports, certificates and of conformity issued by the bodies of the Parties of the Agreement in conformity with the legislation of the other party. Table 5 describes the partners and sectors covered by the MRAs.

**Table 5. Indicative list of recent MRA initiatives**

Partner	Partner	Sectors	Concluded	Effective date	Type of recognition
Australia	EU	Telecom equipment Low voltage equipment Electromagnetic compatibility Machinery Pressure equipment Medical devices -Transitional period - For some high risk devices Pharmaceutical GMP (veterinary) Motor vehicles	Done 1.1.1999		+ 18 months  + 2 years
Canada	EU	Pharmaceutical GMP Medical devices Telecom equipment Electrical equipment Electromagnetic compatibility Recreational craft	1.11.1998	1.10.2001	
Canada	US	Pharmaceuticals	No		
EU	Japan	Telecom equipment Low voltage equipment Pharmaceutical GMP Industrial chemicals GLP	Done 1.1.2002	+ 18 months	
EU	New Zealand	Telecom equipment Low voltage equipment Electromagnetic compatibility Machinery Pressure equipment Medical devices Pharmaceutical GMP	Done 1.1.1999		

Partner	Partner	Sectors	Concluded	Effective date	Type of recognition
EU	Switzerland	Telecom equipment Electromagnetic compatibility Electrical safety Recreational craft Pharmaceutical GMP Medical devices Aircraft Lawn mowers Pressure equipment Machinery Motor vehicles Measuring instruments Toys Phytopharmaceuticals Construction equipment Gas appliances Tractors	Done		
EU	US	Telecom equipment Electromagnetic compatibility Electrical safety Recreational craft Pharmaceutical GMP Medical devices	Done 1.12.1998	14.12.2000  1.6.2000	
		Fasteners Agro food biotechnology Certain medical devices	No		
APEC	APEC	Electrical safety Electronic equipment Telecom equipment			
EU	EU	All sectors	Done		
NAFTA	NAFTA	Telecom equipment	Done		
OECD	OECD	Chemicals	Done		-Guidelines and Good Laboratory Practices -Mutual Acceptance of Data
EU	Israel	Chemicals GLP	Done 1.5.2000		

In the field of industrial standards and conformity assessment, Europe Agreements aim to achieve full conformity in candidate countries with Community technical regulations and European standardisation and conformity assessment procedures. They also envisage the conclusion of agreements on mutual recognition in these fields.

The Community is in the process of negotiating Protocols to the Europe Agreements on Conformity Assessment and Acceptance of Industrial Products (PECAs) with a number of candidate countries. Annexes VI and VII describe the state of play in this field related to these problems<sup>29</sup>.

## 2.6 Application of competition principles in an international perspective

The extent to which competition principles are embedded in Finnish regulatory practices and procedures is a key determinant of market openness. Finland's commitment to vigorous competition principles from an international perspective can be assessed with the following criteria; overall commitment to the principle in law and policy, the existence of open, effective complaint procedures and effective access to domestic networks. This section examines competition principles in Finland from such particular angles, while the Background report to Chapter 3 analyses Finnish competition policy from more general perspectives.

Today Finnish enterprises pursue fully open competition in a global market area and a major part of the private sector operates in open competition. In some sectors of the economy however, the intensity of competition is varied. For instance, competition was not possible in traditionally closed sectors, such as banking, until the 1990s. Also sectors like public services remain protected. Greater international competition can bring about substantial economic benefits. Often imports are the only effective means to render the small Finnish market contestable.

Foreign firms may petition the Finnish Competition Authority (FCA), although they do so rarely. Formal national treatment applies in the application of procedures, and foreign firms may have effective means of seeking redress for perceived anti-competitive problems.

The FCA does not, under any circumstances, make any distinction or aim for different results when assessing the restrictive practices of foreign and Finnish companies. The nationality of the companies does not play any role in the enforcement of the Competition Act.

Effective procedures for pursuing complaints about regulatory actions that condone anti-competitive conduct or fail to correct anti-competitive private action affect the fundamental determinants of market openness. It is obvious that Finland has clearly established avenues for handling complaints of this nature on a non-discriminatory basis. Finland enjoys independent competition tribunals, transparent appeal procedures and enforceable remedies. One possible concern is the lack of defined deadlines for competition cases, except for mergers.

Time limits and expeditious processing improve legal protection of companies. Finland has no deadlines, under statute of procedure for completing competition matters other than mergers. A case seeking imposition of penalty payments will lapse unless decided within five years from date of notification. From 1988-2001 with only one exception out of nearly 1200, all decisions issued by the FCA benefited from this rule<sup>30</sup>. Decisions in complicated cases are usually handed down within a year, and for less complicated cases, the FCA generally delivers a decision with its self-imposed deadlines of 1-2 months. Merger cases face strict time limits, which generally correspond to those used in EU merger control.

Competition restraints are mainly dealt with by the FCA, the Market Court and the Supreme Administrative Court. Competitive restraints are by and large handled within the administrative process. In theory, civil courts can also hear cases involving competition restraints, although this seldom occurs.

The most important powers of investigation of the FCA pertain to access to information and inspections. No court order is required for an inspection, performed at the discretion of the FCA. A conditional fine may be imposed on a business undertaking if it attempts to block investigations conducted by the FCA. Access to information has not been a problem in practice for the FCA. The companies from which the FCA has required information are often global companies also operating in Finland and they have provided information upon request under the Competition Act.

The Competition Act prohibits horizontal cartels and the abuse of a dominant position. The Act also forbids resale price maintenance. Other vertical arrangements not involving a dominant market position are treated according to the abuse principle. This means that the rules applied in supervising competition in distribution contracts in Finland differ from those adopted in the EU, where such contracts are subject to the prohibition laid down in Article 81 of the EC Treaty. In Finland therefore, the rule-of-reason approach can be applied in vertical restrictions, which in fact follows the US approach. In such cases, the FCA is obliged to produce burden of proof.

### ***Competition advocacy***

According to the Competition Act, the FCA plays a prominent role in advocacy, since the FCA takes initiatives to promote competition and to dismantle any restrictive regulations and orders. Competition advocacy has, on the whole, provided a major field of operation for the FCA, while substantial resources have been allocated to advocacy-type activities.

In 1989, the Office of the Council of State urged Ministries to pay due consideration to competition aspects in legislative drafting and obliged Ministries, before the issuance of any orders or regulations restricting competition in one way or another, to request comment from the FCA to be submitted to the MTI. Currently, comment is requested from the FCA on most legislation projects if there are any implications for competition. During 1988-2001, the FCA has annually submitted about 60 official comments<sup>31</sup>. Authorities sometimes still do not request comment until a bill has entered parliamentary review<sup>32</sup>.

Recently the FCA has maintained a special advocacy goal relating to the role of the public sector as a producer of goods and services. The FCA has moved to adopt competition principles and more cost-efficiency in the municipal production of welfare services, such as health care, social services, education and technical services. The background of this activity is that both the State and municipalities have traditionally maintained a very large, publicly-owned production sector. To cite another recent successful example, the FCA actively contributed to abolishing the exclusive right of the state-owned bank to conduct payment traffic for the Finnish State and its subsequent opening-up to competition.

### ***Mergers***

The control of concentrations came into force in Finland in 1998. Concentrations are assessed solely on the basis of the effect on competition; that is, to create or strengthen a dominant position. Other factors do not constitute grounds for assessment. Provisions regarding the control of concentrations also pertain to state-owned companies and can be applied in privatisation cases. The control of concentrations aims at all sectors of the economy. The business activities of public corporations and, as an example financial and insurance institutions, fall within its jurisdiction.

The law also applies to foreign business entities and acquisitions made by them, provided that the turnover thresholds are met with and that the business is conducted in Finland. The statistics below indicate that foreign parties have been involved in more than 60 per cent of all merger cases dealt with by the FCA.

**Table 6. Merger control statistics in 1998-2001**

	<b>Cases</b>	<b>Per cent</b>
All parties Finnish	117	39
All parties foreign	104	34
At least one of the parties foreign	82	27
Total number of decisions	303	100

Source: Finnish Competition Authority

During 1991-2001, the European Commission issued 85 merger decisions, in which 122 Finnish companies were involved as parties<sup>33</sup>. The industry of Nordic countries claims that the European Commission assesses the relevant geographical market too narrowly, having an injurious effect on concentrations in small economies<sup>34</sup>.

The FCA also takes into account the availability of foreign supply in the competition analysis when assessing restrictive practices. In practice, a careful analysis of relevant geographical markets is required. In addition, the potential direct access of foreign companies to the Finnish market is weighed. Assessment thus focuses on the timing and likelihood of entry into the market. These matters are reviewed on a case-by-case basis.

Finland is a Member State of the EU, and application of Finnish competition law must be consistent with its EU obligations. The FCA works in close liaison with the European Commission, mainly by participating in hearings and Advisory Committee meetings in Brussels.

The FCA has taken steps to render its decision-making process more transparent. Public transcripts of the decisions taken by the FCA are published on a web site. Additionally, a press release is always put out on the most important decisions. Procedural instructions and guidelines have been issued in conjunction with important legislative reforms.

### ***Retail distribution networks***

Effective access to domestic network is a key factor in giving effect to the competition principle. In Finland, long-established but little-contested practices have presented particular difficulties to foreign firms seeking to sell into the Finnish retail markets for daily consumer goods. Trade in daily consumer goods in Finland is dominated by two groups: the K-Group and the S-Group that together hold almost 70 percent of this market. For instance, 80 percent of the food sold by the K-Group is domestic. The centralised market structure typical of the sector has created the kind of buying power that could annul competitive benefits.

As a result of the relatively small size of the Finnish market, a single distributor is usually allowed to extend over the entire country. Consumer goods and similar merchandise requiring continual stocking are often imported through wholesalers or trading houses. Such products may also be sold directly to retail chains, department stores and retail outlets, but usually a local partner is needed. Finland has about 150 franchise chains, of which about one-third are foreign owned. Licensing agreements are common in Finland because of the high quality of Finnish manufacturing, small market size and relatively high transport costs of goods in the country. Royalties and licensing fees may be freely transferred out of Finland.

The main target of EU membership and European integration has been a wider common market in which increased competition keeps prices down. This has not been the case in Finland. Geographic factors such as higher transport costs compared to other countries partly explain the higher costs when importing goods to Finland. Finland is a relatively large country when compared to the size and sparse inhabitation of the population.

Hence domestic transport costs from the border to retail shops are higher than in other EU countries. A relatively high VAT and other taxes result in steeper prices for final products, even though the purchase prices may be lower than before EU membership.

The low density of population also leads to considerably high fixed costs for retailers while profits remain relatively low. In Holland for instance, a country with a high population density, a new retailer can attract with fewer shops significantly more customers than can a Finnish retailer.

In recent years, the Finnish economy has witnessed the entry of foreign competitors into such retail markets as furniture, household electronics and the hardware trade. However, most of these have experienced some difficulty either in entering or operating in the Finnish market. In the early 1990's, a Swedish furniture retailer was forced to postpone setting up on the location it wanted for about 10 years before receiving the permit to do so. Municipal authorities responsible for zoning supported the application of a rival to set up but the local political decision-making body opposed the related zoning decision.

In 2002, the previously closed Finnish market for daily consumer goods opened when the first foreign chain with low price profile entered. This company has a clear strategy to concentrate on large customer volumes in urban areas and draw benefit from a new and effective logistics and cash systems. The retailer has applied to the Finnish environmental authority to begin its own bottle recycling.

One unique aspect of the Finnish retail sector is the alcohol retail monopoly. The wholly state-owned company ALKO holds a legal monopoly on alcoholic beverage retail. The only exceptions are certain beverages with alcohol content of less than 4.7 per cent, such as beers and ciders also sold in supermarkets, service stations and convenience stores as well as certain domestic berry wines sold directly on the premises of the producer.

The import and wholesale as well as the production of alcohol have been partially liberalised, with a number of operators in this sector. The import, wholesale or production requires a license, but these are not used to limit competition.

### ***Other networks***

An important area of improvement is the easing of access to domestic networks, including those which may have delegated regulatory powers. In Finland, certain industrial and trade associations are key players from the perspective of competition and market openness. The Finnish Government has delegated certain self-regulatory powers, or the organisations have taken it upon themselves, for instance in the financial sector, to the Finnish Bankers' Association, Helsinki Stock Exchange HEX Oyj together with the Finnish Central Securities Depository Ltd (APK) and Automatia Ltd, a company operating the nationwide ATM network and the Finnish electronic cash system.

The risk that such organisations, which are in fact in market dominance, use their regulatory powers to distort competition and limit import competition argues for greater scrutiny of activities and submission to a higher standard of openness<sup>35</sup>. Room always exists for discussions as to whether these self-regulating organisations employ their powers too strictly with regards to excess entry fees or other administrative barriers, and to prohibit new companies from entering their networks. The APK for instance

handles the clearing and settlement for trades in shares and warrants quoted on the HEX. The APK has not accepted any foreign rivals as a clearing party status, even though it has been possible and applied for. In 2002, it seems that the major shareholders of the HEX, including the Finnish State, have colluded to agree to retain the ownership in domestic hands and in practice eliminate equal treatment against foreign competitors<sup>36</sup>. The HEX is a vertically integrated market place with regard to electronic registration, stock trading, clearing and settlement, and it also has other exclusive rights, i.e. the stock trading at the HEX is exempted from a 1.6 per cent stamp duty, making stock trading outside the HEX uneconomical in Finland.

The FCA has received a large number of complaints concerning the environmental management system for beverage packages. A recycling system based on taxation prevents the entry of particularly foreign and small domestic beverage packaging companies into the market. The FCA has responded by calling attention to these distortions associated with the recycling and tax system for beverage packages. In 2002, the European Commission has given an official notice to the Finnish Government to reform the system in a more transparent and less discriminating way. The Commission also suspected that the members of the Federation of the Brewing and Soft Drink Industry would structure the domestic drinking markets with the bottle return pool as a part of the system.

### **3. SELECTED SECTORS**

#### **3.1 Telecommunications services**

Finland was among the first countries to free competition in the telecommunications market. Regulatory reform created one of the world's most innovative and fully open markets with foreign participation. Major factors behind Finland's advanced telecommunications technology have been data transfer, digitalisation and deregulation creating vigorous competition, especially between service providers. This has had a beneficial impact on know-how, in terms of the variety of telecommunications services available. The liberalisation process has not been as difficult as elsewhere because most of the operators have always been privately owned. However, three recent cracks have appeared in this success, namely the noteworthy postponement of digital TV and the third generation mobile phone services. Also exports of telecommunications operations, particularly erroneous investments in German and Italian UMTS (Universal Mobile Telecommunications System) licences by the state-owned Sonera, have caused a realised loss of 4.3 billion euro in 2002<sup>37</sup>.

The opening of the sector to competition began as early as at the end of the 1980's, but a major breakthrough took place in 1990 when the mobile GSM network as well as data transfer were opened up to competition. Full competition in local and long-distance to include international calls was achieved by 1994. Only the provision of mobile services requires a license due to the scarcity of radio frequencies. Since 1997, the Telecommunications Market Act has required a separation of the accounts for network services, telecom services and other business activities. The Finnish Communications Regulatory Authority (FICORA) was set up as a sector regulator in 1988, controlling the market on ex post basis with no ex ante approval of pricing.

The effects of reform have been encouraging: the unit prices both in fixed-line services as well as mobile services have fallen significantly while service quality has risen. The prices of voice telecommunications have decreased 20 per cent between 1993 and 2001, and the prices of telecommunications services are among the lowest within the EU. There are 154 telecom operators in Finland, 97 of which operate on local networks, 58 on long-distance and international networks and 66 on mobile networks<sup>38</sup>. The network is one hundred percent digitalized.

Local services have been a part of the sector least exposed to competition due to the strong positions of former local monopolies, usually holding 80 – 90 per cent of all fixed lines. In 2001, competition in local services was enhanced by introducing an obligation for the local operators to lease extra capacity of the last-mile fixed lines to competitors, with the option for customers to select an operator to carry local calls also from a fixed connection to a mobile phone. A bill for a new Communications Market Act has entered Parliament, aiming at taking into account the convergence of communications services and also bringing television and radio networks under the current telecommunications regulatory framework. The new framework is in force since July 2002 and its second phase is in the Parliament. It will enter into force in 2003.

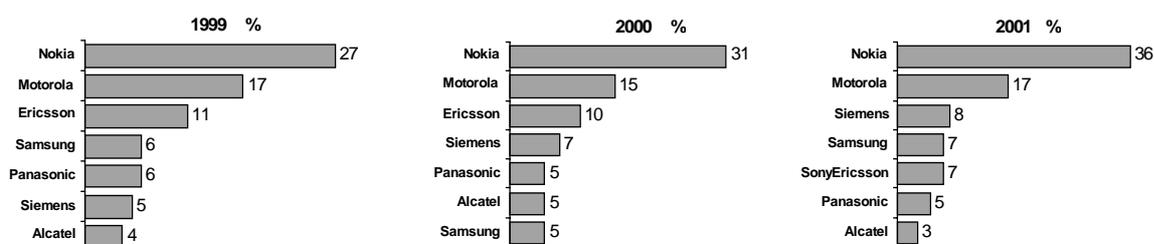
In 1999, Finland became the first country in the world to grant licenses for a third generation mobile telephone network. Four telecommunications companies received the license to construct this network. Nationwide UMTS network coverage based on this broadband wireless technology should be in place by the end of 2002. Finland is currently one of the few countries in Europe to grant network operators licences free of charge. This might ensure substantial investment in research and development of new technologies and services in the future.

For the first time, the Competition Council took a stand on the jurisdiction of the Finnish Telecommunications Regulatory Authority along with the FCA in its decision concerning the HPY in the Helsinki area. The Competition Council stated that neither the Competition Act nor the Telecommunications Act contain provisions that would warrant the conclusion that the Competition Act does not apply. In contrast, the Telecommunications Market Act stipulates that it may be necessary to evaluate the operators of a telecommunications company in the light of both the Telecommunications Market Act and the Competition Act.

### 3.2 Telecommunications equipment

In the new Telecommunications Market Act, no restrictions to foreign ownership are mentioned. The telecommunications equipment market is fully open to foreign competition, and most international manufacturers have established their presence on Finnish markets. There are several small Finnish companies specialising in terminal equipment, but the major Finnish equipment manufacturer is Nokia. Headquartered in Finland, Nokia is the world leader in wireless and wire line telecommunications. The factors behind Nokia’s success can be traced to the second half of the 1980’s when digitalisation emerged as the way forward in the electronics industry. Second is deregulation on national-level opened markets to competition, both domestic and foreign. Thirdly, international borders fell with the EU and protectionist trade barriers were gradually removed. Perhaps even more important was the identification of high-growth business areas; first the cellular networks, then the handsets, and in particular the creation and consistent execution of a clear and straightforward business strategy<sup>39</sup>.

**Figure C. Worldwide Market Shares of Mobile Phone Manufacturers in 1999-2001<sup>40</sup>**



Source: Siemens AG

No significant market access problems have emerged, and today the Finnish market is transparent and non-discriminatory. The EU rules are implemented widely and promptly. The MTC is responsible for drafting the legislation, policy-making, regulation, licensing and overall. FICORA, as a market regulator, ensures technical supervision of radio and telecommunications equipment. The MTC is also responsible for licensing tendering of mobile phones. It is also responsible for standardisation as well as frequency planning and numberings. In Finland, public inquiries and approval procedures are arranged by FICORA.

The development of new technologies depends not only on technical features and commercial opportunities but also on political decisions. Cellular telephone technology offers an example of how to operate in this environment. While digitalisation of voice is based on technological progress, the allocation of radio frequencies and deregulation is pure politics. A company's performance in this sector depends upon a mix of those two forces. Initiated by the EU, the Member States of the European Union and the European Commission established a new internal organisation called European Regulator Group (ERG).

FICORA issues technical regulations and co-ordinates standardisation work in telecommunications equipment. It also has responsibilities concerning protection of privacy and information security in electronic communications. FICORA is involved in the work of international organisations and influences international developments, resolutions and decisions in line with Finnish interests. Co-operation with European telecommunications authorities in the Independent Regulators' Group (IRG) plays an increasingly important role as does participation in the work of the European Telecommunications Standards Institute (ETSI). As an example, Finland supports the free circulation of third-generation mobile radio equipment which would ensure that equipment could be used anywhere.

The new Radio Act of 2002 clarified the provisions on frequency planning and market surveillance. Under the new Act, advance inspection of radio equipment is to be discontinued. According to the Directive on Radio Equipment and Telecommunications Terminal Equipment, the manufacturer is responsible for conformity with essential requirements. FICORA monitors this conformity by means of market surveillance, which will play an increasingly important role<sup>41</sup>.

Market surveillance of radio and telecommunications terminal equipment seeks to ensure that buyers are offered only such radio and telecommunications terminal equipment that meets the requirements set for such equipment. It is the duty of market surveillance to prevent interference in radio communications and telecommunications. It is also controlled that pirate smart cards intended for viewing of satellite and cable television transmissions are not put on sale and that the selling price of a piece of telecommunications terminal equipment is not associated with a mobile subscriber agreement or any other telecommunications services, i.e. tie-in sale provision. This provision banning tie-in sales separates competition in subscriptions from competition in mobile devices. This Finnish practice seeks to prevent cross-subsidisation of a mobile phone and subscription price, considered unhealthy for competition. Tie-in sales involving mobile phones and subscriptions are recently clearly on the decline.

In 2000, the new directive on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity entered into force and virtually removed the initial examination and type approval of radio and telecommunications terminal equipment. The party that places the equipment on the market, or in practice the manufacturer, is now responsible for the conformity with requirements of the equipment in question. The manufacturer must attest that the equipment complies with requirements and submit a declaration of conformity to requirements.

The aim is that consumers are provided only equipment that does not cause interference. Buyers and users of radio and telecommunications terminal equipment together with importers and dealers of equipment that meets these requirements will benefit from this surveillance. Information on provisions pertaining to radio and telecommunications terminal equipment and on the technical requirements placed on this equipment plays an important part in market surveillance.

According to the new directive, the manufacturer is to provide information for the user on the intended use of the apparatus together with a declaration of conformity to the essential requirements. He shall also provide information on potential restrictions to the use of the equipment: for instance, if it may be used only in certain Member States or if a separate licence is required for use.

As Finland is now a Member State of the EU, no customs clearance is required for radio and telecommunications terminal equipment imported from the other Member States. However, the provisions on import restrictions still pertain also to equipment imported from the other Member States, and customs inspections may still be performed on such equipment if there is cause. The legality of the import of equipment from outside the EU is controlled at customs clearance. As the advance inspection and approval of radio and telecommunications terminal equipment is now terminated, supplementary control will more and more focus on market surveillance in the future.

A fine will be imposed for violation of the provisions on marketing and import of radio and telecommunications terminal equipment.

Finland is currently the world's largest user per capita of mobile telephones. In 1998, Finland became the first country in the world in which the number of mobile phones exceeded wired phones. Both the volume of telephone lines and telephones is among the densest in the world.

### **3.3 Automobiles and components**

As a country with only a limited car manufacturing capacity, Finland has greatly benefited from the use of harmonised technical requirements and the EU-wide type approval system. Following accession to the EU, the harmonised EU regulatory framework has been applied in Finland. The certification of technical requirements is gone through a system of type approval under which the national regulatory body, the Finnish Vehicle Administration (AKE), certifies that a type of vehicle or separate technical units satisfy technical requirements as specified in relevant EU directives. Each Member State of the EU grants the type approval to any vehicle that meets the technical requirements of the directives and for most vehicles this type approval granted by one Member State is valid throughout the EU.

Automobiles and components have had no market access problems in Finland. The market is transparent and non-discriminatory. Almost all car brands and components manufactured abroad are imported to Finland. Only the selection of different models might be slightly limited which makes the sales of spare parts and regular car service and repair economical in a small market. Finnish taxes on motor vehicles are heavy and consumer prices are among the highest in EU, a reason that the average age of the passenger cars is the highest in EU Member States. The Supreme Administrative Court has recently sought the opinion from the European Court of Justice as to whether Finnish taxes are too high for imported used cars from the other Member States.

Harmonised EU safety technical requirements for motor vehicles and, more recently, the framework of the EU-wide type approval system has also been instrumental in the integration process in the European automotive market. Within the EU, technical requirements for motor vehicles have been fully harmonised since 1993. Unlike the areas covered by the New Approach directives, detailed technical requirements are specified in various EU directives and applicable throughout the EU and EFTA countries<sup>42</sup>.

With increasing globalisation in the automotive industry, the international harmonisation of technical requirements for cars and other vehicles attains a high priority. Common technical requirements reduce high development costs and avoid duplicative administrative procedures. Industry, especially global players, is much in favour of world-wide technical harmonisation.

The European Union and its Member States have been at the forefront of international harmonisation efforts by actively supporting the work within the Revised 1958 Agreement of the United Nations Economic Committee for Europe on international technical harmonisation in the motor vehicle sector.

Finland takes part in discussion at two levels: global and national. At the global level, Finland takes part in the UN's WP 29 and its special working groups while naturally participating in EC work, such as Commission working groups, Council Meetings (Motor Vehicles) and 133 Article committee. These meetings produce extensive co-operation with all reference groups: ACEA, IMMA, ISO, etc. At the national level, Finland has a Motor Vehicle Working Group to break down technical barriers in trade in the motor vehicle technical field, meeting monthly. All parties desiring or requiring information can take part in these meetings. Regulation proposals are sent for hearings to all reference groups. New regulations are published by the organisation of Edita Oyj.

Global technical harmonisation is a key factor in strengthening the competitiveness of the European automotive industry worldwide. The accession of the EC to the 1958 Agreement on uniform technical prescriptions within the framework of United Nations Economic Commission for Europe (UN/ECE) and to the Global Agreement of 1998 provide further impetus to the work underway on global technical regulations.

#### **Box 4. Harmonisation of technical requirements on motor vehicles**

The work on improving the Internal Market is built upon the introduction of the EC Whole Vehicle Type-Approval System, which allows manufacturers to have a vehicle type approved in one Member State and then be able to market the vehicle in all other Member States without further tests. The system became mandatory for all passenger cars from 1998 and for two and three-wheeled motor vehicles in 1999 and is optional for tractors. The introduction of a similar system for buses and trucks is underway.

Harmonisation of technical requirements on motor vehicles has so far been achieved for three categories of vehicles, namely passenger cars, motorcycles and tractors. The EC Whole Vehicle Type-Approval (WVTA) system applies to passenger cars and to motorcycles on a mandatory basis since 1998 and 1999, respectively. As a result, these categories of vehicles must comply with all the relevant European type-approval directives in order to be placed on the market.

In total, over 90 Directives are in place regulating the construction and functioning of motor vehicles. Three of these directives, so-called framework directives, provide for the general rules applicable to the type approval of motor vehicles, motorcycles and tractors, respectively.

The principle of type approval implies that each authority granting approval for a vehicle, a system, a component or a technical unit is and remains solely responsible for ensuring the conformity of production (COP) during the whole period of validity of the approval.

The approval authority of each Member State must also send to the approval authority of the other Member States a copy of the vehicle type approval certificate together with its attachments for each vehicle type, which it has approved, rejected or withdrawn. The same system applies to component type approvals.

In addition to the EC type approval directives, over 100 Regulations have been developed under the auspices of the UN-ECE Revised 1958 Agreement. A very strong analogy exists between EU legislation and some of these Regulations in terms of their technical provisions. The EC has adopted 78 Regulations to date, most of which are considered to be equivalent to their corresponding EC directives. As a result, type approvals based on these regulations are accepted in the EC as equivalent to type approvals based on the respective separate directives.

### ***Promotion of safety and environmental protection***

In the field of vehicle safety, a number of initiatives have been proposed in the last few years, such as frontal and side impact and rollover stability of buses and coaches. Regarding environmental protection, significant progress has been made in order to reduce pollutant emissions, greenhouse gases and waste. Related to pollutant emissions, a number of initiatives have been put into place as a result of the Auto-Oil Program: a two-step tightening of vehicle emissions limit values for passenger cars and light commercial vehicles, new fuel specifications from 2000 and low sulphur fuels becoming mandatory from 2005, and further reductions of emission levels for heavy-duty vehicles.

### **3.4 Electricity**

Electricity production, import, export and supply have all been opened up to competition. The Finnish legislation relating to electricity regulation is based on the principle of non-discrimination. No distinction is made between national and foreign actors within the sector, and recently foreign companies have been very active in acquiring electricity retailers and local networks<sup>43</sup>. According to an in-depth study of the Finnish energy market by the IEA in 1999, the Finnish power market is a successful example of reform and a transparent model for other countries to study<sup>44</sup>.

Before opening up to competition in 1995, the electricity sector was characterised by vertically integrated local and regional monopolies. Also the operation of the retail market for electricity was based on local electricity works that sold power to consumers in their respective areas. The electricity works operated under a license issued by the MTI. They had the exclusive right to construct distribution networks and retail electricity in their respective operating areas defined in the regional plan prepared by the MTI. At the same time, electricity works were obliged to supply electricity to all consumers within their respective areas. New legislation sought to remove barriers to competition in electricity sales. The central tools in this process were the separation of power sales and grid operations, provision of access to transmission networks for competitors and the obligation of the grid operator to transmit all electricity.

The Electricity Market Act of 1995 fully opened up the production and trade of electricity to competition and subjected the network activities as a natural monopoly to regulation aiming at securing competition. Since 1995, the network companies are obliged to avail their networks to other operators in transparent and non-discriminatory terms. The Electricity Market Act requires the separation of accounts of network services from other operations. In the beginning, only industrial customers (using over 500 kW) were free to choose an electricity supplier, but in 1997 this threshold was abolished and market was opened to all customers.

In 1997, the national grid was separated from the other electricity companies to form a public limited company also controlling the transmission network to neighbouring countries. The Finnish electricity market is not subject to price regulation. Tariffs for electricity are based on competition. The price of electricity has decreased significantly as the result of reform and it is among the lowest when compared to other OECD countries. Since 1997, the Finnish power market has been fully integrated with the Nordic Power Exchange (NordPool), a series of markets for the trading of electricity, incorporating Norway, Sweden, Finland and the western part of Denmark. NordPool, having a market share of 28 per cent, has in practice given a clear price reference also for electricity traded outside the exchange.

Finland has deregulated its energy market faster than most European countries. Price regulation was abandoned at the end of the 1980's, as was power plant construction regulation not subject to permits except for environmental and land use permits. In planning capital expenditures, the Finnish Parliament can only influence the building of nuclear power facilities<sup>45</sup>. In 1995, the Electricity Market Act brought open competition to the electricity market. The aim has been to streamline the operation of power utilities whilst preparing for foreign competition.

A number of authorities are involved in the regulation of electricity markets in Finland. The overall responsibility for preparing electricity and energy-related legislation lies with the MTI. The single most important regulatory authority is the Energy Market Authority, which advises other authorities, companies and consumers on issues related to the Electricity Market Act. The Energy Market Authority, set up in 1995, controls the electricity market on an ex post basis<sup>46</sup>.

At the drafting stage of an amendment to the Electricity Market Act or any other item of new legislation, either a committee or a working group is set up. The same applies to the drafting of amendments to the Regulations of the Government or the MTI. All relevant Ministries and other authorities along with major lobbyist organisations in the electricity sector are represented in these drafting bodies, which also hear experts. After the committee or working group has submitted its final report, extensive consultations with all relevant parties are carried out. All legislative acts are passed by the Parliament.

Expert hearings are organised during the Parliamentary procedure. All Acts of Parliament and Regulations of Government or the MTI are published prior to their entry into force. Due to their involvement in the preparation stage, the relevant parties in the electricity sector are well aware of new legislation as well as new Governmental or Ministerial Regulations. Information is thus duly disseminated.

Today, electricity producers number 120 and network companies 99, of which 10 are regional networks. The state-owned Fortum Oyj produces 40 per cent and the second largest, Pohjolan Voima Oyj, 20 per cent of the total production. The national grid is owned and operated by Fingrid Oyj, whose biggest shareholders are Fortum and Pohjolan Voima with a stake of one-fourth each and the Finnish State with a share of one-eighth<sup>47</sup>. The number of producers and network companies has been falling as a result of restructuring, mergers and acquisitions in the sector. The FCA may block a merger leading to a single network operator having a market share of 25 per cent of the 400-volt distribution network<sup>48</sup>.

## **4. CONCLUSIONS AND POLICY OPTIONS FOR FUTURE**

### **4.1 General assessment of current strengths and weaknesses**

The general policy stance of the Finnish government emphasises the importance of free trade for Finland's economy. Trading partners consider that market principles are deeply embedded in Finland's policies, and that the Finnish market is relatively less heavily regulated because of profound reform over

the last 15 years. Trading partners further state that regulation in general does not pose a problem for operating in Finland, though there may be some market-specific problems. The Finnish Government maintains a favourable attitude toward foreign direct investment. The contribution of Finland to international policy co-ordination such as harmonisation of standards is commendable.

After comprehensive reform of its management system, the Finnish Customs is implementing the regulations cost efficiently and reliably, including focused safety measures against drugs and other illegal trade. As regards the impact of its customs bureaucracy on competitiveness. Finland obtained the highest ranking in 1999 IMD World Competitiveness Yearbook<sup>49</sup>.

Finnish trade policy bodies tend not to be systematically involved in the day-to-day business of regulation-making and regulators are rarely driven by market openness concerns. A Market Access Unit has been established in the MTI especially with the view to assist firms and private persons faced with export and import problems concerning goods or services on the internal market of the EU or markets outside the Union.

The Finnish telecommunications and electricity markets are considered to be successful examples of regulatory reform. Finland was one of first countries to free competition in the telecommunications market. The liberalisation process has not been as difficult as elsewhere because most of the operators have always been privately owned. Regulatory reform created one of the world's most innovative and fully open markets with foreign participation. Major factors behind Finland's advanced telecommunications technology have been data transfer, digitalisation and deregulation leading to vigorous competition, especially between service providers. The prices of voice telecommunications have decreased 20 per cent between 1993 and 2001, and the prices of telecommunications services are among the lowest within the EU.

The telecommunications equipment market is also fully open to foreign competition, and most international manufacturers have established their presence on the Finnish markets. No significant market access problems have emerged, and the Finnish market is transparent and non-discriminatory. The EU rules are implemented widely and promptly.

Finland has deregulated its energy market faster than most European countries. The price of electricity has decreased significantly as the result of reform and it is among the lowest when compared to other OECD countries. Electricity production, import, export and supply have all been opened up to competition. The Finnish legislation relating to electricity regulation is based on the principle of non-discrimination. No distinction is made between national and foreign actors within the sector, and recently foreign companies have been very active in acquiring electricity retailers and local networks.

In regard to automobiles, and as a country with only limited car manufacturing capacity, Finland has greatly benefited from the use of harmonised technical requirements and the EU-wide type approval system. Following Finland's accession to the EU, the harmonised EU regulatory framework has been applied in Finland. Automobiles and components have had no significant market access problems in Finland. The market is transparent and non-discriminatory.

Finland has an informal and consensus-based way of preparing and making decisions. The full participation of social partners seems to function smoothly but may, however well-founded, raise the question of insiders and outsiders. A number of recommendations and guidelines have been issued, especially on impact assessment. In practice however, impact on trade or cost-benefit analysis are not usually one of the numerous required categories to be assessed when regulation is being drafted.

Foreign trading partners have not raised concerns about the Finnish system of consultation, despite the absence of mandatory standardised consultation procedures, as is the case in some other OECD countries. No government body is responsible for supervising the observance of transparency provisions and practices as such. However, transparency constitutes a fundamental part of the Finnish administrative procedure.

There are no specified time limits for administrative or judicial decisions on appeals, but they must be made without undue delay as stated above. Timetables do exist for filing an appeal, however. In exceptional cases, additional forms of redress are available even after appeal deadline. Handling of cartel and market dominance cases neither has time limits.

Foreign experts generally feel that the tax burden and the cost of living are excessively high in Finland. In particular, taxes on alcohol and automobiles are high in comparison to other EU countries. Also the social overheads of hiring workforce are expensive, making entrepreneur start-up and expansion of business less attractive. Despite high unemployment levels, a shortage of skilled labour exists in some speciality sectors. High labour costs have led much of Finnish industry to use labour-saving high technology whenever possible.

Today, most Finnish enterprises pursue fully open competition in a global market area, and a major part of the private sector lies within the scope of open competition. In some sectors of the economy however, the intensity of competition is varied. For instance, competition was not possible in traditionally closed sectors, such as banking, until the 1990s. Also the critical assessment of sectors like public services, which remain protected, continues.

Because of a small market several industries are concentrated. For instance, as a result of a recent consolidation process, the concentration in the Finnish banking services market is high, where the market share of the three biggest companies is around 90 per cent. Trade in daily consumer goods in Finland is dominated by two groups holding together almost 70 per cent of this market. One unique aspect of the Finnish retail sector is the alcohol retail monopoly. The wholly state-owned company ALKO holds a legal monopoly on alcohol retail. Also the market for building materials is fairly concentrated, and a bulk of national technical requirements and regulations exist in this area.

In some cases self-regulatory powers have been delegated by the Finnish Government to certain, or organisations (or the latter have taken such powers upon themselves), as for instance the Helsinki Stock Exchange HEX. The risk exists that such organisations, when in strong market dominance, may use its regulatory powers to distort competition and limit import competition argues for greater scrutiny of activities and submission to a higher standard of openness. Room always exists for discussions as to whether these self-regulating organisations use their powers too strictly with regards to excess entry fees or other administrative barriers to prohibit new companies from entering their networks.

Language might still constitute a trade barrier as regards public procurement. Also technical product specifications must be translated into Finnish when selling technical products to Finland. Such requirements add to costs for foreign rivals in a small market.

The railway sector remains heavily regulated and closed to competition on the basis that Finland is a relatively large country with low passenger traffic. The railway business will most probably turn out to be unprofitable and to persist virtually as a natural monopoly. A technical barrier hampering international competition is the different rail track gauge compared to other European countries.

In regard to public procurement, a typical tendency is that the public buyer and the supplier establish long-term partnerships and commitments in which new entrants face difficulties to intervene. The recession of the early 1990's in Finland helped to achieve a political consensus. In the international environment of today, consensus in Finland works to keep issues in Finnish hands. As regards public procurement, this often means that the larger entities are divided into smaller units in an attempt to avoid international tender competitions, even though this phenomenon is not limited to Finland.

In 2000, state aid in Finland was the highest in the EU in relation to GDP. Finnish agriculture received 70 per cent of these subsidies<sup>50</sup>.

## **4.2 Policy options for consideration**

This section identifies actions that, based on international consensus on good regulatory practices and on concrete experiences in OECD countries, are likely to be beneficial to improving regulation in Finland. They are based on the recommendations and policy framework in 1997 OECD Report to Ministers on Regulatory Reform and a recent analysis of patterns in trade-relevant regulatory practices<sup>51</sup>. They also reflect the principle that regulatory reform is first and foremost in the interest of the domestic economy, but from a market openness perspective it can yield significant benefit for national and foreign stakeholders alike.

### ***1. Enhance transparency and promote consultation in the rule-making process for foreign parties. Ensure better access to the rules of self-regulatory bodies.***

Consultation is currently not mandatory and may not therefore cover all interests. As well as the general proposal in Chapter 2 to establish a mandatory "notice and comment" procedure, particular steps should be taken to ensure that foreign parties have access to, and can provide comments on, draft regulations as early as possible in the process. In particular, consideration should be given to publishing the texts of draft regulations in the Official Gazette and on the Internet, and information on deadlines should be provided.

Rules and agreements issued by self-regulatory bodies should also be more transparent and available to all interested parties.

### ***2. Ensure that the "six efficient regulation principles" for promoting trade and investment are embedded in the key rule-making procedures, and that these procedures include an effective cost/benefit analysis.***

As Chapter 2 explains, Finland has adopted the major elements of the 1995 OECD Recommendation of the Council on Improving the Quality of Government Regulation, but there are significant weaknesses in practice, not least the lack of an effective assessment of costs and benefits of proposed new rules. This should be promoted, and quantified where possible, together with a review of alternatives and an explanation of the regulatory choice that is made. An explicit consideration of anticipated effects on inward trade and investment should be included in the integrated and enhanced RIA proposed in Chapter 2. The Finnish Checklist (which takes up the 1995 OECD Recommendation) and the HELO Instructions (Instructions on the Drafting of Government Proposals) should integrate this. Mechanisms to achieve this more coherent and trade-sensitive approach should be put in place, whilst avoiding an overly burdensome process.

***3. Heighten awareness of and encourage respect for the six efficient regulation principles at the local levels of government in their regulatory and procurement activities affecting international trade and investment.***

There is evidence that the local levels of government lag the centre in the application of quality regulation principles, for example in public procurement. Central and local government institutions should co-operate on this and the centre should promote awareness of the six efficient regulation principles.

***4. Continue to encourage the use of international standards as a basis for national standardisation activities, and to promote international harmonisation in the European and international arenas.***

A strong commitment to efficient and reliable international standards enhances market opportunities for Finnish firms, and benefits consumers too. Finland should continue to work on this not just with others abroad, but within the country. The MTI's Market Access Unit should have a strong trade advocacy role to promote international standards in Finland itself. The building materials sector, in particular, needs attention as it continues to be based on national standards and approvals.

***5. Do more to ensure greater understanding that legitimate policy objectives relating to such areas as health, safety and the environment can be fully achieved without unduly compromising market openness and may in fact be facilitated by trade-friendly regulation.***

A key reason for limiting alcohol supply and imposing high taxes on alcohol beverages has been health policy. In 2004, Finland will have a complicated issue to solve as the transition period negotiated with the EU will come to an end. It will then be obliged to deregulate all quantitative import restrictions on alcohol. At the same time, Finland has to decide in favour of lower import duties and domestic taxes imposed on alcohol. The health concern is also related to alcohol imports from neighbouring Estonia, which has significantly lower prices, and will join the EU in March 2004. Health and safety policy objectives have also traditionally been reasons for limiting and regulating sales of pharmaceuticals. Excess domestic building regulation standards, and also the circulation system for beverage bottles may be causing market openness problems.

***6. Make sure that competition policy and advocacy continue to be strongly promoted, given their importance for market openness.***

The further commercialisation of state-owned enterprises and the extension of commercialisation to local public services are planned or underway. This means that issues of potential market dominance and anti-competitive behaviour arising from the presence of state-owned entities in the market will remain and could even grow. Competition policy enforcement and advocacy are important, not to say essential, tools in dealing with these issues, in order to secure effective market access (not least for foreign firms). The 1989 directive requiring prior consultation with the FCA about proposals that could impair competition should be reissued. Regulations that constrain competition may sometimes be necessary, but their effects and tradeoffs should be understood clearly, and an effort should be made to achieve goals in ways that do not impair competition.

Compared to other OECD countries, commitment to competition and regulatory reform research seems to be an area of improvement in Finland. For instance, the competition authority (FCA) has no special state budget allocations for research, nor is there any university-based interdisciplinary competition faculty or institute. However a competition institute was established in Turku in late 2002.

**7. Continue efforts to promote inward foreign direct investment and examine the reasons why it is relatively low.**

Inward Foreign direct investment (FDI) is relatively low compared to some other OECD countries. It may be disadvantaged by structural and other issues that are not directly related to trade policy, including the small size of the Finnish market and its peripheral location in relation to the EU market. Foreigners generally feel that the tax burden and cost of living are excessively high relative to other EU countries, and that the social overheads of maintaining a workforce are too high. Skilled labour is also in short supply. However there are no plans to cut corporate taxes which would make the business environment more attractive. The reasons for the relatively low rate of inward FDI could usefully be examined.

**ANNEX I. FINLAND: BILATERAL INVESTMENT PROTECTION TREATIES**

<b>Country</b>	<b>Date of Signature</b>	<b>Date of Entry into Force</b>	<b>Publ.No.</b>
Egypt*	5 May 1980	22 January 1982	3/1982
China*	4 September 1984	26 January 1986	4/1986
Malaysia	15 April 1985	3 January 1988	79/1987
Sri Lanka	27 April 1985	25 October 1987	54/1987
Hungary	6 June 1988	12 May 1989	20/1989
USSR (-> Russia)*	8 February 1989	15 August 1991	58/1991
+ Protocol of Changes	4 May 1996	13 May 1999	57/1999
Czechoslovakia (-> Czech Republic, -> Slovakia)	6 November 1990	23 October 1991	73/1991
Estonia	13 February 1992	2 December 1992	104/1992
Latvia	5 March 1992	7 December 1992	5/1993
Romania	26 March 1992	6 January 1993	121/1992
Ukraine	14 May 1992	30 January 1994	6/1994
Lithuania	12 June 1992	8 January 1993	119/1992
Kazakhstan	29 September 1992	14 February 1998	20/1998
Uzbekistan	1 October 1992	22 October 1993	74/1993
Belarus	28 October 1992	11 December 1994	89/1994
Turkey	13 May 1993	23 April 1995	29/1995
Chile	27 May 1993	1 May 1996	23/1996
Viet Nam	13 September 1993	2 May 1996	27/1996
Republic of Korea	21 October 1993	11 May 1996	25/1996
Argentina	5 November 1993	3 May 1996	21/1996
Thailand	18 March 1994	18 May 1996	35/1996
Brazil	28 March 1995		
Peru	2 May 1995	13 June 1996	33/1996
Moldova	25 August 1995	21 June 1997	42/1997
Kuwait	10 March 1996	21 May 1997	32/1997
United Arab Emirates	12 March 1996	15 May 1997	22/1997
Indonesia	13 March 1996	30 May 1997	34/1997
Poland	25 November 1996	11 March 1998	28/1998
Albania	24 June 1997	20 February 1999	16/1999
Lebanon	25 August 1997	12 January 2000	4/2000
Oman	27 September 1997	20 February 1999	18/1999
Bulgaria	3 October 1997	16 April 1999	50/1999
Philippines	25 March 1998	16 April 1999	52/1999
Slovenia	1 June 1998	03 June 2000	37/2000
Republic of South Africa	14 September 1998	03 October 1999	8/2001
Mexico	22 February 1999	30 August 2000	54/2000
Croatia	01 June 1999		
Bosnia and Herzegovina	01 November 2000	08 December 2001	77/2001

Macedonia	25 January 2001		
Ecuador	18 April 2001	16 December 2001	79/2001
Tanzania	31 August 2001		
Morocco	01 October 2001		
Tunisia	04 October 2001		
Qatar	12 November 2001		
Dominican Republic	27 November 2001		
Costa Rica	28 November 2001		
Cuba	17 December 2001		

Situation: 19 December 2001

Source of information: Ministry for Foreign Affairs, Department for External Economic Relations

## Annex II. Bilateral Trade and Co-operation Agreements

FINLAND	Iran	Trade Agreement	09.06.1976
	Japan	Trade and Navigation Agreement	07.06.1924
	China	Long-term Trade Agreement	11.06.1982
	Pakistan	Trade Agreement	12.10.1962
	Kazakhstan	Agreement on Trade and Economic Co-operation	29.09.1992
	Ukraine	Agreement on Trade and Economic Co-operation Navigation Treaty	14.05.1992 03.04.1974
	Uzbek Republic	Agreement on Trade and Economic and Technological Co-operation	01.10.1992
	Belarus	Agreement on Trade and Economic Co-operation	20.05.1992
	Russian Federation	Agreement on Trade and Economic Co-operation Navigation Treaty	20.01.1992 03.04.1974
	Vietnam	Trade Agreement	09.01.1978
	US	Friendship, Trade and Consular Relations Treaty	13.02.1934

### ANNEX III

#### FOREIGN-OWNED COMPANIES\* BY COUNTRIES, TURNOVER AND EMPLOYEES IN 1999

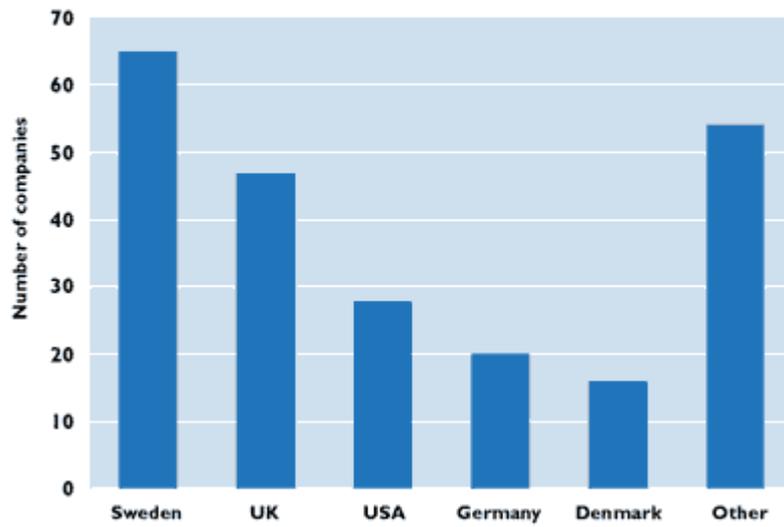
Country	Number of companies	Turnover total FIM mill.	Number of employees
Sweden	509	56 281	38 309
USA	258	36 269	19 572
Netherlands	142	19 147	13 371
Switzerland	87	16 220	13 323
Norway	79	15 741	12 098
Great Britain	114	13 569	9 733
Japan	34	12 586	4 751
Denmark	144	12 380	14 424
Germany	117	11 077	6 640
Russia	20	9 098	907
France	55	5 086	5 243
Others	82	7 289	6 142
Total	1 641	214 742	144 512

Source: Statistics Finland

\*Foreign ownership over 50% excluding branches

## ANNEX IV

NEW FOREIGN COMPANIES AND ACQUISITIONS IN 2001 BY COUNTRY

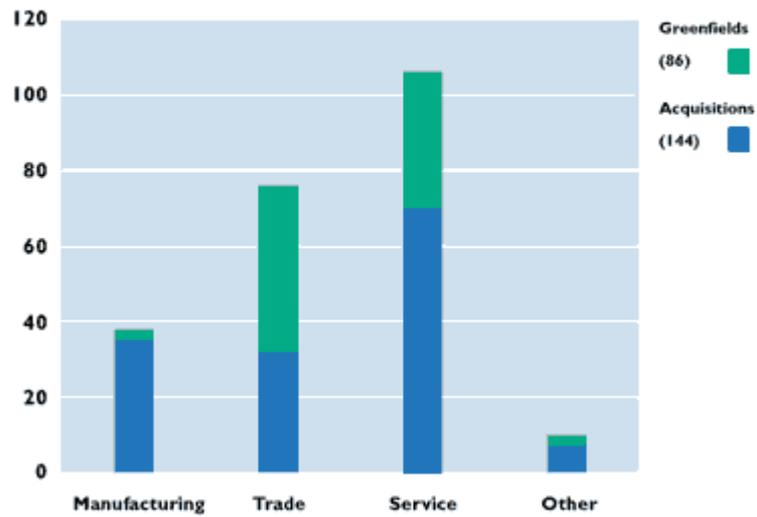


Total number of companies 230

Source: Invest in Finland

## ANNEX V

### NEW FOREIGN COMPANIES AND ACQUISITIONS IN 2001 BY SECTOR



Total number of companies 230,  
of which 46 ICT and 9 HC related.

Source: Invest in Finland

**Annex VI. Protocols to the Europe Agreements on Conformity Assessment and  
Acceptance of Industrial Products (PECAs)**

**Summary of negotiations and adoption procedures**

<b>Country</b>	<b>Opening of negotiations</b>	<b>Initialling</b>	<b>Signature</b>	<b>Adoption by Council</b>	<b>Publication in Official Journal</b>	<b>Entry into force</b>
<b>Hungary</b>	07.1997	10.07.2000	26.02.2001	04.04.2001	OJ L 135 of 17.05.2001	01.06.2001
<b>Czech Republic</b>	07.1997	10.07.2000	26.02.2001	04.04.2001	OJ L 135 of 17.05.2001	01.07.2001
<b>Latvia</b>	10.1998	10.07.2000 (framework only) 04.04.2001 (annexes)	21.05.2002			
<b>Estonia</b>	10.1998					
<b>Lithuania</b>	02.2001	07.2001	21.05.2002			
<b>Slovakia</b>	02.2001					
<b>Slovenia</b>	05.2001	30.04.2002				
<b>Poland</b>	Formal request received 10.2001					
<b>Malta</b>	Formal request for PECA type agreement received 04.2002					
<b>Romania</b>	Formal request possible 2002					
<b>Bulgaria</b>	Formal request received 04.2002					
<b>Cyprus</b>						

Source: [http://europa.eu.int/comm/enterprise/regulation/pecas/pecas\\_negotiations.htm](http://europa.eu.int/comm/enterprise/regulation/pecas/pecas_negotiations.htm)

**Annex VII. Protocols to the Europe Agreements on Conformity Assessment and Acceptance of Industrial Products (PECAs)**

**Sectoral coverage**

<b>Sector / Country</b>	<b>CZ</b>	<b>HU</b>	<b>LV</b>	<b>EE</b>	<b>LT</b>	<b>SK</b>	<b>SLO</b>	<b>PL</b>	<b>BG</b>	<b>RO</b>	<b>ML</b>	<b>CY</b>
Electrical safety	C	C	I	P	I	P	I					
Electromagnetic compatibility	C	C	I	P	I	P	I					
ATEX	C	P				P	P					
Machinery	C	C	P	P	I	P	I					
Lifts	C		P	P	I	P						
Personal protective equipment	C		P		I	P	P					
Radio & telecommunications terminal equipment	P	P				P						
Gas appliances	C	C		P		P	I					
Simple pressure vessels	C	P	P	P	I	P						
Pressure equipment	C	P	P	P								
Medical devices	P	C				P						
Active implantable medical devices	P	C				P						
In vitro diagnostic medical devices						P						
Good manufacturing practice for medicinal products	C	C	P			P						
Good laboratory practice for medicinal products	P	C										
<b>Sector / Country</b>	<b>CZ</b>	<b>HU</b>	<b>LV</b>	<b>EE</b>	<b>LT</b>	<b>SK</b>	<b>SLO</b>	<b>PL</b>	<b>BG</b>	<b>RO</b>	<b>ML</b>	<b>CY</b>
Good laboratory practice for chemicals	P											
Construction products			I	P								
Hot water boilers	C	C				P						
Refrigerators and freezers						P						
Explosives for civil use	P					P						
Measuring instruments	P											
Non-automatic weighing instruments	P					P						
Prepackaging	P											
Toys		P	I	P		P						
Recreational craft						P						
Cableways						P						
Marine equipment						P						

**C** - sectors included in PECAs that have been concluded by the Council

**I** - sectors initialled by the Commission but not yet adopted

**P** - sectors proposed or under negotiation

Source: [http://europa.eu.int/comm/enterprise/regulation/pecas/pecas\\_sectors.htm](http://europa.eu.int/comm/enterprise/regulation/pecas/pecas_sectors.htm)

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## NOTES

1. Source: The Finnish Customs Authority.
2. In August 2002, Transparency International (TI), an international organisation combating corruption, ranked Finland first on their list of least corrupt countries in the world.
3. See: Castells, Manuel – Himanen, Pekka (2002); The Finnish model of the information society, Sitra Reports series 17, Vantaa, and Linn, Johannes (2002): The Dangers of Too Little Knowledge, column in Helsingin Sanomat, 11 March 2002.
4. Deregulation of operators opened competition in the field of telecommunications equipment, previously controlled by national telecom monopolies. Analog communications technology gradually gave way to digital technology, enabling operators to offer a host of new services and creating a steadily expanding market. The pan-European GSM cellular phone standard networks first introduced in 1991 grew rapidly both in geographical scope and in functions offered. See: Häikiö, Martti (2002).
5. Finland is the most competitive country in the world - at least according to a report by World Economic Forum (WEF 2001, [www.weforum.org/gcp](http://www.weforum.org/gcp)). The other Swiss authority on competitiveness, the International Institute for Management Development (IMD, 2001 [www.imd.ch/wcy](http://www.imd.ch/wcy)) ranked Finland as 3rd, right after the United States and Singapore. In 1993, Finland was ranked at its low point as 25th. See also Foreign Policy Magazine No 1/2002, <http://atkearney.com/>.
6. A recent PISA (Programme for International Student Assessment) survey carried out by the OECD illustrated the Finnish educational system as the best among the 28 OECD countries and 4 other countries, OECD 2002. Finland is the most competitive country in the world - at least according to a report by World Economic Forum (WEF 2001, [www.weforum.org/gcp](http://www.weforum.org/gcp)). The other Swiss authority on competitiveness, the International Institute for Management Development (IMD, 2001 [www.imd.ch/wcy](http://www.imd.ch/wcy)) ranked Finland as 3rd, right after the United States and Singapore. In 1993, Finland was ranked at its low point as 25th. See also Foreign Policy Magazine No. 1/2002, <http://atkearney.com/>.
7. Sources: 500 Survey and Statistics, Talouselämä No. 20/2002, and Invest in Finland Bureau; [www.investinfinland.fi](http://www.investinfinland.fi)
8. Finland also decided to join the founding members of the European Monetary Union (EMU) and adopted the euro as its currency as of the beginning of 2002.
9. See European Commission homepages: <http://www.europa.eu.int>; DG Internal Market; Update on the Internal Market; IM Scoreboard; related documents.
10. Source: Bank of Finland Statistics. In 1983, the share of Finland's bilateral trade with the Soviet Union was at its highest at 26 per cent.
11. See: Häikiö, Martti (2002): Nokia – The Inside Story, Helsinki.
12. A counter stream decision against this positive trend of market openness was made by the Parliament in 1991 when it awarded the state-controlled RAY (Finnish Slot Machine Association) exclusive rights to carry out all casino game activities in Finland. The decision was originally made on the basis of fiscal reasons to provide funds for the promotion of public health and welfare, but the Government Bill (No. 275/1990) stated with an unfortunate choice of words: "The legal monopoly does not discriminate against anybody because there are no casino game operators in the market". See: The Act on Casino Game Activity (No. 518/1991) and the Lotteries Act (No. 1047/2001).

13. Needs-testing means an arrangement whereby the authority has power to assess whether there is a need for additional operators in the market and grants licences according to this consideration.
14. Since 1923, the University of Helsinki had a legal monopoly of publishing and selling calendars in Finnish and Swedish languages in Finland.
15. See: Schienstock, Gerd – Hämäläinen, Timo (2001): Transformation of the Finnish innovation system, A network approach, Sitra Report series 7, Helsinki.
16. See: Patjas, Martti (2002): Maatalouden tukijärjestelmien merkitys Suomessa ja EU:ssa (Importance of Agricultural Subsidies Systems in Finland and in the EU), PTT:n raportteja n:o 183, Helsinki.
17. OECD Economic Surveys: Finland 2001-2002, (Vol. 2002, no. 2, December 2001).
18. In 1995, the two largest commercial banks (SYP and KOP) merged to establish Merita Bank. In 1997, the state-owned bank Postipankki acquired Finnish Export Credit and formed a new group named Leonia Bank, which in 2001 merged with the private insurance company Sampo. In 1997, local cooperative banks created the OKO Banking Group; some of them broke rank however and established a group of local cooperative banks with Aktia Saving Bank acting as the group's central financial institution. In 1997, Merita Bank and Nordbanken (one of the biggest Swedish commercial banks) merged to form MeritaNordbanken, later renamed as Nordea.
19. The European Commission cleared merger between Telia and Sonera subject to conditions and obligations, case M2803, 10.07.2002.
20. Ministry of Finance: Product and Capital Market Reforms in Finland (Cardiff Report), November 2001, Helsinki, <http://www.vn.fi/vm/english/national-economy/cardiff/cardiff01.pdf>
21. Finnish Competition Authority is currently investigating cartel allegations in asphalt road construction. Dawn-raids were carried out in March 2002.
22. See in particular Case Number 2001/4579, European Commission, DG Internal Market.
23. <http://europa.eu.int/comm/dg03/tris/>
24. The procedure was established by a December 1995 Decision of the European Council of Ministers and the European Parliament (Decision 3052/95) and came into effect on 1st January 1997.
25. Clause for Regional Economic Integration Organisations (REIO clause) means an organization of sovereign States which have committed themselves to abolish in substance all barriers to investment among themselves and to which these States have transferred competence on a range of matters within the purview of the agreement in question, including the authority to adopt legislation and to make decisions binding on them in respect of those matters. MFN clause shall not prevent a Contracting Party which is a Member State of a REIO from according more favourable treatment to investors and their investments from other Member States of the organization as a result of the measures applied within the framework of that organization than it accords to investors and their investments from other Contracting Parties.
26. However, EU has a pilot programme called Business Test Panel to test how companies deem the new EU provisions (some 3000 European companies are involved). It seems that the national panels will be set by the end of 2002, and the political agreement on this panel is awaited in one of the forthcoming EU Council meetings.
27. Source: Ministry for Foreign Affairs, [www.formin.fi](http://www.formin.fi)

28. Source: [www.imd.ch](http://www.imd.ch), Institutional Framework – State Efficiency 2.3.17. Top rankings: Finland 8.750, Hong Kong 8.381, Denmark 8.338, Sweden 8.242, Austria 8.000.
29. Source: [http://europa.eu.int/comm/enterprise/regulation/pecas/pecas\\_sectors.htm](http://europa.eu.int/comm/enterprise/regulation/pecas/pecas_sectors.htm)
30. In this case, the company in a dominant position changed its discriminating rebates policy after consultation with the FCA.
31. Source: Finnish Competition Authority (FCA). The FCA has annually issued several initiatives to deregulate Finnish Markets.
32. Today, the formal process for consultation with the FCA about how regulatory proposals affect competition, dating from 1989, appears to have fallen into disuse. Perhaps this is because other governmental bodies do not understand clearly how their proposals could affect competition, and because consultation requirements are seen as a directive of a different Government.
33. European Commission, DG IV Competition, MTF Statistics 2002.
34. For example, see the Volvo-Scania merger case in which the European Commission applied allegedly strict market definitions in the prohibition decision. Case no. COMP/M1672 Volvo-Scania. Commission decision of 15.03.2000 under Article 8(3) of Regulation (EEC) no. 4064/89.
35. The Finnish Competition Authority concluded in 2001 that HEX occupied a dominant position as an up-keeper and service provider of the public stock trading system in Finland. The case is currently pending at the Market Court.
36. In 2002, the HEX has 45 Trading Members, 27 of them are foreign companies operating outside Finland.
37. Recent purchases of UMTS licences and related acquisitions have swelled the total debts of euro 240 billion by the European teleoperators.
38. Ministry of Transport and Communications, 11 March 2002. <http://mintc.fi>
39. See: Häikiö, Martti (2002): Nokia – The Inside Story, Helsinki.
40. Nokia's market share is assessed to be about 75% in the Finnish mobile phone market.
41. Source: [www.ficora.fi](http://www.ficora.fi).
42. [www.europa.eu.int/comm/enterprise/automotive/index.htm](http://www.europa.eu.int/comm/enterprise/automotive/index.htm)
43. Today German, French, British and Swedish energy companies are well established throughout Finnish energy markets. Through their enormous war chest collected from monopolistic markets, the French and German are the leaders in acquisition pricing all over Europe and are, of course, now aiming to take control of the external borders of the EU markets. In the Nordic markets, they can gain experience on how to operate under efficient competitive conditions. The Finnish business society heavily criticises that especially companies originating from those EU Member States that have succeeded in postponing the opening up of the European-wide electricity markets are the most successful in gaining new victories and increasing their market positions everywhere in the EU. One of the most successful has lately been the French monopoly Electricité de France. See: Vuoria, Matti (2001): Comments to the Presentation of Mr Mario Monti.
44. International Energy Agency: Energy Policies Finland: 1999 Edition, June 1999, vol. 1 no. 6.

45. Parliament approved the construction of a fifth nuclear power plant in 2002.
46. Energy Market Authority, <http://www.energiamarkkinavirasto.fi>
47. Ministry of Trade and Industry, Energy Department, [http://vn.fi/ktm/3/3\\_35.htm](http://vn.fi/ktm/3/3_35.htm)
48. The Market Court may, upon the proposal of the Finnish Competition Authority, also ban a concentration in the electricity market as a result of which the combined share of the transmission operations of the parties to the concentration and the entities of facilities in such a relation to them as described under 11b(1)-(3) of the amount of electricity transmitted at 400V in the transmission grid exceeds 25 per cent on a national level (Article 11 d of the Finnish Act on Competition Restraints).
49. See note number 19.
50. Source: EU Statistics, Startel 2002.
51. See: OECD (2002): An Analysis of Patterns in Trade-Relevant Regulatory Practices.