

C.E.D.R.



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**XXV European Congress and Colloquium of Agricultural Law
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Commission III

**National Report – Rapport national – Landesbericht
Finland**

Scientific and practical development of agricultural law in the EU, in countries and in the WTO – Développement scientifique et pratique du droit rural dans l'UE, dans les pays et dans l'OMC – Wissenschaftliche und praktische Entwicklung des Rechts des ländlichen Raums in der EU, in den Ländern und in der WTO

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XXV. European Congress and Colloquium of Agricultural Law Cambridge – 23 to 26 September 2009

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Report for Finland

Matti Vilander

Scientific and practical development of rural Law in the EU, in States and regions and in the WTO

1 General remarks

1.1 Facts about Finnish Agriculture

Finland is the most rural country in the whole EU with long distances and high production costs. Roughly 27 % of the population of 5,3 million live in rural heartland areas and sparsely populated rural areas. Compared to the other European countries the population density is very low in Finland. About 80 per cent of the surface area is rural heartland area or sparsely populated rural area. Roughly 6 % of the total Finnish workforce works in primary production. Agriculture is an important employment sector and together with the rest of the food chain employs directly or indirectly over 300 000 people.

As the trade barriers increase countries with low production costs will be beneficiaries. Finland lies at the other end in this comparison. After Finland joined the EU in 1995 and became part of the open market structural change has accelerated. While competing in the open market with small yields, high production costs and low production prices Finnish farm production is highly dependent on direct subsidies and other financial incentives such as investment aid.

1.1.1 Farm Structure

The number of farms was at the top (over 300 000 farms) in the beginning of the 1960'ies. Strong need to improve structural development was inevitable and the first early retirement scheme came into force in 1974. In year 1994 there were 120 862 farms over 2 ha. In 1995 which was the first year in the EU there were about 95 600 farms (over 3 ha) that got area and/or animal based subsidies. In 2007 the number of farms had dropped to 66 800 active farms. According to different estimates the number of farms will continue to decrease continuously so that by the year 2015 some 30 percent - in some parts of the country even 40 percent of farms will stop farming.

The total area under cultivation has remained almost the same during the last decades. In year 2007 it was 2.28 million ha. As the number of farms decreases the average size of farms has accordingly

increased. In 2007 the average farm size was approximately 33,5 ha. Only 20 % of all farms are over 50 ha and only roughly 4 % of farms are over 100 ha. Despite of rapid structural development Finnish farms are still small by European standards.

Finnish agriculture is based on family farms. In 2007 private persons owned 88.4 % of farms, estates and family companies 10.4 %, corporations, foundations and cooperatives 0.8 % and the state, municipalities and parishes 0.1 %. On average, a working farmer is 50 years of age. Shortage of skilled farm labour may soon become a real problem.

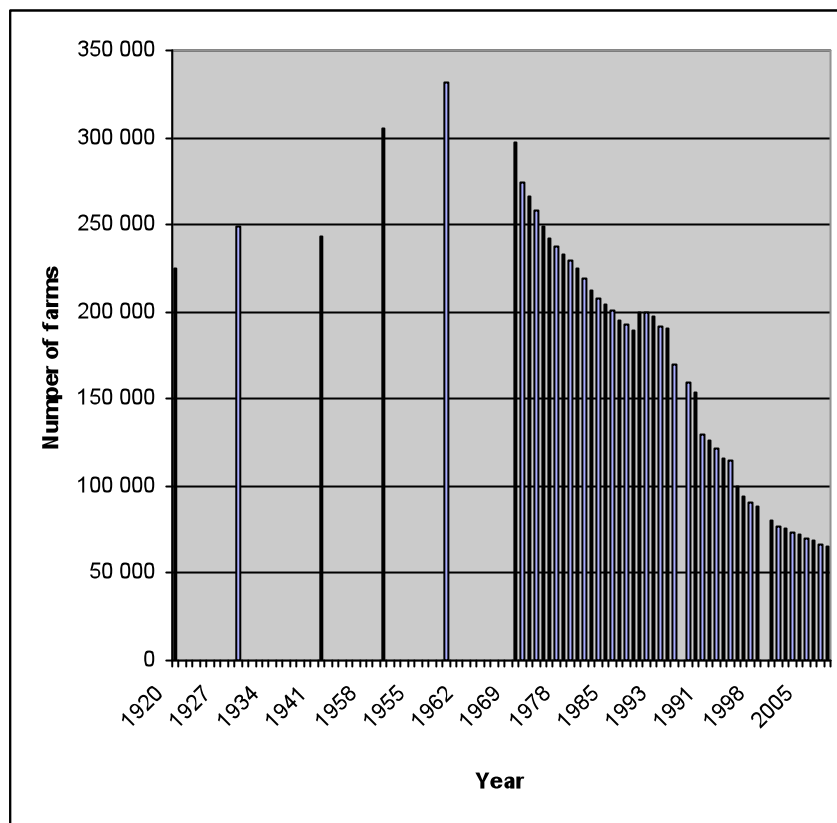


Figure 1. The number of farms 1920 – 2007¹

1.1.2 Rural Policy

Because rural policy is a rather new policy sector, the approaches to it vary in different countries and supranational organisations. The agriculture oriented rural development of the EU represents rural policy thinking where the countryside is seen as a space dominated by agriculture, which can be developed through financial aid to farming. The regional perspective dominates the structural fund policy of the EU. The countryside is easily considered as the underdog, a weak actor and a recipient of the impacts of the global operating environment on regional economies, which cannot take action to shape these.²

¹ Information Centre of the Ministry of Agriculture and Forestry, Number of Farms 1920-2007, statistical report 26.1.2007.

² A Viable Countryside – Ministries' Responsibilities and Regional Development, Special Rural Policy Programme 2007–2010, see: <http://www.maaseutupolitiikka.fi/index.phtml?s=211>.

The operational environment of agriculture is determined by natural conditions, market development, policy actions and technological development. The development in international and EU level has been continuous. Rural operators and especially farmers may rightly argue that this development has been too unpredictable when one tries to make his/her plans for the future.

1.1.3 Vitality of rural areas

The vitality of rural areas is of great importance for whole Finnish society. On the long run rural vitality will be increasingly dependent on new kinds of rural industries such as bio-energy production, secondary production of wood and food, handicraft, tourism and services. It is notable, how farmers and also other entrepreneurs in the countryside today are increasingly dependent on information technology such as broadband connections³.

No single uniform model of rural development is imposed on the whole country, but the actions are founded on the specific strengths of the regions. The remote areas, in particular, need carefully designed and targeted development actions to stay viable. The countryside needs collective development actions and individual entrepreneurs, as well as collaboration between the two. The Rural Development Programme for Mainland Finland 2007–2013 (see below) takes into account regional priorities and differences.

1.2 European Rural Network and National Rural Policy Committee

The primary objective of Finnish rural policy is to improve the preconditions for living in the countryside. Rural areas must be diverse and viable in terms of industries, services and the population basis. Finnish rural policy is founded on broad cooperation and networking. Cooperation between the actors is being constructed on the national, regional and local level as well as across these. A network of action groups and village communities is strongly rooted in almost all parts of the country.⁴

The European **Rural Network** and its Finnish **National Network Unit**⁵ represent new European tools for rural development. The purpose of this network is to improve the exchange of information and contacts between rural developers.

At least as important as the National Network Unit is national cooperation body called **Rural Policy Committee**, which aims to promote the well-being of rural areas in various ways. The Finnish Government appoints the Rural Policy Committee. More than 500 persons from seven ministries and several public and private organisations participate in its work.

³ Finnish Government made 4.12.2008 a decision in principle for nationwide broadband project concerning existing broadband infrastructure improvements and new construction of broadband infrastructure throughout the country including sparsely populated rural areas. The funding of this project is in line with European Economic Recovery Plan (Council Regulation (EC) No 1698/2005, Article 16a, Article 52, paragraph b, subparagraph I, Article 56 and Article 69, paragraph 5a of Annex II and III; Commission Regulation (EC) No 1974/2006 Annex II). This project is recently added to the Rural Development Programme for Mainland Finland 2007-2013. However, EU Commission has not yet accepted this amendment.

⁴ In the programming period 2007 – 2013 there are 55 local action groups in Finland, which is one of the leading countries in Europe in this type of work. Active village residents have set up about 2 800 village associations. The development of rural industries is supported under various kinds of regional development projects. The projects aim to promote the networking of companies and prepare for future challenges. Rural residents are encouraged to local cooperation.

⁵ See more: <http://www.rakennerahastot.fi/rakennerahastot/en/index.jsp>.

Rural Policy Committee promotes rural development with rural policy programmes. These programmes act as an umbrella. The priorities of Finland's national rural policy support, from the national perspective, the objectives set at the Community level according to Council Decision on Community Strategic Guidelines for Rural Development (2006/144/EC). Therefore, one can say that in Finland rural development programs are placed under this one large rural policy umbrella.

1.3 Rural Policy and Development Programmes

1.2.1 Rural Policy Programmes

The first Finnish Rural Policy Program was made in 1991, focusing in particular on the alleviation of structural problems and vitality. Next rural policy program "Vital Countryside" was completed in 1996 and placed particular emphasis on networking and the local and sub-regional development. Third program "Human countryside" was completed in 2001. It emphasized broad rural policy instruments, and was clearly more political than its predecessors. Fourth Rural Policy Program "Living Countryside - our Shared Responsibility" was completed in 2004 and, like its predecessor it focused on a broad emphasis on rural policy issues.

Fifth (2009-2013) program "Countryside and Well-Off Finland" points out the necessity of methodological and structural changes of rural policy.

1.2.2 Rural Development Programmes

The EU establishes the general rural development objectives also for the national programmes. Some of the rural development programmes are part-funded by the EU and some are funded nationally. When Finland joined the EU in 1995 the first Finnish rural development programme for years 1995-1999⁶ was made. The second development programme covered the years 2000-2006⁷. Åland, which is an autonomous part of Finland, has rural development programmes⁸ of its own. The third development programme, Rural Development Programme for Mainland Finland 2007-2013⁹ has four axis:

⁶ More information about the two first programmes at <http://www.lande2000.fi/index.html> (in Finnish only).

⁷ The programme 2000-2006 contained EU regional policy objectives 1, 2 and 3 as well as LEADER+, INTERREG, EQUER and URPAN measures. The instruments during the EU programming period 2000-2006 were the state-funded or partly EU-funded Rural Development Programmes such as LFA and agro-environmental measures. Within this 6 year period:

- Seven regional and Community initiative programmes were implemented in Finland for this six-year period, under which more than 20,000 projects and business aid measures were implemented.
- The Eastern and Northern Finland Objective 1 programmes, the Regional Rural Development Programme (ALMA) and the Programme for Southern and Western Finland (ELMA) all used very similar instruments. The EU co-financed ALMA programme operated outside the Objective 1 areas, and its work was continued by the nationally funded ELMA programme.
- The work of local action groups (LAGs) was based on fundamental grassroots principles. LAG work was implemented with funding from LEADER+, POMO+, Objective 1, ALMA and ELMA. Furthermore, the INTERREG III projects created functional partnerships beyond Finland's borders.

⁸ See more about Ålands program 2007-2013:

http://www.regeringen.ax/naringsavd/jordbruksbyran/LBU_2006_2013.pbs.

⁹ See in detail: Rural Development Programme for Mainland Finland 2007-2013, Ministry of Agriculture and Forestry 8b/2007 (unofficial English translation in full) at

http://www.maaseutu.fi/attachments/verkostoyksikko/5HIIgw48E/YLEIS_verkkopdf_eng.pdf and the summary of it http://www.maaseutu.fi/attachments/verkostoyksikko/5HIIgw48E/YLEIS_verkkopdf_eng.pdf. Official up-to-date program document are available only in Finnish (CCI 2007 FI 16 UNS 001) at http://www.rakennerahastot.fi/rakennerahastot/tiedostot/asiakirjat/rakennerahastostrategia_30072007.pdf.

- The first axis includes among other measures: aid for young farmers, training for agricultural and forestry producers, agricultural investments as well as development of agricultural, forest and bio-energy sectors.
- The second axis includes LFA payments, subsidies for Natura 2000 areas (LFA), agri-environment measures and animal welfare.
- The third axis contains e.g. diversification and development of farms and other rural micro-enterprises, rural tourism development and development of rural services and villages.
- The fourth axis contains LEADER group measures (objectives 1-3) as well as local, regional and international cooperation.

1.2.3 OECD Review of Finnish Rural Policy

According to the OECD review 2008¹⁰, **Finland has developed quite a unique way of making rural policy**. The special strength is the long-term cross-sectoral working method that Finland has been implementing as one of the first countries in the world. The key issues in the future well-being of the Finnish rural areas are increasing the equitability and efficiency of public services, ensuring the competitiveness of rural enterprises that are not connected to farms, and improving the environment for business operations in the countryside. The place that rural policy has earned in Finland is largely thanks to the Rural Policy Committee (RPC), installed as Rural Development Project since 1988, but not recognised by law until 2000¹¹.

The OECD report suggest that the cross-sectoral collaboration could be furthered by giving **more institutional strength to rural policy outside the sectoral structures** of the government, in order to better address the rural policy actions of different administrative sectors and public bodies. The analysis of the Finnish case "evidences the need to look not only at *the place that rural policy occupies* within the Government but also at the legitimacy that rural policy has "earned" among the different actors involved in rural affairs including politicians, government officials at all levels, academia, as well as among the rural population and its organised civil society. Notwithstanding, the place of rural policy occupies within the Government is still a second best solution. Originally framed within regional policy and highlighting its cross-sectoral dimension it is currently framed under the Ministry of Agriculture and Forestry influenced by EU rural policy, facing as other countries in that situation, a tension of competing priorities and constituencies between agricultural and rural policy".

2 Main legal developments in recent years, including the WTO, EU and national law

2.1 Rural economic law and rural structure law

2.1.1 Farm support

Support payments to Finnish agriculture and horticulture are founded on the support schemes of the EU's common agricultural policy (CAP). The most significant payment schemes are those funded in full by the EU direct payments i.e. the single payment scheme (SPS) and natural handicap payments (LFA) as well as agri-environmental support part-funded by the EU. The purpose of the natural

¹⁰ OECD Rural Policy Reviews: Finland, published the 17 of April 2008. See more:

http://www.oecd.org/document/46/0,3343,en_33873108_33873360_40462382_1_1_1_1.00.html

¹¹ Paragraph 100 of the Governmental Act on Rural Development 609/2000.

handicap payments is to compensate for the handicap due to less favoured natural conditions, while environmental support is paid to promote the biological diversity and management of agricultural landscapes. These schemas are supplemented with national aids, such as the national aid for southern Finland and northern aid (based on Articles 141 and 142 of the Finland's Accession Treaty).

2.1.2 Structure development

The most important rural development legislation consist of acts on Rural Financing (329/1999)¹², Administration of Rural Development Programmes (532/2006), Rural Development Aid (1443/2006¹³), Support for Farm Structure Development (1476/2007), Rural Development and Food Research Financing (1477/2007) and on Farm Closure (61/2006). Lower level regulations worth mentioning are government regulations on Agricultural Investment Support and Young Farmer Starting Aid 299/2008 and Agricultural Investment Focus in 2009 (649/2008).

The program based development measures (Act 532/2006) are predominantly financed by MAKERA¹⁴, which is an independent fund outside state budget. MAKERA is placed in the Ministry of Agriculture and Forestry but has its own board of members, which is nominated by the Government. Per year MAKERA uses roughly 150 million € for structure development aid¹⁵.

2.1.3 Family farm succession and farm structure

The materialisation of successions is dependent on economic policy, producer prices and agricultural subsidies. Since Finland joined the EU and producer prices dropped, the number of successions fell significantly.

The Code of Inheritance (40/1965) has basic rules of distribution of an estate comprising agricultural property. A suitable agricultural successor has the right to demand that a viable farm belonging to the decedent's estate be allotted undivided and into his or her share of the estate. If a suitable agricultural successor is allotted a farm, real property or a part of real property is valued and the successor shall compensate, in money, the other heirs or universal beneficiaries with an amount corresponding to their shares or the shortfall thereof.

Until 1974 the successor got subsidised state guaranteed loan to pay other heirs their share of farm. This loan was provided for the successor if the farm was sold to successor when a waiver retired. Since 1974 succession is promoted with succession subsidy schema¹⁶ the main instruments of which were **investment aid scheme** and **early retirement scheme** and later on also **young farmer schema**¹⁷ (see below).

¹² This act (1443/2006) has been amended several times and parts of it has been replaced with new legislation such as acts 532/2006 and 1476/2007.

¹³ Investment support can be granted to juristic person or natural person who is 18 years old but less than 63 years old at the moment of applying investment support.

¹⁴ Act (657/1966) on Rural Development Fund (MAKERA) has been amended several times to meet the changing requirements. MAKERA originates from Resettlement Fund (Act 333/1936). After the Second World War the National Resettlement Board (predecessor of National Board of Agriculture that was disestablished in 1992) used Resettlement Fund to resettle some 450 000 migrants most of whom were from lost Karelia. This fund reallocated approximately 2,5 million hectares of land to 45 000 migrant farmers and to some 55 000 other migrated families and veterans who got smaller (up to 2 ha) building sites. This historical resettlement effort can be seen as one point of comparison while evaluating the success of diversified present-day rural development programmes.

¹⁵ The opinion of the Agriculture and Forestry Committee 18/2008 vp, see: http://www.eduskunta.fi/faktatmp/utatmp/akxtmp/mmvl_18_2008_p.shtml.

¹⁶ Act on Subsidy for Agriculture Closure (612/2006).

¹⁷ Act on Support for Agriculture Structure (1476/2007) 6 § Support for Young Farmer

Farmers' early retirement schema has existed since 1974¹⁸ when it was first time introduced. The idea of **closure pension** is to guarantee the livelihood of the person(s) who give up farming before the official retiring age is, now 63-68 years (instead of earlier 65). After that age the closure pension will be transformed to normal old-age pension¹⁹.

The exit of elderly farmers is shaping the structural development of agriculture. It depends on farmer's and his or her spouse's age, the number and age of potential successors, the size of the farm, its location and main produce, and the level of income available after retirement. Finnish farms tend to be family run businesses where the farmer's goal is to eventually pass the farm on to the next generation. The likelihood of succession is smaller in northern Finland and on animal farms.

The likelihood of succession increases with the farmer's age and the size of the farm. The farmers' early retirement aid is a pension awarded to farmers who exit farming. Retiring farmers exit farming either by selling or renting their farm to another farmer, or by means of succession²⁰.

The early retirement aid is needed to make succession a realistic possibility as well as to secure the future of farming. This is why the terms of the scheme as well as the benefits of the pension must be sufficiently tempting. Almost all successions rely on early retirement schema and aid for new farmers (see below).

2.1.4 New early retirement scheme 2007-2010

The EU funded Finland's early retirement schema during the program period 1995-1999²¹. This system included first time also tenants. This schema was prolonged till year 2002 but it was financed nationally as ever since²².

The early retirement scheme 2007-2010 aims to improve farm structures by enlargement of farms and encourage successions by encouraging young people to start farming. This new scheme is funded nationally but is in line with the Council Regulation (1698/2005) on support for rural development.

During 2007-2010 **closure pension** (equal to his/her disability pension from farming) is provided for the a farmer or reindeer breeder before the normal retirement age who give up practising business for good and who hands over all agricultural land as well production facilities to the successor. Early retirement age is 56 years as normal old age pension age is 63-68 years. Farmer must have cultivated the farm for 10 years. Both spouses are entitled to pension. Farmers spouse or sibling working on the farm may be younger and will be allowed so-called "quiescent" closure pension, the

¹⁸ Act on Closure Pension (16/1974)

¹⁹ The early retirement schema needs separate funding for these - maximum 3 years. However, for budgetary reasons the legislation limits the number of retirements by requesting that handing over land must happen by sale. This reduces the number of early retirement cases.

²⁰ Doctoral thesis by Väre, Minna: Determinants of farmer retirement and farm succession in Finland, Doctoral dissertation, University of Helsinki, Faculty of Agriculture and Forestry, Department of Economics and Management.

²¹ The agricultural early retirement scheme under Council Regulation (EEC) No 2079/92 was introduced in Finland, Belgium, Spain, Ireland, Italy, Greece, Portugal, France and Denmark. Early retirement regulations changed from the beginning of 2000 when Council Regulation of 1992 was repealed by Council Regulation (EC) No 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and repealing certain Regulations.

²² Early Retirement Aid Secures the Future of Family Farming, see:
http://www.mmm.fi/en/index/administrative_sector/News/070205_retirement.html

paying of which starts when the person gets 56 years of age. During the waiting period his/her level of incomes is limited to less than 560 €/month. Employed workers are not entitled to pension.

From 2007 onwards closure could happen also through renting fields with 10 years contract or selling arable land to another farmer (someone else than successor) as additional land. In this case early retirement age is 60. From the year 2009 onwards selling is the only option to get pension.

Finnish farmers have strong emotional binding to their family farms that have been owned by the same families for decades, sometimes for centuries. The number of closures would be much higher if the renting of fields would allow the farmer to get early retirement pension in the future, too. Unfortunately, the renting option is no longer available due to budgetary reasons²³.

2.1.5 Support for young farmer

Aged farmers - at least in Finland - are traditionally less eager to make big investments which they are probably not able to pay back during their active working years and they are uncertain if their successor will continue their work with the farm. It is logical thinking that investments should be done when young. Another reason why older farmers are unmotivated to invest is the definition of policy that farmer is no longer granted LFA and agri-environmental support after one reaches the age of 68²⁴. Without these farming subsidies farming is no longer profitable.

To promote necessary investments to agriculture farmers have incentives and especially young farmers are promoted with notable incentives to invest heavily to their farms and enlarge production. This young farmer incentive is called **starting aid**. It is additional aid to normal investment incentives than all farmers can get.

Young farmers under 40 years of age and who start farming first time can apply for **starting aid**²⁵. There is no limitation how young farmer gets the farm possession: either through sale, rental agreement or even a gift. Starting aid is also granted to part time farmer. Starting aid can be applied on the basis of preliminary contracts (sale, rent, gift) and must be applied at latest within 10 months from the date when the farm maintenance started in practice.

Young farmer has to have the competence to farm, which means appropriate qualification i.e. adequate occupational skills. If the qualification is not fulfilled at the time of application it must be proved at latest within 36 months after the starting aid was granted and before aid can be fully paid.

Young farmer must get at least 25 % of all regular incomes as farm entrepreneurial and less than 55 000 € incomes outside the farm. The farm business must also be proved to become profitable. To prove all this, the applicant must provide **proof of farm possession** (sales contract, rental agreement, gift), tax sheet, list of debts, **proof of qualification** (diplomas and proof of work history)

²³ Extra costs would be up to 40 million € per year. The parliament has every year the possibility to amend government's budget proposal so that closure could happen through renting the fields to another farmer. If not, elderly farmers who don't want to sell their farm must continue to cultivate till the old age pension age.

²⁴ Earlier the age limit was 65 but since 2008 the rule was unified with general pension system where pensioning age is flexible between 63-68 years. The LFA and agri-environmental support is granted until the end of the engagement period. However, a person over 65 years can no longer undertake new (LFA/A-E) engagements.

²⁵ Starting aid for young farmers (in Finnish), see

<http://www.mavi.fi/fi/index/maaseudunrahoitus/nuorenviljelijanaloitustuki.html>.

and **business plan**²⁶. Applicant must also provide a calculation how big share farm entrepreneurial would make of his/her total incomes (at least 25 % as mentioned above). All these requirements should be reached during the third year of practice. New farmer must cultivate his/her farm at least 5 years after the aid decision. Starting aid is combination of **direct aid** and **interest rate subsidy**²⁷.

On the whole, the number of successions is below the level that would guarantee controlled and smooth development of farm structure. In 2008 there were only 644 young farmers who were accepted to get starting aid. In one third of farm closure cases i.e. 300 farms end up to other farmers as additional land (see below). Young farmer is on average 29 year old when he/she starts farming and the average size of the farm is 35 ha.

2.1.6 Land ownership and Leasing off Farm Land

The control of agricultural land and forest ownership has traditionally based on land acquisition control. The acquisition of agricultural and forest land was limited until the year 1998 by law²⁸ that in certain cases required a permit for this transaction. Foreigners' rights to purchase real properties in Finland was restricted by law²⁹ until the year 1992 when Finland in the EEA agreement allowed foreigners to buy real properties however not recreational properties in Finland. This fixed duration restriction determined in year 2000.

According to the pre-emption law (608/1977) municipal can pre-empt land already sold if the municipal needs this land for construction purposes or if it is needed for recreation or protection purposes. This law has been regularly used in densely populated areas but is of less importance in rural areas.

Even though structural development is promoted with different incentives such as support for land acquisition or land consolidation the growth of farm size is mainly based on land leasing³⁰. For the moment approximately one third of Finnish agricultural land area is leased to farmers as additional field.

1.1.7 General Investment Support

Rural entrepreneurs can get financial support for investments. Investments can relate to enlargement or diversifying of the farm unit, environmental protection, animal welfare, land acquisition and many other targets. This support consists subsidies, interest-rate subsidy loans and state loans (only

²⁶ Business plan should include baseline study, development plan, income statement, calculation concerning balance, profitability, liquidity and solvency during becoming years. Farm must be economically viable or achieves viability in 3 years after transfer. The cultivation of farm must also fulfil standards regarding to environment, hygiene and animal welfare.

²⁷The combined support is as follows. A) If farm entrepreneurial is over 17 000 € per year young farmer is privileged to 1) up to 35 000 € direct starting aid and is privileged to 2) 20 000 € interest-rate subsidy for interest-rate subsidy loans and to additional 3) up to 15 000 € rate-subsidy for other market-driven loans. In case B) if farm entrepreneurial is over 15 000 but less than 17 000 € the A) direct starting aid will be 5 000 € and B) interest-rate subsidy for rate-subsidy loans may total 20 000 €. In both cases the amount of all interest-rate subsidy loans may not exceed 80 % of all acceptable investment costs and may not exceed 150 000 €.

The monetary limits were set up to guarantee full time farming. Now, during the last few years these limits have become a problem. If young farmer has invested heavily the net income may easily remain below the requirement set out.

²⁸ Act (391/1978) on the Right to Buy Agricultural or Forest Land was repealed 1.1.1998.

²⁹ Act (219/1939) on Limitation of Foreigners and Some Other Societies Rights to Purchase and Possess Real Properties.

³⁰ Sami Myyrä: Land rents in Finland on years 2003.2004, MTT:n selvityksiä 75, MTT Economic Research, Agrifood Research Finland.

old loans, no new state loans are granted). Structural aid is either EU co-financed or fully national support.

1.2 Rural environmental law

Finnish environmental legislation was renewed significantly last time ten years ago to meet the requirements of IPPC directive 96/61/EY. Environmental Protection Law (86/2000) is integrated pollution prevention law that includes provisions for a uniform soil, water and air protection: this act has general principles for environmental protection and includes provisions for obligations and prohibitions, authorization, environmental permits, reporting procedures, compensations for cleaning contaminated soil and groundwater, supervision, administrative compulsion and appealing. This IPPC renewal meant also major amendments e.g. in Water Law (264/1961)³¹.

As a rule rural industries have only few exception in environmental legislation. For example all production facilities need the same permits as other industries do and also the procedures are the same.

1.3 Rural tax law

Finnish tax system is harmonised so that corporate taxation is applies to all entrepreneurs including agriculture and forestry enterprises i.e. farms. Agriculture is taxed as an independent source of income. Agricultural revenue is taxed as corporate income, which is divided to tax on capital and tax on earned income. The capital income share is considered 20 percent of the agricultural net assets. If farm has several shareholders the capital income is divided according to their share of ownership. Corporate tax is 28% of the capital income. If agriculture is managed as a limited company, it is a separate taxpayer that pays 26 percent community tax. Real estate tax is not paid for agricultural or forest land.

Also forestry is taxed as independent source of income. Forest owners revenues are taxed based on real net incomes. The corporate tax is 28 percent of this capital income. Independent source of income means that if the farmer sells timber these incomes are taxed separately even if the farmer invests these incomes to agriculture. In the same manner part time farmer must pay full wage tax even if these earnings were used to compensate the costs or the losses of agriculture.

During the years 2008 – 2011 forest owners get up to 50 % tax relief from the timber sales that are entered as income before the year 2012. During short period of time (1.4.-31.8.2008) - as a kind of panic reaction to market changes - incomes from the first clearing of forest were fully tax-free. The idea of these relieves was to boost timber markets that were and are still suffering from the world economical crisis. One crucial shock was Russia's wood export duties that have some extent already been adopted and will be fully in force in the near future. These forthcoming duties have already affected Finland's forest sector's competitiveness. The timber import from Russia, which used to be up to 15-20 million cubic meters per year, has now decreased dramatically³². Wood industry

³¹ During nearly decades Water Law has been amended several times and therefore this law has become disintegrated. The overall renewal of Water Law has been going on for several years and the bill concerning new water law will be given to the Parliament shortly.

³² According the Minister of Economic Development and Trade of the Russian Federation Elvira Nabiullina Russian timber export has sank 50 percent during the first half year of 2009. Minister understates the importance of duties but claimed that the main reason for this development is cheap eucalyptus pulp produced in South America. Official negotiations concerning Russian wood export duties will be held between the EU and Russia. So far Russia has not been able to persuade forest sector investors to Russia. News, 8/3/2009: Forest cooperation and export duties on timber main

closures³³ and temporary dismissals seem to be permanent structural change that increases unemployment in forest cluster and may diminish Finland's GDP by 1,5 %.³⁴

1.6 Rural social law

Pension systems (MYEL)

Finland has two pension systems complementary to each other: earnings-related employee pensions and national pension. Pension consists of one or more employee pensions. If the combined amount of these pensions remains small pension is supplemented with national pension.

Rural entrepreneurs (farmers, fishermen, forestry entrepreneurs and reindeer breeders³⁵) are obliged to join statutory social insurance pension system³⁶ MYEL³⁷ which is similar to other earnings-related employment pension systems. The State's share accounts for two thirds of the benefits paid.

MYEL pension is granted for persons at the age of 62-68. It ensures livelihood at old age. When retirement age approaches, a farmer becomes entitled to part-time pension.

If a farmer permanently gives up farming or reindeer husbandry, he is entitled to farmers' early retirement aid (see below). Farmers' early retirement aid encourages changes of generation and increases the size of farms.

Obligatory insurance (MATA)

Persons who belong to MYEL system have to join occupational insurance MATA³⁸ that consist insurance for accident, health insurance and insurance for incapacity for work.

Farmers' holiday and stand-in scheme

The system of providing farmers with farm relief workers was created to enable full-time farmers obligated to look after domestic animal production to take breaks from their work for holidays, rec-

topics in discussion between Finnish and Russian ministers, see newsletter at:

<http://formin.finland.fi/Public/default.aspx?contentid=168454&nodeid=15145&contentlan=2&culture=en-US> and web cast at http://qsb.webcast.fi/f/formin/formin_20090802_venaja/.

³³ New duties on timber together with ongoing financial crisis have already caused several factory close-ups in Finland. Export duties on timber have stopped the use of imported birch as pulpwood. On the long run this may result in that fast growing eucalyptus will displace birch entirely.

³⁴ Metsäteollisuuden ja metsäsektorin toimintaedellytystyöryhmän väliraportti 15.2.2008, see:

<http://www.vn.fi/tiedostot/julkinen/pdf/metsaraportti/fi.pdf> and Metsäteollisuuden ja metsäsektorin toimintaedellytystyöryhmän loppuraportti, Valtioneuvoston kanslian julkaisusarja 19/2008, see: <http://www.vnk.fi/julkaisukansio/2008/j19-metsateollisuuden/pdf/fi.pdf>.

³⁵ Reindeer breeders have been included among the beneficiaries of this aid since 2000.

³⁶ There are about 92,000 farmers and nearly 180,000 pensioners covered by the Farmers' Pensions Act, or MYEL. The State part-finances the social security provided by Mela. The insurance premiums paid by farmers cover about one fifth of the benefits. Mela pays about 780 million euros a year in pensions and compensations. A farmer's MYEL-based earnings depend on the area of the field, garden or forest. Earnings are also affected by the related activities carried out on the farm and by the company's productivity. A reindeer breeder's earnings are based on the number of registered reindeer and of workdays. A fisherman's earnings are determined according to taxable income.

(http://www.mela.fi/Esitteet/MELA_yleis_engl.pdf)

³⁷ Farmers' Pensions Act (467/1969).

³⁸ Farmers' Insurance Act (1026/1981). Compensation is paid every year for about 6,500 new accidents and occupational illnesses, and for about 1,200 cases of damage that have occurred in leisure time. Mela also pays every year daily sickness allowance in 16,000 cases of illness. (http://www.mela.fi/Esitteet/MELA_yleis_engl.pdf)

reation or because of illness. The first piece of legislation concerning the arranging of farmers' holidays was passed in 1974.

At the present moment, the arranging of farm relief worker services is based on the Farm Relief Services Act (1231/1996) and the Farm Relief Services Decree (1333/1996). A farmer who practices animal husbandry as a main occupation is entitled to 24 days of annual holiday³⁹. All farmers are entitled to substitutes during sickness leave or parental leave and to holiday substitute services subject to a charge.

Year	Number of eligible farmers	Monthly-salary based farm relief workers	Relief-work days, million days	Government's share of costs of relief worker services, million euro
2000	45 254	4 887	1,59	150
2001	43 128	5 064	1,61	166
2002	41 114	5 047	1,61	173
2003	39 186	5 776	1,58	184
2004	37 059	5 241	1,55	184
2005	34 197	5 193	1,48	190
2006	32 981	4 766	1,40	188
2007	30 621	4 931	1,35	186
2008	29 537	4 838	1,29	188 (estimation)

Table 1. Development of the number of farmers, the number of monthly-salary-based farm relief workers, and the costs of providing the farm relief worker services in Finland during the period 2000 - 2008.

The Farmers' Social Insurance Institution (MELA⁴⁰) is the administrator of this service, while local units, composed of one or more municipalities, handle the practical arrangements and employ an adequate number of relief workers.

Substitute assistance may be granted for example in the case of sickness and disability, in the case of temporary child care leave⁴¹, for the duration of maternity and paternity leave and in the case of adult education⁴².

³⁹ About 200 million a year is allocated to farmers' holiday substitute service. Farmers who practise farming full-time and have at least four animal units are entitled to an annual leave of 24 days and an additional 120 hours of stand-in assistance. The annual leave is free of charge and the additional 120 hours are charged at a subsidized price.

(http://www.mela.fi/Esitteet/MELA_yleis_engl.pdf)

⁴⁰ See: <http://www.mela.fi>

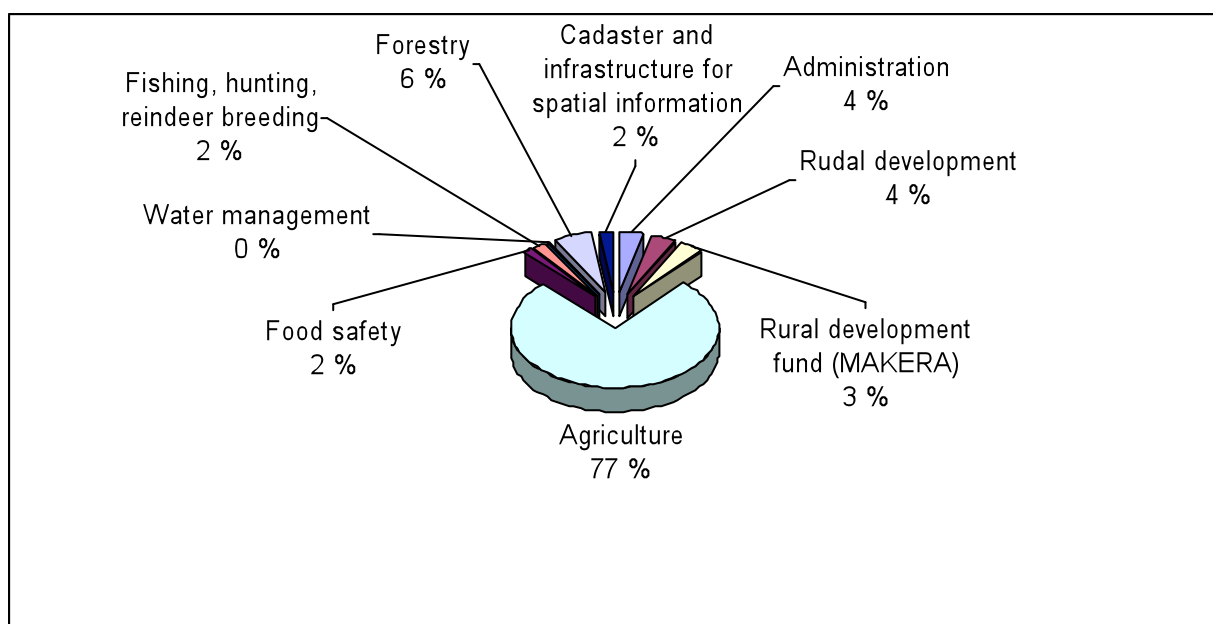
⁴¹ A maximum of 7 days in order to care for a sick child under age 10.

⁴² 15 days at the most. To exceed the limit of 15 days, a person must be entitled to specific adult education allowance or study grant for farmers.

3 The National Rural Laws of Most Practical Importance

The question, what are the most important rural laws in Finland, is interesting. The question is fairly difficult to answer shortly if one looks at it from the legal point of view and the considering the number of rural laws. There are altogether 122 laws and acts where word “rural” is referred⁴³. The question is somewhat simpler to handle from the financial point of view. This point of view can be justified while at present economical incentives are of great importance.

The budget of the Ministry of Forestry and Agriculture for the year 2009 is 2,8 milliard € out of which 80 % was support for agriculture and just 4 % was used for other rural development measures – this 4 % proportion is comparable to the costs of administration.



The main part of agricultural support (2,22 milliard, EU 41 %) ⁴⁴ was used to

- **Single payment schema** 559,4 million € (EU: 100 %)
- **Environmental support** 348,9 million € (EU: 28 %)
- **LFA** 422 422,7 million € (EU: 28 %)

Other spending in the budget of the FAR worth mentioning are

- **early retirement schema** (144 million €, funded by) and
- **interest rate subsidy** for rural investments (59 million €, funded by MAKERA).

2.1 National Legislation in WTO Context

Finland joined the EU 1st January 1995 and Finland has also been a member of the WTO since the very same date. All EU member states are WTO members, as is the EU in its own right. If Finland hadn't joined the EU in 1995 WTO membership would have required several changes in legislation.

⁴³ See example of search at Finlex (only in Finnish):

[http://www.finlex.fi/fi/laki/ajantasa/haku.php?search\[type\]=pika&search\[pika\]=maaseu*&submit=Hae](http://www.finlex.fi/fi/laki/ajantasa/haku.php?search[type]=pika&search[pika]=maaseu*&submit=Hae).

⁴⁴ In year 2009 EU's funding for Finnish agriculture was roughly 0,9 milliard €. It was nearly 80 % of the total EU funding for Finland.

Finland should have – on its own - reduced national agricultural subsidies, cut down customs and export subsidies and replace barrier to trade such as quotas with duties. Now all these WTO requirements were adapted due to the EU membership.

It is rather difficult to say whether Finnish rural legislation would be much different if Finland hadn't joined the EU.⁴⁵ From the Finnish perspective WTO is part of the EU trade policy and Finland has no official (published) WTO policy of its own.

One recent example is Russian export duties on round wood that has finished the use of imported birch as raw material in Finnish pulp factories. While the matter relates to Russia's WTO membership the export duty topic should be negotiated between the EU and Russia instead of negotiating directly between Russia and individual EU member states that suffer from new trade barriers.

2.2 National Legislation in EU Context

Finland joined agreement on the European Economic Area (EEA) that was established on 1 January 1994. As the EEA is based on the same "four freedoms" as the European Community: the free movement of goods, persons, services, and capital among the EEA countries.

As a counterpart, Finland adopted main parts of the Law of the European Union. Even though the agricultural trade was not included in EEA, adapting this agreement required changes in veterinary, domestic animal breeding, fodder, plant production, seed and fertilizer⁴⁶ legislation.

When Finland joined European Union 1st of January 1995 major change in legislation involved foremost rural legislation: 5 new rural laws were enacted, 27 laws were repealed and nearly 40 laws were modified.

For the moment most important part of legislation that deals with direct support payments for farmers mentioned above (1.2.1).

2.3 National legislation of without international reference

The question about purely national legislation is difficult to answer without proper research. In the present world everything seems to be linked together. As social legislation and land ownership does not yet belong among EU policies they are still mainly under national control.

One Finnish phenomenon is how land ownership and farming is linked together. National structural policy and legislation promotes farm succession through farm sales instead of leasing the farmland and facilities to the successor. Therefore almost all farmers own their own core farm that has been in the family for long time. However, according to statistics almost 40 % of farmland is leased. Respectively there are almost no farms that have leased all of farmland and production facilities. Leasing the farm from one's parents is not an option. Young farmers are lured with pretty good incentives to take high risks and make big investments at the beginning of their career. Sometimes these

⁴⁵ Hence, if Finnish agriculture faces some difficulties very few persons would affiliate it to the WTO agreement on agriculture but instead it is usually associated with the EU membership.

⁴⁶ In the EEC agreement the EFTA States were allowed to limit fertilizers contained cadmium to access to their market according to already existing requirements. In Finland the limit for phosphorus-containing fertilizers was 100 mg of cadmium per kg phosphorus. Cadmium restriction was reviewed in 1995 and Finland got the right to keep former limits for cadmium. This restriction is now written to Article 21 of the present Fertilizer Law (539/2006).

investments don't pay back. Because the rules are very strict new farmers are like tenants – tenants of the Government - instead of being a renter of parents farm.

In practice bigger farms has tens or even hundreds of base parcels that are scattered around large area sometimes very far away from the farm centre. Because of rapid structural change approximately 3-5 % of farms end up to closure every year. In this context it is fairly difficult to promote for example land consolidation, which is still used actively as a means to improve farm productivity. After the time-consuming consolidation process farm structure is optimal but after next 10-15 years farms structure is most probably once again unsatisfactory.

3 Degree of Success

Assess of degree of success of legislation is somewhat difficult. Legislation is only a means to enforce political decision. However, the WTO and the EU limits the policy making of EU member states. The national freedom of action is limited.

As the OECD has stated in its report (see 1.2.3) Finnish rural policy has been one kind of success story. The National Rural Policy Committee is indeed one kind of success in itself. It has also participated as one intermediary in putting into practice regional and local activities. However, the role of Rural Development Programme based measures that the Committee promotes is still fairly minimal compared to the importance of CAP. Rural Development Programme measures such as agri-environmental measures and LFA are of great importance but the role of this committee hasn't been crucial when these measures were put into action.

Agro-environmental measures are also one success story in the sense that some 90 % of Finnish farmers (representing 95 % of field area) have committed themselves to general agri-environmental measures. This is highest figure in the whole EU. There are two ways to interpret the successfulness of these agri-environmental measures. On the other hand it seems to be the only means to reach support level that is in line with WTO agreement. This support is justified because farmers are doing work for the environment and because these measures (such as limited use of fertilizers) cause losses of income. Indeed environmental subsidies belong to the WTO Green Box and this support is crucial for the Finnish farmers. However, according to the follow up research the effectiveness of agri-environmental measures has not been as good as expected. Emissions to the water system have not decreased as planned and the biodiversity has not got better. In fact researchers of follow up study (MYTVAS)⁴⁷ have indicated that the biodiversity is as good as it is because of set-aside schema but not especially because of agri-environmental measures.

4 New and Already Existing Trends

The migration away from rural areas has continued as a trend for decades but it shows now some signs of slowing down. The reason for this may simply be the fact that most of people in active age have already left. Another explanation may well be rural development measures that have been used

⁴⁷ Critical opinions were given at MYTVAS follow-up seminar where the reports of the influences of agri-environmental measures (programme period 2000-2006) were discussed. Reports (in Finnish) are available at: http://www.mmm.fi/fi/index/etusivu/maaseudun_kehittaminen/tutkimus/mytvas.html. In the same seminar Finnish minister of agriculture stated that agro-environmental measures have been a success and agri-environmental subsidies are definitely not any kind of income transfer but on the contrary compensations for the work that farmers have done for the environment. Minister Anttila's speech is available as webcast (in Finnish only) at: http://www.ymparisto.fi/video/mytvas/osa2/sirkka-liisa_anttila.wmv.

to slow down this process. During the last few years some change in this trend has indeed been recognized. The loss of rural workplaces seems to slow down.

Without any doubt farm closures will continue as a trend and accordingly the loss of workplaces in primary sector will continue. However, the number of processing and service sector workplaces seems to be increasing even in rural heartland and sparsely populated rural areas as shown in the next table.

			Primary production		Processing		Services	
	Amount	%	Amount	%	Amount	%	Amount	%
Cities	294263	23,2	-5976	-35,3 €	35744	10,9	267852	29,9
Rural areas near cities	40 267	18,9	-7 047	-32,9 €	12 798	18,3	35307	30,6
Rural heartland areas	19891	7,4	-15857	-29,9 €	10155	13,3	25024	19,2
Sparsely populated rural area	-3260	-1,8	-14292	-32,9 €	2825	7,0	7700	7,9
Whole country	351161	18,2	-43172	-23,0 €	61422	12,0	335883	27,1

Table 2.

The change of workplaces by type of work and by type of area 1995-2004⁴⁸

The continuity of this existing but still fairly weak trend may continue to strengthen if all parties will commit themselves to the Rural Policy Programme and its fifteen strategic definitions of policy and 146 objectives. Legislation is not any obstacle for this trend. More likely it is question of financial matters.

In the following years Finnish countryside will face following new/strengthening trends.⁴⁹

- Globalisation will progress and it will effect regional structures
- Infinitude increases (common market, foreign labour)
- Localization will be emphasized as a strength
- Top-down guidance will be replaced with bottom-up model (local people are more involved)
- Service and administrative structures will be more effective (e.g. merging of municipalities)
- Service sector will grow and will become cosmopolitan (foreign customers, foreign labour)
- Immateriality increases (saving of energy and materials, virtual market, immaterial services and experiences, digital products)
- Working conditions change (periodic work, part time work, remote work, flexibility, new kinds of work)
- Immigration increases (due to lack of labour)
- World population grows and gets old, in developed countries population gets smaller (dependence ratio)
- Gap between rich and poor countries and also inequality of Finnish regions will increase
- Insecurity increases (international crime, inequality, lack of services and long distances)
- Mosaic society (different lifestyles, different values)

⁴⁸ Maa- ja metsätalousministeriö (2006). Suomen maaseututyypit 2006. Maa- ja metsätalousministeriö 7/2006.

⁴⁹ PESTE (Policy-Economy-Society-Technology-Ecology) analysis, Rural Policy Programme 2007-2013, p. 28.

- Urbanization together with migration to rural areas around major city centres continue (urban sprawl)
- Cultural connection to nature and rural life weakens (new generations and immigrants have no connection to rural life)
- E-Governance (internet services replace traditional private and public services)
- Information technology provides new services
- New ecological energy technologies will evolve (rural areas produce greater share of energy used).
- Sustainable development and renewable natural resources will become increasingly important
- Climate change is a threat.

5 Assessment

My personal opinion of Finnish rural legislation is that it is rather fragmented and it can be amended often for different reasons. I would be glad if the ministry of justice would propose codification of rural legislation. As it is, due to my lack of my knowledge and lack of time it is impossible for me to give comments concerning

- the overall role of international and European jurisprudence on Finnish rural law
- the overall influence of Finnish national legislature on rural law
- the overall influence of Finnish national jurisprudence on rural law.

6 Current Question on Biofuels

Government has informed in its report⁵⁰ to Parliament that the share of renewable energy shall be increased to 38 % by 2020, which is in line with the obligation proposed by the Commission for Finland. The only legislative measures that have already taken place involve promotion of biofuels in traffic and fuel taxation. Biofuels Directive (2003/30/EC) has been implemented with the Act on Promotion of Biofuels in Traffic (446/2007)⁵¹. The Act on Excise Tax of Electricity and Certain Fuels (1260/1996) has been amended (1306/2007) so that it now recognises biogas. According to the amendments (168/2002 and 1058/2006) electricity, which is produced with e.g. wind energy, biogas or wood chip can be subsidized (0,42 cent/kWh). According to the Act on Excise Duty on Liquid Fuels all gaseous and solid biofuels (hydrocarbons) are at present taxed in a similar way as fossil fuels.

There have been several plans to start liquid biofuel production in Finland. The plans to start ethanol production out of grain ended up to the conclusion that it cannot be profitable in Finland with recent oil prices. However, one operator has started to produce ethanol on a Waste-to-Ethanol concept where bioethanol is made from waste and industrial side streams. The investigation of wood and peat-based bioethanol is still going on.

In Finland the civil society discussion about biofuel production is going on. For the moment there is neither legislation nor political decisions concerning the balance between food and biofuels produc-

⁵⁰ Long-term Climate and Energy Strategy, Government Report to Parliament 6 November 2008, available at: http://www.tem.fi/files/20587/Climate_Change_and_Energy_Strategy_2008_summary.pdf.

⁵¹ The distributor shall provide biofuels in 2008 at least 2 %, in 2009 4 % and in 2010 and annually thereafter at least 5.75 percent of the annual consumption (calculated as the energy content of motor gasoline, diesel and biofuels).

tion or concerning biofuel production ethics. One good example of this lack of proper biofuel policy is Finnish state owned company Neste Oil Corp.

Neste Oil has already in Finland one biodiesel⁵² plant with the capacity of 170,000 ton/yr. As raw material Neste Oil uses palm oil produced in South-East Asia. For the moment the company is planning to invest to new production plants e.g. in Singapore and Rotterdam. Neste Oil is committed to use only RSPO-certified⁵³ palm oil, as soon as it is sufficiently available. Within 5 years Neste will use some 5 % of the world palm oil production. However, even certified palm oil production may raise ethical and environmental questions.⁵⁴

Another ethical question is using grain for heating. While one ton of heating oil costs 600 euros the producer price of one ton of grain is 60 euros. As 2,5 tons of grain has the same calorific value as one ton of heating oil it would be reasonable and much cheaper to use grain for heating. Then the cost for the same heat would be 150 euros (grain) instead of 600 euros (oil). So far grain is used for heating only occasionally.

⁵² More info about the Neste biodiesel (NExBTL) at <http://www.nesteoil.com/default.asp?path=1,41,11991,12243,12714>.

⁵³ Roundtable on Sustainable Palm Oil: <http://www.rspo.org/>.

⁵⁴ IFC, which is member of the World Bank Group, has just recently suspended palm oil funding for 6 months, see the World Bank letter at http://www.forestpeoples.org/documents/ifi_igo/ifc/ifc_wb_letter_pressrelease_sep09.pdf.