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*The Finnish Model of Capitalism, Cartel legislation and Cartelisation: from  
Independence until EU Membership*

### **Point of departure**

Even though small and placed on the periphery of Europe, the Nordic countries - Denmark, Finland, Iceland, Norway and Sweden - range among the worlds wealthiest and economically most competitive nations. The Nordic nations have combined a successful capitalistic system with well-developed welfare systems and a large public sector. Furthermore, at least Sweden and Finland have been labelled as highly coordinated economies, due to the extensive cooperation between and within sectors, i.e. features sometimes seen as equivalent to inflexibility and rigidity. These phenomena have contributed to a worldwide interest among e.g. economists and politicians in the Nordic capitalistic models. Why have these countries which perhaps do not correspond with the text book model of how to succeed in the modern globalising world, still succeed?

Finland is perhaps the least known of the Nordic countries, but today this country also receives some attention, not the least due to the Nokia phenomenon, which has encouraged an interest in both Finnish management and institutional solutions. Moreover, the as can be noticed in international comparisons of growth, the country's long-run economic development has been a success story exceeded by few.

In spite of a favourable economic development, the Finnish economy has, however, also been susceptible to crises, which primarily have stemmed from devastating wars, but also from the high dependence on international fluctuations. Finland is a typical small open economy, where the key sector until the 1990s, i.e. the forest industry, has, moreover, been a very volatile one. However, the institutional model and the economic policy have also contributed to the economic instability and made it somewhat inherent. For instance the economic policy in the post-war era was pro-cyclical. Moreover, in some cases pressures for change has not been met with, which has later led to deep and profound structural crises at periods of external shocks. This was the case for instance in the early 1990s, when a deep economic depression occurred.

The Finnish model of capitalism has during the 20<sup>th</sup> century also undergone some abrupt and profound changes, often at times of severe crises. At the same time many patterns and institutional settings have been very persistent. One such tradition has been the high presence of cartels and other types of co-operation between firms in order to avoid competition. This was the case until the 1990s and the country became a member in the European Union.

### **Target of the paper**

In this paper, the Finnish model of capitalism and particularly its effects on cartel regulation and on cartelisation strategies is the focus of attention. I will focus

particularly on periods of extensive transitions in the institutional setting – what could be called formative periods - in order to track down how transformations in the capitalistic model is reflected in cartel regulation and cartel strategies. Both in the Varieties of Capitalism and in the Business System literature, the issue of change has been to the fore lately.<sup>1</sup> During the last decades extensive transformations have also been observed in many countries, and they are often seen as consequences of economic integration and globalisation. The interest in change, in the factors behind transformations and in the underlying mechanisms in the process of change itself is, thus, empirically motivated.

It is obvious that companies' cartel strategies depend on many other things than the cartel or competition legislation. The legal and institutional environment is only the framework within which the firms are working. Only by prohibiting cartels, they do not disappear. Finland is here a very good example. After the EU membership the competition legislation is harmonised with the EU competition legislation, but illegal cartels are discovered repeatedly. However, it is also evident that policies supporting or alternatively restricting cartels do have effects on cartel strategies. The first cartel law in Finland in 1958 led to an increasing cartelisation, while the strongly prohibitive regulation in the late 1980s and 1990s has made cartels as a solution less attractive, while it has promoted other alternatives to gain market control, e.g. consolidation.

By looking at the regular environment concerning cartels we will also receive a new angle on the institutional environment. The law of 1958 was to a great extent a result of the international environment, where the authorities could observe what was going on in other countries (see below), but it was also a logical or even necessary outcome of the post-war economic and institutional surrounding, where this particular legal reform set the framework for one segment of the Finnish economy within the broader post-war institutional model aiming to promote growth and industrialisation, based on strong state intervention and market coordination. This also makes evident that the targets of the legislation was a little different from that in some other countries, although the legislation was based on foreign models. In this paper one of the main arguments is that the cartel law of 1958 not only institutionalised and made transparent a practice already well established in Finland in order to control or restrict the cartels, but actually also encouraged further cartelisation.

Moreover, by looking at the cartel legislation and the motivation behind the legal reforms, a lot of information about the general outlook in society on cartels and other forms of voluntary cooperation between firms in order to restrict competition is also received. Legislative reforms are often an answer to a development already well underway. For example, the companies – particularly within big business in the export sector – did not solely adapt and respond to the institutional regime, but, on the contrary, were an important driving force behind the economic policy agenda setting and institutional transformations in Finland. The Finnish model of capitalism has been marked by strong collaborate and corporative traditions. This was at least until EU membership, but it appears that old practices and traditions are still prevalent, although taking - out of necessity - other forms.

This paper is part of an on-going Nordic project, which aims at illustrating the development of the capitalistic systems of the Nordic countries and which will end up in a book, which unveils the historical backgrounds behind the 'virtuous circles' of

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<sup>1</sup> E.g. Morgan, Glenn, Whitely, Richard, Moen, Eli (eds.) Changing Capitalisms? Internationalization, Institutional Change, and Systems of Economic Organization. OUP 2005.

the Nordic economies.<sup>2</sup> The paper will, moreover, also draw, on some early results from project on cartels and cartel organisation in post-war Finland.

## **Economic Transformation and the Finnish Model of Capitalism in the late 19<sup>th</sup> Century – The Start**

Finland, hitherto a part of the Sweden, was in 1809 annexed to Russia as an autonomous Grand Duchy. As a result of being a part of the Russian empire the situation in Finland was somewhat different from the other Nordic countries both politically and economically until 1917, when the country gained its independence. However, coming under Russian rule did not mean any abrupt changes for Finland, as Swedish laws and institutions remained to a great extent in force and Finland experienced a fairly autonomous position within the Russian empire, particularly with respect to the economic sphere. For example Finland had its own administration, own tariffs and tax policies, an own customs' boarder against Russia and since the 1860s its own currency. Although Finland had an extensive autonomy as Grand Duchy, there were from time to time particularly at the turn of the century 1900 attempts from the Russian side to tie the Grand Duchy more closely to the empire.

Finnish society transformed extensively during the autonomy period: economic progress and modernisation started as well as a Finnish nation building. This period was the beginning of the Finnish 'road to prosperity', with the liberalising of the economic activity, with the development of new sectors in the economy, the emergence of the first large-scale firms, new employment opportunities, 'modern' labour markets and rising living standards.<sup>3</sup> When the actual industrial 'take-off' occurred in Finland is, as in many other countries, much debated in Finnish historiography, but there is a general agreement that the second half of the 19<sup>th</sup> century is a good point of departure. Particularly since the 1870s the manufacturing sector developed rapidly, production became more diversified and the exports of manufactured goods and timber grew. The main export market were Russia at this time, but the expanding forest industry production, particularly sawn goods products, were primarily sold on western markets. This was the period for the expansion of the forest industry sector, with the rapid emergence of saw mills, but also gradually expanding pulp and paper production. A rapid expansion in big business occurred between the 1870s and 1914.<sup>4</sup> Infrastructural investments, particularly in transportation, were carried out both on private and public initiative in order to improve the situation for the spurting economy. The monetary reforms of 1860s and 1870s when Finland got its own currency, the Finnish Markka, which was in 1878 tied to the gold standard, improved monetary stability and was significant when Finland became gradually more integrated on foreign markets as a result of the growing timber exports.

Beside monetary and important legislative and institutional reforms with respect to economic activity, Finnish society changed on many other levels during

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<sup>2</sup> 'Creating Nordic Capitalism', funded jointly by NordPlus and by Copenhagen Business School (Denmark), BI (Norway), Linköping University and Stockholm School of Economics (Sweden) and University of Helsinki (Finland)

<sup>3</sup> For a recent book on the Finnish economic development see Ojala, J. Eloranta, J. & Jalava, J. *Road to Prosperity*. SKS: Helsinki 2006; A classic work is Hjerppe, Riitta, *Kasvun vuosisata*. Suomen Pankin kasvututkimuksia. Helsinki, 1986.

<sup>4</sup> Hjerppe, Riitta, *Suomen suurimmat yritykset*. Bidrag till kännedom om Finlands natur och folk, Finska Vetenskaps-Societeten. Helsinki. 1979

these decades as well. It was an era of political reforms, of which particularly the introduction of the unicameral parliament and the universal suffrage in 1906 was an important and radical step towards democratisation. The late 19<sup>th</sup> and first decades of the 20<sup>th</sup> century meant the steps towards a modern society with the gradual abolishment of old class society, which had been upheld by the systems of Estates, and the emergence of the modern professional society. This clearly promoted modernisation and industrialisation, but was at the same time also a necessity for the transformation of the economic activity. At the same time the country was still during the late 19<sup>th</sup> century also to a great extent a society of the old, with an extensive primary sector. In 1860s 80 % of the labour force worked within the primary sector, which contributed 60 % of the GDP. At the turn of the century there were also increasing pressures in the Finnish society both externally, particularly from Russification policies, i.e. strives to tie Finland more closely to the Russian empire, but also internally from the growing worker's movement, from the problems of poverty among the landless population, un- or rather under-employment. The rapidly transforming society created tensions, but it also disclosed underlying political and social conflicts and a strict stratification in the Finnish society in general, and in the rural society in particular. These conflicts, tensions and stratifications formed the basis for the factors gradually led up to the civil war in 1918.

The late 19<sup>th</sup> century and early 20<sup>th</sup> century up until WWI was marked by economic liberalism. The Government was at an 'arms length' in accordance with the liberalistic ideologies when it came to direct state intervention. At the same time the State was fairly strong and active in paving the way for growing economic activity by means of legislative and institutional reforms and investment in infrastructure. Moreover, the collaborative and corporative features e.g. in the form of close relations between big business and the political elite – in the small country sometimes both elites often were composed of the same individuals – were already evident. Within this environment a wave of cartelisation occurred in the late 19<sup>th</sup> century, when in several industrial branches voluntary agreements to restrict price competition and/or divide markets were concluded. According to Ferdinand Alfthan the first cartels emerged in Finland in the 1890s, the first being the *Finska pappersföreningen* in 1892. The rapid increase in the number of paper producers in the late 19<sup>th</sup> century, and also on the main export market for Finnish paper industry, Russia, the number of domestic producers augmented. This made the firms unite in a common sales organisation of brown wrapping paper in Finland and on the Russian market. This product was the largest single paper product produced by the early Finnish paper mills. The low number of producers, the similar production in all the paper mills, and the small quality variation made it fairly easy to establish such a co-operation.<sup>5</sup> Cartels emerged also in other branches, like in the glass industry, where both window and bottle glass producers formed syndicates for joint sales.

One reason behind this cartelisation wave was the rapidly progressing industrialisation and the emergence of new companies on the market increasing competition. However, also the close relation between business leaders made such cooperation easy to come about. However, the early cartelisation was also a part of an international phenomenon: the late 19<sup>th</sup> was marked by increasing cartelization in Europe.<sup>6</sup> Several Finnish cartels actually co-operated with cartels in other countries already during this period.

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<sup>5</sup> Alfthan, Ferdinand, *Finska karteller. Ekonomiska Samfundet Tidskrift* 1922.

<sup>6</sup> Schröter, Harm, *Cartelization and Decartelization in Europe, 1870-1995: Rise and Decline of an Economic Institution. The Journal of European Economic History* Vol. 26 No.1 1996

Although Finnish institutional and economic model transformed in the inter-war period and again in the post-war period, some of the most basic features of 'modern' Finnish society were established, of which the close relations between business and Government, and between firms developed and deepened and in general an increasingly collaborative and cooperative environment has been an important corner stone, in spite of transformations in other institutional settings.

### **Independence, Industrial Breakthrough and Cartelisation: the Inter-War Period**

The First World War and its aftermaths had extensive effects on the Finnish economy. Although the war activities did not affect Finland directly, particularly the years 1917-1918 meant a severe economic crisis for the country.

In the wake of the Russian revolution, Finland gained its independence in 1917. The Russian revolution and the independence declaration meant, however, a full stop of the export to Russia, while substituting markets, due to the ongoing war in Europe, were not to be found. Due to the new Bolshevik government in Russia, many Finnish firms also lost extensive investments in the country. At the same time signs of discontent and unrest had increased gradually in 1917 in Finland and in January 1918, civil war broke out, which caused standstills, unrest and extremely violent war activities. Although the civil war only lasted for a few months, ending when the 'white' troops with the aid of German forces made the revolutionary forces retreat and restored the bourgeoisie government in Helsinki in May 1918, it caused a sharp decline in industrial production and GDP in 1918: GDP fell with more than 20 %. Beside the decline of the GDP, the loss of the main export market (Russia), food shortage and hunger, rapid inflation and instability on the financial markets faced the young nation, where political stability hang on the thread. The crisis of these years affected the institutional environment throughout the inter-war period. For example the civil war led to a deep distrust between employers and employees which affected industrial relations until WWII. The war years also tightened the close relations between the political and the business elite. Several business managers of the time, like Rudolf Waldén (*Yhtyneet paperitehtaat Oy*) and Gösta Serlachius (*G.A. Serlachius Ab*), had close contacts with the highest political elite and were active in war management. This made them have extensive influence in the economic-political agenda setting. This was the case particularly when it came to economic legislation, but also the favourable attitudes towards cartelisation and the introduction of trade policies promoted the interest of big business, i.e. the forest industry can be attributed to this influence.<sup>7</sup>

Furthermore, the Civil War made Finland turned towards Germany politically, as a result of the help Germany had provided the 'white' side. Although this German orientation (this time) turned out to be a short interval ending after the German defeat in WWI, it also had extensive effects on the institutional environment, not the least on cartelisation.

After the end of the civil war the only export market open to Finland was Germany and a trade agreement between Finland and Germany was rapidly signed. This agreement, which remained in force only for a very short period, has later been evaluated to have been extremely unfavourable for Finland and the Finnish exporters

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<sup>7</sup> Hjerpe, Riitta & Lamberg, Juha-Antti (2001). The Change of the Structure and Organization of Foreign Trade in Finland after the Russian Rule. I Teichova, A. et al. (eds.). *Economic Development and the National Question*. Cambridge University Press, Cambridge  
Ojala & Karonen 2006

in the long run. The German government is assumed to have planned that Finland should be tied closely to Germany as a cheap supplier of raw materials and other semi-finished goods for the German market.<sup>8</sup>

Anyway, it was soon evident for the Finnish industrial managers with among others Gösta Serlachius in the front, that the situation for the Finnish forest industry was awkward: on the German market the Finnish paper producers were met with only one buyer, due to the German strong national cartels in various sectors. With only one buyer and many sellers the risk of cut throat competition between the Finnish paper firms was evident. The Finnish paper producers decided to join forces. They had, as mentioned above, already since the late 19<sup>th</sup> century cooperated on the Russian markets, so the link was already established, but now there was an urgent need to increase and deepen this cooperation. In 1918 an extensive sales organisation of the paper producers, the *Finnish Paper Mills' Association* through which the bulk of the Finnish paper export was sold was established. Finnish Paper Mills' Association was soon followed by export cartels for cardboard and for pulp<sup>9</sup>.

The 'German interlude' in Finland turned out to be short, as when the First World War came to an end the political ties were cut, and Finland open to the west. But FPMA and the export cartels became an efficient instrument for the Finnish export industry also when the firms started to seek new markets in Europe. Already in 1918 the representatives of *the Finnish Paper Mills' Associations* travelled to Ukraine in order to open up trade opportunities, but finally the big markets were found in the European countries, primarily in Britain, and later in the interwar period in the US. However, these strong export cartels formed as joint sales associations remained a persistent and prominent phenomenon in the Finnish economy up until the 1990s, when the competition law changed due to EU-membership and forced them to be dissolved.

During the inter-war period the Finnish paper produces also cooperated actively international cartel agreements particularly with Swedish competitors though the so called Scan-cartels (*Scancraft, Scannevs, Scangreaseproof*), which made Finnish and Swedish paper exporters besides agree on prices and division of markets in western Europe, also agree not to compete in the other country. Such agreements, although not as extensive, were also formed within other branches, for example in cement, in ceramics etc. These cartels were also often fairly efficient in influencing customs policies, and in combination with the increasing protectionism, customs on certain products were raised significantly to protect domestic production. For instance a regular customs war on ceramic goods between Finland and Sweden broke out in the mid-1930s after the Finnish porcelain factory *Arabia Ab* had sold out two Swedish subsidiaries. This led to an inflamed relationship between the two companies about each others' activities in the neighbouring countries.<sup>10</sup> Later these factories came to an agreement and 'buried their war axes' but agreed not to sell on each other's markets. In the late 1940s a common sales organisation for Swedish and Finnish porcelain producers was planned, but it never came about.

Also in other branches the number of cartels and joint sales organisations emerged, although the form and extent of the cooperation varied between and within

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<sup>8</sup> Ahvenainen, J. & Vartiainen, H. Itsenäisen Suomen talouspolitiikka, *Suomen Taloushistoria* 2. Helsinki. 1982. Kuisma, Markku, *Metsäteollisuuden maa*. SKS: Helsinki. 1992.

<sup>9</sup> Heikkinen, Sakari, *Paper to the World*. The History of Finnish paper Mills' Association. Helsinki 2001.

<sup>10</sup> Fellman, Susanna, Samarbete och konkurrens – Arabia och Rörstrand under ett sekel. *Historisk Tidskrift* no 2, 2007. In print.

branches. It has been estimated that some 80% of the Finnish exports during the inter-war period was sold through the sales organisations and cartels.<sup>11</sup> This number primarily indicates the big role of forest industry products in the export during the inter-war years: in 1920 forest products stood for 93.7% and in 1938 81.8% of the total exports.<sup>12</sup>

But also the number of cartels working primarily on the domestic market, like the cotton cartel, grew rapidly, some of which were fairly effective in fighting import competition and keeping prices and profits high. Although several cartels had existed already prior to WWI and for example also the paper industry had been engaged in industrial cooperation in the early 20<sup>th</sup> century, the cartelisation reached a new phase in the 1920s and 30s. This was already observed by Alfthan in 1922, but it has been recently claimed that more or less the whole manufacturing sector was cartelised and that cartels became a 'national custom'.<sup>13</sup> Also Harm Schröter has classified the Finnish economy in the inter-war era as one of the most cartelised economies.<sup>14</sup> This is also most likely a correct statement, as all sources indicate that this is the overall picture. However, it is also evident that exact figures are difficult to achieve and it also appears that the picture was perhaps a little more varied than has been claimed. According to one investigation from the 1950s, cartels seem to have been particularly common within the export sector and on the domestic market within the manufacturing sector, while the service sector was less organised due to its structure of many small firms. A large amount of small firms did not make price and other restrictions unnecessary, but made agreements difficult to bring about and enforce.<sup>15</sup>

In the interwar period the whole sale and retail sector also started to cooperate in various ways, primarily by organising into chains. Price fixing agreements became more common as a result of this, i.e. the producers demanded the wholesale and/or the retails to sell at a certain minimum price, and the whole sale demanding in turn the retail sector to sell certain goods at certain prices. According to Salonen, this system also bridged a new form of co-operation between manufacturing and the trade sector. At the same time the trade chains regarded concentration within the manufacturing sector positively, as it decreased price competition between the whole sale groups and in case the producer also set the price to be charged of the consumers, the threat of competition decreased even further.<sup>16</sup>

However, in spite of increasing cartelisation on all fronts, the picture seems to be a little more varied than e.g. Kallioinen claims. The content of the agreements varied extensively, from very loose price agreements ('price rings') to joint sales organisations and syndicates, taking care of sales, dividing orders and making decisions about investments, or even cooperation taking the form of trusts, like the sugar trust *Finska Socker Ab*. Based on the investigation carried out by Ferdinand Alfthan such a view also receives support. According to him, the syndicates formed a minority primarily existing in the export sector, while loose 'price rings' and other forms of loose agreements were much more common.<sup>17</sup> The agreements signed and their contents also changed over time. This was typical for instance for the cotton

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<sup>11</sup> Source: to be checked.

<sup>12</sup> *Suomen Taloushistoria* 3, 306-312.

<sup>13</sup> Cf. Kallioinen, Mika, *Puuvilleollisuuden myyntikartelli 1910–1939*. Turun Yliopisto. 2006.

<sup>14</sup> Schröter 1996.

<sup>15</sup> Salonen, Ahti M. *Tutkimus taloudellisesta kilpailusta Suomen nykyisessä yhteiskuntaelämässä*. Helsinki 1955, 111.

<sup>16</sup> Salonen 1955, 112.

<sup>17</sup> Alfthan 1922, 324.

cartel, which started as a loose price ring, but gradually got a stricter form and became finally a joint sales organisation. On the other hand, at the same time as the common sales organisation was formed, one of the biggest producers exited the cartel.<sup>18</sup> Import competition was also in some branches considerable, providing at least some form of competition on the Finnish market.<sup>19</sup> Moreover, the cartels did not always cover the whole branch, and although some joint sales associations became very persistent, some survived only for a short period.

At the end of the WWI the Finnish economy had been in all but good shape, but the inter-war period turned out fairly favourable. While this period for many countries was one of slow growth, due to severe crises, economic and political instability, increasing protectionism and nationalism, Finland experienced an average growth during the period 1920-1938 of 4.6 per cent. The country did not experience an economic crisis in the early 1920s, while the Great Depression, although harsh within certain sectors, was shorter and in GDP figures not as deep as in many other industrialised countries. During this period, Finnish industrialisation experienced its breakthrough, with rapid expansion and increasing productivity.<sup>20</sup> The Finnish catching up-process with the leading economies in Europe had begun. New export markets opened up and exports shifted towards more refined products, and gradually also started to diversify. Finland became, however, at the same time increasingly integrated in the international economy, and thus, also sensitive to the international economy and its fluctuations. The economic policy and the institutional setting during this era, became focused, on the one hand, on promoting the export sector, and, on the other hand, on the exploitation of the opportunities on foreign markets and avoid the 'staple trap', i.e. becoming too vulnerably to international fluctuations due to the dependence on one single branch.<sup>21</sup>

The inter-war era, if one looks at direct intervention or regulation of the economy, was clearly liberalistic from the perspective of regulation of the economic activity. But this period did also mean an era of a more active State, for instance marked by the establishment of state-owned companies and at least a quiet support from the cartelisation, which could exist under the State's protection together with the emerging state companies. Still, in spite of close relations between the state and business, and a favourable attitude towards cartels also among the political elite and among the authorities particularly towards export cartels, which were seen as working in the national interest, the state did not actively intervene to force cartelisation, as it did in for example Norway and France in some cases.<sup>22</sup> It can also be argued that there was need for this, as cartels seems to have emerged anyway and also in key sectors. The particularly intimate relation between the business and the political elite, made perhaps the authorities 'work behind the scene'.

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<sup>18</sup> Cf. Kallioinen 2006. Kallioinen's book, a valuable book about one cartel (the cotton cartel) and its internal 'learning process', does not, however, make clear distinctions between divergent forms of cartel agreements. Thus, loose 'price rings' are put in the same group as the syndicates and trusts. However, various forms of cartels, their extent and their scope on the market, are important for the effects of the cartels for the consumers and market efficiency.

<sup>19</sup> Ibid, 330.

<sup>20</sup> Krantz, O. , Industrialisation in Denmark, Finland, and Sweden. A Comparative View. I Kryger Larsen, H. (ed.). *Economic Convergence? Industrialisation in Denmark, Finland and Sweden*. Finska Vetenskapssocieteten, Helsingfors. 2001.

<sup>21</sup> Kuisma Markku, Government Actions, Cartels and National Corporations . The Development Strategy of a Small Peripheral Nation during the Period of Crisis and Economic Disintegration in Euroepa. *Scandinavian Economic History Review* vol XLI, no 3 1993.

<sup>22</sup> Schröter 1996.

This period was also one of formalising the cooperative and collaborate features, making them inherent into the Finnish business system, where beside the big business also the agrarian sector was included, as it was important for the supply of the raw material. Finland can be seen as a very typical example of a young nation, on the verge to industrialisation, resorting to a strong economic nationalism.<sup>23</sup> The only sector still kept outside this national cooperative growth project, later also flavoured by strong consensus strives, was the labour markets, i.e. the employee side, due to the 'long shadow' from the civil war.

According to one of the leading historians in Finland, Markku Kuisma, an important factor contributing to the rapid economic growth and forest-based industrial progress in the inter-war period "was a successful set of means consisting of government actions coloured by agrarian interests, the establishment of state-owned industrial corporations inspired by economic nationalism and entrepreneurial enthusiasm, and intensive cartellization, led by the family-firms of the export sector."<sup>24</sup>

Although the intensified cartelisation of the inter-war period had some clear 'domestic' explanations, the inter-war period was, as Harm Schröter has shown, a period of intensified cartelisation also internationally. The Finnish development trend should be viewed in respect to this development. Finnish business leaders followed closely what went on abroad and took models home with them. Moreover, in the same way as the customs war broke out in the porcelain branch, the cartelisation of the Finnish export industry was at points an answer to cartelisation and other protective actions taken abroad.

Schröter also points out that the interwar period was some sort of zenith in the cartelisation of the 20<sup>th</sup> century, while the decades after WWII led to gradual decartelisation. This was, however, not the case in Finland, as we shall see below. Although Finland received a cartel legislation in 1958, which was more or less a copy of the Swedish cartel law of 1946. But while Swedish law meant a first step towards decartelisation, this was not the case in Finland. The number of cartels and new registered cartels actually grew during this whole period until the 1980s (cf. >Figures in Appendix). In Sweden, although still a high number of registered cartels in the 1960, the trend was falling. A contemporary analyst evaluated in 1962 that the falling trend in Sweden sprang from both alternative strategies, for example increasing tendencies to mergers and acquisitions, which decreased the need for cartel agreements, but also from the authorities' activities as some cartels were dissolved.<sup>25</sup> Moreover, and perhaps more importantly, the big business interest organisations, particularly the Swedish Federation of Industries took a more active negative attitude towards cartels: the Swedish general opinion favoured a more competitive environment.

### **The Post-War Era: Intensified Cartelisation in an Environment of Coordination and Regulation.**

WWII in Finland (Winter War 1939-1940, and the Continuation War 1941-1944) meant sharp and abrupt changes in the Finnish model of capitalism. From having been a fairly liberal market economy, although with strong features of cooperation or collaboration, it became a very strictly regulated economy. Obviously,

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<sup>23</sup> Cf. Teichova (ed.) 2001.

<sup>24</sup> Kuisma 1993.

<sup>25</sup> Komiteanmietintö 1982: 49, Appenix 1.

regulation is a typical feature during wars, but in Finland the war regulation remained in force longer than in many other countries: it continued until 1956 due to primarily the heavy war reparation to the Soviet Union, but also after that some sector of the economy mainly the financial markets and the inflow and outflow of capital, remained strictly regulated until the 1980s. In general, a new phase of a strong coordination and state intervention started. The Finnish economy from 1950s until 1980s could best be described with the label professor Kari Lilja has given it: an “inwardly looking, coordinated market economy”.<sup>26</sup>

The motivation behind the regulation, coordination and the fairly strong state intervention was a growth regime in order to promote industrialisation which was based on a high investment rate and policies favouring the export sector. The main corner stone in this policy was the monetary policy where the target was to keep the interest rate low. This demanded credit rationing and regulated financial markets and made the bank-centred financial system develop very far, where the banks became significant power centres. Under a system of fixed exchange rates and artificially low interest rates, foreign capital flows was also to be regulated. However, although fixed exchange rates were the target, the Finnish central bank resorted to devaluations at regular intervals in times of crises of the export sector: the economy went through so called ‘devaluation cycles’. Moreover, the trade with Soviet Union became an important factor after the war indemnities had been paid in 1952. This trade was of big political significance in the era of the Cold War and, thus, made those big companies involved in this trade, particularly some state companies, have a special position in the Finnish economy, while the relationship between the big business and the political elite became even more intimate.

The regulation and coordination was, however, not as much ideological, as it was pragmatic. The policies of active growth promotion and stress on investments in fixed capital also turned out to be fairly successful, at least until the 1970s. During the decades after the war, the Finnish economy grew rapidly and finally caught up with the leading industrialised nations. However, such a policy also made some structural problems inherent; the private business sector over-invested, and the returns on investments was low. The Soviet trade was at least for a while fairly favourable for the Finnish economy and the firms involved. The prices received were fairly good, and no marketing efforts were needed due to the peculiar trade agreement system. Furthermore, as the Soviet trade was based on bilateral agreements and oil was the main (only) import good to Finland, increasing oil prices during the oil crises was smoothed out by automatically increasing exports to Soviet. However, in the long-run, Soviet trade retarded structural changes, made investments in sales and marketing scarce and innovation activities meagre within some branches of the manufacturing sector.

During the post war era the cooperative features was extended also to incorporate the labour markets. During the war a system of collective bargaining had emerged when finally the Employers’ Federation had accepted collective negotiations with unions. The collective bargaining system, where often the government played a significant part (a tripartite system), in combination with welfare reforms based on wage worker ideologies, had as a target the involvement of the whole economy into a corporate growth project.

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<sup>26</sup> Lilja, Kari, *The National Business System in Finland - Structure, Actors and Change*. Helsinki School of Economics. 2005.

Within this transforming regulative and coordinated environment the first cartel law was passed in 1958. Many European countries had received a cartel law already in the inter-war period. Thus, the authorities could observe what was going on in other countries, particularly Sweden. In the report of the cartel committee, the situation and legal and institutional environment in other countries are extensively described and their possible implications in case adopted in Finland were evaluated. It has been typical for Finland to adopt models from abroad - and often with a certain lag. Particularly Swedish and German solutions have commonly worked as models. Not surprisingly, Swedish cartel law of 1946 stood as model for the Finnish law.<sup>27</sup> (*To be added*: a comparison between the Finnish and Swedish law!) Interesting enough, it was the law of 1946 that finally stood as the model, although the Swedish law had been revised already prior to the Government proposition to the Parliament, which was submitted in 1954. Actually, the government proposition also had taken some influences from the revised Swedish law of 1953, but the Parliament diluted the proposition on certain points, as they saw a need for a weaker version in order to first study the effects.

Although the law was much a copy of a foreign models, the origin of the law was clearly a consequence of the institutional environment and the economic situation of the 1950s. Already in the 1930s a cartel law had been on the agenda in the Parliament, but the environment was at this time liberalistic in the sense that the authorities should interfere in economic life and business activities as little as possible, although such a passive attitude perhaps had the effect that it decreased competition on the market. Moreover, big business and their interest organisation had a great influence in economic legislation, and the interest of these influential circles in restricting their own activities was minor.

The year of 1958 is not very surprising from the perspective of the situation in Finland in the late 1950s either: until 1956, through the so called Enabling Act, every segment of the economy was under strict the regulation. As the parliament was not willing to renew it in 1955, the strict war regulation was finally coming to an end and a new era begun. The market economy was restored and direct state intervention was loosened up, but it was not any more replaced by economic liberalism, but instead by the complicated and elaborate growth model based on coordination, corporatism and consensus, where all segments of the economy had their role to play. As already a contemporary analyst, Mikko Tamminen, concluded a cartel law was needed due to the formalisation of the increasing organisation and co-operation.<sup>28</sup> After the abolishment of the war regulation, the cooperation continued on a voluntary basis, but was to be controlled in order to fit into the overall corporative model.

The law concerning cartels, voluntary competition restrictions and dominating market position was passed in 1958. It was a result of a work starting already in 1946, when a committee was formed to draw up a legal framework 'in order to improve the control of companies' and groups' 'joint activity in order to restrict competition' (*fi: yritysrhmien kilpailua rajoittava toiminta*), and also to prevent improper and reprehensible restrictions of competition. The memorandum of this committee was submitted in 1952, while the actual law was passed in 1957, coming into force from

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<sup>27</sup> It has been wrongly concluded that the British anti-trust law worked as a model for the Finnish law of 1958. See e.g. Schröter, Harm, *Small European Nations. Cooperative Capitalism in the Twentieth Century*. In Chandel, A. et al. (eds.), *Big Business and the Wealth of Nations*. Cambridge University Press. 1996. Schröter is relying on Finnish sources, where this mistake been presented. The big role of the Swedish legislation as a model is stressed several times in the committee reports

<sup>28</sup> Tamminen, Mikko, *Kartellilain voimaan astuessa! Kansantaloudellinen Aikakauskirja* 1958 no., 8.

the beginning of 1958. Another reason for the delay of the law was that it aroused extensive debate and strong objections. The actual law was also, as mentioned above, watered down from the original version.

According to the new law, cartels and other types of firms' voluntary agreements to restrict competition had to be registered with the authorities and the content of the agreement made public. Otherwise such agreements were illegal. Such notification was to be done on the authorities' request. Furthermore, tender cartels were declared illegal. Also price fixing agreements could be prohibited by the authorities in case they were 'particularly harmful for the public'. An overall prohibition of price fixing agreements had been on the agenda in the committee memorandum, and the Government also included it in its proposal in line with the Swedish law of 1953, but the Parliament 'dilluted' this clause.

All types of cartel agreements, both loose 'recommendations' about prices and quantities etc. and strict written agreements were covered by the law, as well as horizontal and vertical agreements. Moreover, monopolies and agreements giving a dominating market position were also covered by the law. Employers' federation and trade unions were, on the other hand, excluded, while agrarian cooperatives and central organisations were included, something that the strong agrarian interest organisations strongly opposed. Publicly owned companies and professional practitioners were covered by it.

Export cartels and other types of cartel agreements concerning activities on foreign markets were, on the other hand, excluded. This was motivated by the fact that their activities did not affect the Finnish market. In case such cooperation also had consequences on the domestic market, they had to register. For example, the forest industry export cartels also worked as purchase cartels for the acquisition of raw materials in Finland. Moreover, some of the export syndicate or sales associations had departments for taking care of sales on the domestic market, for example FPMA. As a consequence, most export cartels and sales associations are found in the register as well.

The authorities were to establish a cartel register and were to monitor and control the situation on the markets, carry out investigation and research and keep up the register of cartels. For this activity a cartel agency (fi: *Kartellivirasto*) was to be established, an important outcome of the law. The law was based on a principle of publicity: by increasing transparency and knowledge about various price and other agreements, the law would work as a deterrent. As the committee stressed that the firms themselves would abstain from unscrupulous agreements, as a consequence of the compulsory notification.<sup>29</sup> This was also the case in the Swedish law of 1946.

The target of the law was not to forbid cartels, but to control and monitor them and the overall market situation. In the most flagrant cases the authorities could intervene. Cartels were not as such seen to be something harmful. On the contrary, it was pointed out in the report that in some case cartels were seen as being favourable for the consumers, by decreasing the 'search costs' and bettering the service. Moreover, cartels could be of advantage for the whole economy, as by restricting competition and inducing cooperation, rationalisation could be achieved and 'unnecessary' investments avoided. It appears that the cartel committee did not even see cartel agreements as conflicting with free competition, as they were

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<sup>29</sup> Kartellitoimikunnan mietintö. Komiteamietintö A 1952:33, 19.

voluntary agreements between firms which in general did not restrict market entry - at least not in principle.<sup>30</sup>

Soon it turned out that the law was ineffective from the perspective of prohibiting or abolishing any harmful cartel agreements. The authorities had in reality little power to interfere in single cases and no real effects came from the publicity principle. The bulletin of the cartel authorities had a minute circulation and cartel cases were published as small announcements in the newspapers.<sup>31</sup> Moreover, what was to be seen as 'harmful' or 'unjust' was never defined. In case of illegal agreements, the cartel members could be fined or even sentenced to 6 months imprisonment, but for example, tender cartels, which clearly were illegal, were difficult to discover, and by 1962 no price fixing agreements had yet been declared 'harmful' and, thus, illegal.

The law also received harsh criticism of being ineffective and of having neglected all available theoretical knowledge about competition issues available.<sup>32</sup> Moreover, the committee members represented primarily Government authorities and business interest organisation (trade, co-operatives, manufacturing) and agrarian interest organisations, while politicians and consumer representatives had lacked completely. These interest groups were not particularly interested in a very strong anti-trust legislation.

The cartel legislation was taken up for revision – or at least readjustments - already in 1959, when a new committee was appointed, primarily to assess the effects of the 1958 law and suggest needs for revisions. The enforcement of the law were seen by the committee as ineffective and this was one of the most important issues to be developed. According to the committee, a system based on a negotiation process was to be evolved in line with the model in Sweden as a result of the law of 1953. It was believed that already the threat of negotiations with the authorities would make cartels change their agreements.<sup>33</sup> Another problem considered was the notification of the agreements. It was observed, that as notification was to be done only on request, a great amount of cartels remained outside the register. The notification process had to be made more efficient. What was to be seen as "harmful" or "damaging" were also concluded to be difficult to define. In the Swedish law of 1953 price fixing agreements had become illegal. This was again on the agenda this time.

A revised law was passed in 1964. Firstly, fixed price agreements were declared illegal, in case it was not clearly stated that such prices could be undercut. Both tender cartels and price fixing agreements could, however, get special permission from the authorities. Cartels 'harmful' to the society could also be dissolved according to the law. The monitoring and research activities of the cartel authorities were also extended and intensified and their role strengthened.

One of the most important changes was that the notification of a cartel agreement was to be done on the cartel's own initiative within 30 days of the signing of the cartel agreement. Also changes in the agreement were to be notified to the authorities on the cartel's own initiative within 30 days. There was also a wave of registration after this (see Figure 2). However, it was also likely that still many agreements remained outside the law. When studying the cartel register, cartels within

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<sup>30</sup> This receives support also from contemporary sources. Tamminen presented the same view in his fairly critical article of the outcome and the work and motivations behind the first cartel law. Cf. Tamminen 1958.

<sup>31</sup> Komiteanmietintö A 1962:4, 21, 25

<sup>32</sup> Tamminen 1958.

<sup>33</sup> Komiteanmietintö A 1962:4, 20

the same branch was often registered simultaneously, as a result of investigations of the authorities leading to requests from the authorities. The large amount of cartels still remaining outside the register was a fact well recognised by the authorities themselves. In the committee report of 1982, it was evaluated that the register only consisted of part of all cartel agreements.<sup>34</sup> However, it appears that the cartel authorities were fairly active to send out requests to companies already from the start: by 1962 they had sent out 9750 enquires to firms, and 243 cartels had registered. This can also be observed from Figure 1, where the number of registered cartels is extensive from the beginning.

The law was revised a third time during this era before the huge transformations of the Finnish capitalism of the 1980s and 90s (see below). In 1971 a new committee was appointed in order to make an overview of the cartel law and the situation on the market. Already in May 1972, the committee submitted its report to the Government. The problem of the time - a persistently high inflation - was to the fore in the report, where the cartels were recognised as one factor pushing the prices upwards. The revision of the competition law was connected to the revision of price surveillance law.<sup>35</sup> Moreover, the target was also to renew it in order to make it more effective and more in accordance with the competition law in the other Nordic countries. The revised law was passed in 1973, but no larger revision, or any significant changes in the outlook on cartels and voluntary competition restrictions. However, the information to submit information to the authorities became stricter and more extensive, to better enable the cartel agency to evaluate the effects from the agreements. Complaints against cartels could now also be submitted to the authorities by individual firms or consumer organisations. The concept also changed from cartel to competition legislation. A new competition ombudsman (fi. *Kilpailuasiamies*) was appointed who was to take initiative for the negotiation in the Competition Council (fi. *Kilpailuneuvosto*). Also the public could encourage the competition authorities to take actions. It appears that after 1974, the cases dealt with grew after this and the law having some effects on the most adverse cases. In the period 1974-1981, 145 cases of inappropriate and harmful activities in order to restrict competition had been dealt with by the authorities. Some of them led to voluntary actions of the firms or cartel, in some cases the firms agreed to change their clauses after negotiations, but in most cases did not give rise to any further measures.<sup>36</sup>

However, the amount of cartels continued to grow and new cartels registered. No large transformed in the legal system or in the basic outlook on voluntary activities between companies in order to restrict competition. Free competition was to be seen as the ideal situation, but cartels and various sorts of cooperation between firms were not a problem, as long as they were not particularly 'harmful', by e.g. preventing entry to markets or raising the price level unreasonably. More profound transformations only occurred later in connection to larger transformation in the whole model of capitalism due to both inside and outside pressures in the 1980s and 1990s.

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<sup>34</sup> Kilpailutoimikunnan mietintö 1982: B:52, 66. It should be kept in mind that the register consists of 'legal cartels', and does not cover all cartels on the Finnish market. However, there are around 1800 cartel agreements registered between 1958 and 1988, which shows the extent of the phenomenon in the post-war economy.

<sup>35</sup> Hinta- ja kilpailukomitean mietintö. (Price- and competition committee report) 1972: B 52.

<sup>36</sup> Kilpailutoimikunnan mietintö 1982: B52: appendices.

## **Liberalisation, Integration and Decartelisation: Transformations of the 1980s-2000**

The 1990s and 90s meant a very turbulent period in the Finnish economy. Extensive transformations occurred in the institutional setting, in the business system and in the model capitalism. At the same time, and partly connected to this, the Finnish economy went through one of its worst peace time crises in the early 1990s, with negative growth for three subsequent years, bankruptcies, a rapid increase in unemployment and a severe banking crises.<sup>37</sup>

The reason behind this crisis was both outside shocks occurring simultaneous at the turn of the decade 1990, mainly the international recession and the collapse of the Soviet trade due to the break-down of the Soviet Union, showing the high vulnerability of the Finnish economy to the international economy. However, behind the crises lay also several domestic factors, mainly inherent problems in the economy, due to the long regulative environment and the heavy dependence on the Soviet trade within some sectors of the economy. This had retarded structural changes and caused imbalances. For instance, the investment oriented policy had contributed to over investments in some sectors, while firms solely dependent on the Soviet trade had produced for long goods which would not have been able to compete on western markets. Finally, disastrous economic policies of the 1980s were the final stroke to the Finnish economy leading up to the worst economic crisis in Western Europe after WWII.

Fortunately, the recovery was also very fast in the second half of the 1990s, due to huge depreciations of the currency in 1991 and 1992, the success of some big corporations, and the public sector working as a buffer, taking over some of the banks and the increasing expenditure from the social costs of the crises and finally the EU membership in 1995.

At the same time as this crisis and recovery occurred, partly in connection to the crisis, partly in connection to the changing political environment in Europe, participation in the deepening European integration process and pressures from globalisation and the rapid inflow of foreign capital, but also due to a new way of thinking and a new political environment within the Finnish society, the economy went through reforms, rapid structural changes and transformations in the institutional environment. Some of them were induced and called for by the crisis, some a result of political choice about a new regime. The new institutional environment and the new openness of the Finnish economy with respect to FDIs and capital flows, had as a consequence that the foreign ownership in firms grew remarkably, which was important for the success of Finnish large corporations like Nokia. Moreover, it had extensive effects on Finnish corporate governance. This period meant a radical transformation in the whole institutional environment, Finland moving from the “highly coordinated inwardly looking, market economy” to becoming, in line with Lilja, “inwardly and outwardly open, coordinated market economy”.<sup>38</sup>

This new environment was obviously also reflected in the competition legislation and the views on the cartels. Particularly the plans to apply for membership in the European Union had effects on competition law. After Sweden had made their decision to apply for membership, Finland followed. In the new political environment

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<sup>37</sup> For excellent analyses of the Finnish crises of the 1990s, see Kalela J. et al. (eds.), *Down from heaven up from the ashes: the Finnish economic crisis of the 1990s in light of economic and social research*. Government's Institute for Economic Research VATT: Helsinki 2001.

<sup>38</sup> Lilja 2006.

of Europe this had become possible. In 1992, the application was submitted and in 1995 Finland became, simultaneously with Sweden, member of the European Union. This forced a new competition law, passed in 1992 and, with some minor changes later on, in accordance with the EU legislation. However, it is evident that already earlier the signs of change are observable.

Already in the early 1980s a competition committee was – again - established. It did not, however, turn out in a legislative reform and the law of 1973 remained in force until 1988, but the in the report from the committee a new way of thinking, very different from that of e.g. the committee of 1973, can be observed. The new outlook on cartels and on competition and anti-trust policies must be seen in connection to the transformation in the economic and institutional environment of the period. The liberalisation of the Finnish economy, primarily observed in transformations on the financial markets, were part of the evolvement of wholly new institutional setting or regime, which in some cases required other reforms and regulative environment, in line with the idea of institutional complementarity, but also in general transformation occurred on many fronts. There was in general a move towards a more competitive environment - towards “the competition state”. A natural consequence of the environment was a more favourable towards active competition policies and a stricter anti-trust regulation.

Thus, the radical transformations of the competition legislation in 1988 and 1992, was not only linked to the application of EU membership, but a process within the Finnish society, which started long before the EU membership was considered, not to mention spelled out by the Finnish political elite. Actually, also a new international orientation or awareness is observable already before the EU-membership was on the agenda. In the 1982 committee report, it was not only pondered on legislative reforms in divergent countries and on supranational antitrust and competition policies, but the committee considered the demands for institutional adaptation on amore general level stemming from the pressure form the transforming international environment due to the increasing openness of the Finnish economy and, thus, increasing dependence on the international economy.

Actually already Finland’s associated membership in Efta in 1961, as a result of the so called Finn-Efta agreement, and the free trade agreement with the EEC in 1973 had put demands on Finnish competition policies. According to the Efta convention, agreements between companies, which aimed at restricting or distorting competition in order to undo the advantages achieved from the abolishing of tariffs and duties within the Efta-area, were in conflict with the Efta convention, while the according to the EEC agreement’s 23rd article agreements in order to restrict competition, although limited to the domestic market, clashed with this article in case they affected the trade between the member states or between member states and Finland. But no instruments to prevent or abolish such cartel agreements existed, as the agreement between the EEC and the Finnish Government was not binding for the companies.<sup>39</sup> It might be the case that in some cases the firms themselves were aware that activities clashing strongly with EEC policies, did not further they interests on the common market, but this need further investigation..

Although the competition report of 1982 indicated a new view and the committee had fairly extensive propositions for change, no legal reforms were carried through this time. This changing attitude can, however, be observed also by looking at cartelisation figures. From Figure 1, it can be seen that for the first time since the

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<sup>39</sup> Kilpailukomitean mietintö 1982:49, 50–55.

register was established, the number of cartels in the register decreased, while from Figure 2, the number of abolished cartels started to exceed since the early 1980s the number of new registrations. Apart from any tendencies towards increasing competition, which obviously needs further investigations to be confirmed, one explanation is a change towards increasing consolidation during period.

Finally, a new competition law was passed in 1988 in a new competition law. This law is usually seen to have meant a huge step towards a new phase. The law did not forbid cartel agreements, apart from those prohibited already before, but the demands for notification of agreements became stricter, the authorities' instruments to enforce the law and also prohibit 'harmful' and 'unjust' agreements improved. Agreements between companies restricting competition could after this also be declared illegal and then dissolved. The exploitation of a dominating market position became illegal. The Finnish competition authorities also got a pronounced role in the exercising of the law. In 1991 the legislation was renewed, when the aim was to harmonise the Finnish legislation with the western-European and the Nordic legislation. The new law came into force 1992, with a 6 months transition period for the business sector to be able to respond and adjust. Since then cartel agreements and other agreements which affect pricing, hinder business activities, decrease efficiency and is incompatible with EU competition law. However, in spite of this, cartels are discovered at regular intervals.

### **Concluding Remarks**

From above we can make some brief conclusions, although there is an urgent need for further research in order to get a profound picture of the situation. Firstly, the Finnish model of capitalism has gone through extensive changes when it comes to legal and economic environment, but at the same time some through going features like tendencies to collaboration and coordination have continued to persist, irrespective of institutional models and legal settings.

Secondly, the Finnish case shows how the institutional models in a small open economy, heavily dependent on the foreign markets, is strongly influenced by the international environment. In some cases the pressures have been very strong. On the other hand, we can also see from above that the institutional model also has to be studied from a domestic perspective. Not all the changes in the Finnish cartel legislation can be explained by foreign trends, influences or pressures. On the contrary, the domestic models were strong. Moreover, it appears evident that in order to fully understand the motivation for, and the concrete outcomes from, cartel legislation in a country, it has to be put within the whole framework of the economy and the institutional environment. This is also the case when we later will be studying cartelisation strategies and cartel organisation among individual firms and branches. Thus, the study of the capitalistic model is crucial for the understanding of a particular segment of the institutional environment.

Furthermore, the Finnish case also shows that similar institutional models or legal settings can have somewhat divergent outcomes. Although the Swedish and Finnish cartel law was fairly similar, the outcome in the form of cartelisation was fairly different. In the same way, divergent models can sometimes have similar motivations and goals behind. This is something to consider carefully when doing comparative research, but also an interesting and challenging question, calling for more research.

Although our knowledge of the significance of transformations is still very superficial, the role of institutional transformation and the investigation of transition, or formative, the above example also show that the investigation of periods of change are of utmost importance for the understanding of a new regime. Finland appears here to be an interesting case, as the country has been prone to crises and during such crises transformations have usually taken place. On the other hand, it is also evident that many transformations have already been well on the way before the crisis.

Appendix

Figure 1.

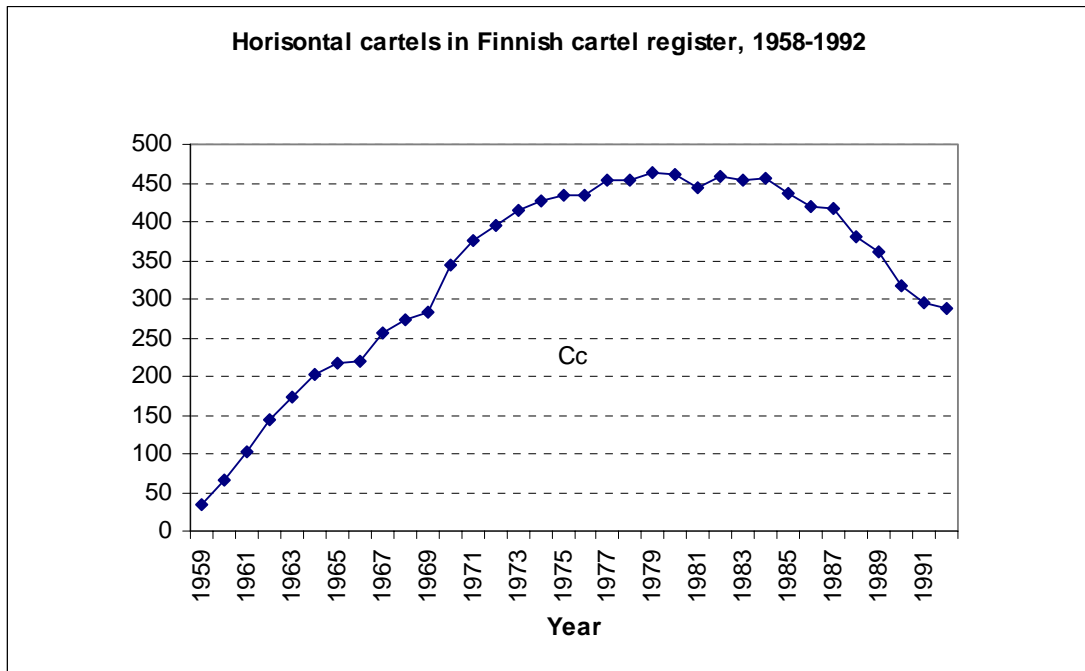


Figure 2

