

Finland's policies on procedures for the promulgation of the mandatory instruments of the International Maritime Organization (IMO) and for ensuring the compliance of the maritime administration



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Finland's policies on procedures for the promulgation of the mandatory instruments of the International Maritime Organization (IMO) and for ensuring the compliance of the maritime administration

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Abstract

The Ministry of Transport and Communications appointed a national preparation and coordination group for auditing in accordance with the International Maritime Organization (IMO) auditing framework (IMSAS) for 2024, which prepared this publication.

The publication outlines the procedures by which Finland will ensure the national approval and implementation of mandatory obligations through national legislation and the conformity of maritime administration in accordance with the IMO Recommendation on the governance strategy of the III Code.

The policies include:

1. Background, objectives and scope in accordance with the IMO III Code.
2. Procedures for setting targets and resources for the maritime administration, measuring its performance and monitoring its compliance, and continuously improving the administration by using the review procedure.
3. A description of the ministries and agencies operating in maritime administration, the process for the national adoption and implementation of IMO regulation, and the operative actors and tasks of maritime administration.

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Suomen linjaukset menettelyistä Kansainvälisen merenkulkujärjestön (IMO) pakollisten velvoitteiden voimaansaattamiseksi sekä merenkulun hallinnon vaatimustenmukaisuuden varmistamiseksi

Liikenne- ja viestintäministeriön julkaisuja 2024:5

Julkaisija	Liikenne- ja viestintäministeriö		
Tekijä/t	Anne Miettinen		
Yhteisötekijä	IMO IMSAS-auditoinnin valmistelu- ja koordinaatioryhmä		
Kieli	englanti	Sivumäärä	24

Tiivistelmä

Liikenne- ja viestintäministeriö asetti vuoden 2024 Kansainvälisen merenkulkujärjestön (IMO) auditoinnin viitekehyksen (IMSAS) mukaista auditointia varten kansallisen valmistelu- ja koordinoitiryhmän, joka valmisteli tämän julkaisun.

Julkaisu sisältää IMO:n III -säännösten hallinnon strategiaa koskevan suosituksen mukaiset linjaukset menettelyistä, joilla Suomi varmistaa pakollisten velvoitteiden kansallisen hyväksynnän ja voimaansaattamisen kansallisella lainsäädännöllä sekä merenkulun hallinnon vaatimustenmukaisuuden.

Linjaukset sisältävät:

- Taustan, tavoitteet ja soveltamisalan IMO:n III -säännösten mukaisesti.
- Menettelyt tavoitteiden ja resurssien asettamiseksi merenkulun hallinnolle, sen toiminnan mittaamiselle ja vaatimustenmukaisuuden valvonnalle sekä hallinnon jatkuvalle parantamiselle katselmointimenettelyä hyödyntämällä.
- Kuvauksen merenkulun hallinnossa toimivista ministeriöistä ja virastoista, prosessista IMO:n sääntelyn kansalliseksi hyväksymiseksi ja voimaansaattamiseksi sekä merenkulun hallinnon operatiivisista toimijoista ja tehtävistä.

Asiasanat	merenkulku, sääntely, hallinto, auditointi		
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Finlands riktlinjer för förfaranden för att fullgöra Internationella sjöfartsorganisationens (IMO) obligatoriska skyldigheter och för att säkra sjöfartsförvaltningens kravenlighet

Kommunikationsministeriets publikationer 2024:5

Utgivare	Kommunikationsministeriet		
Författare	Anne Miettinen		
Utarbetad av	Gruppen för beredning och samordning av en revision enligt IMO:s medlemsstatsrevisionssystem IMSAS		
Språk	engelska	Sidantal	24

Referat

Kommunikationsministeriet har tillsatt en nationell grupp för att bereda och samordna en revision enligt Internationella sjöfartsorganisationens (IMO) revisionssystem för medlemsstaterna (IMSAS) 2024. Denna publikation har beretts av gruppen.

Publikationen innehåller riktlinjer enligt rekommendationen om en förvaltningsstrategi i IMO:s III-kod för förfaranden som säkerställer att Finland genom nationell lagstiftning godkänner och uppfyller de obligatoriska skyldigheterna och att sjöfartsförvaltningen fungerar kravenligt.

Riktlinjerna omfattar

1. Bakgrund, mål och tillämpningsområde enligt IMO:s III-kod.
2. Förfaranden för att fastställa mål och resurser för sjöfartsförvaltningen, för att mäta verksamhetens effektivitet och övervaka dess kravenlighet och för att kontinuerligt förbättra förvaltningen genom revisionssystemet.
3. En beskrivning av de ministerier och ämbetsverk som är verksamma inom sjöfartsförvaltningen, av processen om att godkänna och sätta i kraft IMO:s reglering på nationell nivå samt av de operativa aktörerna och deras uppgifter inom sjöfartsförvaltningen.

Nyckelord	sjöfart, reglering, revision, förvaltning		
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FINNISH MARITIME ADMINISTRATION OBLIGATIONS ARE JOINTLY MANAGED, AND OPERATIONS ARE CONTINUOUSLY MONITORED AND IMPROVED

The policies contained in this publication constitute the strategy recommended by the IMO III Code¹. The publication uses the term 'policies' which better describes the purpose of the procedures to ensure the enforcement of the IMO obligations through national legislation and the compliance of the Administration with the requirements. This also allows for a clear separation between the policies and the actual maritime strategy. In addition to the policies, a more detailed description of the Finnish maritime administration and its operational functions was prepared to support the audit. It is available through the Gateway to Information on Government Projects.

The Finnish maritime administration works well together, which has proven to be one of Finland's strengths. The joint preparation of the policies and for the IMO IMSAS audit has further deepened the cooperation, for example, with a new good practice, an annual maritime review that can be used to continuously improve operations. I would like to warmly thank the contributors to the working group and other partners.

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In addition, other key ministries and regional government agencies participated in the preparation in connection with the review organised during the project.

February 2024

Anne Miettinen

1 Background, objectives and scope

The main role of the International Maritime Organization (IMO) is to create a regulatory framework for the shipping industry that is fair and effective, universally implemented, and that promotes safe, secure, environmentally sound, efficient and sustainable shipping. Member States have the primary responsibility to implement IMO instruments in national legislation and organise effective maritime administration to discharge their obligations as flag, port and coastal States emanating from applicable international law.

This publication describes Finland's policies on procedures for ensuring compliance with the mandatory IMO instruments by the national Administration. The Policies were drawn up in cooperation between the ministries and authorities with maritime responsibilities in accordance with the audit framework set out in the IMO Implementation of Instruments Code (III Code).

These policies:

1. describe the organisation and procedures to ensure that Finland fulfils its responsibilities and obligations as maritime administration;
2. define procedures to monitor and measure the implementation and enforcement of international regulation; and
3. describe how the effectiveness and suitability of these policies are monitored, maintained and improved in order for the authorities to achieve the necessary level of flag, port and coastal State duties.

The Administration's responsibilities and obligations described in this publication are based on the following international conventions, their national equivalents and the regulations and guidelines supporting them, in accordance with the III Code.

The III Code covers the following instruments:

1. the International Convention for the Safety of Life at Sea 1974 (SOLAS) (Treaty Series 11/1981);
2. the Protocol of 1978 of the International Convention for the Prevention of Pollution from Ships, 1973, and annexes (MARPOL 73/78) (Treaty Series 51/1983);
3. the Protocol of 1997 amending the International Convention for the Prevention of Pollution from Ships (MARPOL PROT 1997) (Treaty Series 33/2005);
4. the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW) (Treaty Series 22/1984);
5. the International Convention on Load Lines, 1966 (LL 66) (Treaty Series 52/1968);
6. the Protocol of 1988 relating to the International Convention on Load Lines, 1966 (LL PROT 1988) (Treaty Series 12/2000);
7. the International Convention on Tonnage Measurement of Ships 1969 (TONNAGE 1969) (Treaty Series 31/1982); and
8. the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREG 1972) (Treaty Series 30/1977).

2 Principles for organising the Administration

Maritime administration in Finland is decentralised to the responsibility of 11 ministries, nine agencies of their administrative branches together with regional agencies Centres for Economic Development, Transport and the Environment (ELY Centres) and Regional State Administrative Agencies (AVIs).

The tables below refer to the ministries and central agencies using the following abbreviations: the Ministry of Transport and Communications (MINTC), the Ministry of the Environment (MOE), the Ministry of the Interior (MOI), the Ministry of Justice (MOJ), the Ministry for Foreign Affairs (MFA), the Ministry of Finance (MOF), the Prime Minister's Office (PMO), the Ministry of Economic Affairs and Employment (MOEAE), the Ministry of Social Affairs and Health (MOSAH) and the Ministry of Agriculture and Forestry (MOAF). The agencies include the Finnish Transport and Communications Agency (Traficom), the Finnish Transport Infrastructure Agency (FTIA), the Finnish Meteorological Institute (FMI), the Finnish Border Guard (FBG), Statistics Finland (SF), the Safety Investigation Authority (SIA), the National Police Board, the Finnish Environment Institute (FEI) and the Finnish Customs.

Each ministry is responsible for the tasks in its administrative branch. The operational responsibilities assigned to the agencies have been separated from the legislative preparatory responsibilities of the ministries. Oversight and service procurement responsibilities have also been differentiated within or between agencies to avoid conflicts of interest.

The ministries handle the national implementation and promulgation of international conventions and their amendments, prepare legislative proposals and monitor the effectiveness of legislation.

The tasks of the agencies are based on obligations arising from legislation and are aimed at companies, educational institutions, port authorities, vessels, seafarers and the authorities. The agencies issue permits for operations and transportation, maintain registers and compile statistics. The agencies also provide more detailed guidelines on traffic arrangements, reporting, the appropriate course of action equipment, structures and maintenance. Regulatory control, inspections and

investigations fall within the remit of the agencies, although losses of human life or serious environmental accidents are investigated by an authority different from the one that issues related permits.

2.1 Goal-setting and resourcing of the Administration

The most important strategic objectives for the Administration are set every four years on the same cycle as parliamentary elections and government formation. The most important reforms to be carried out during the government term are described in the Government Programme. The continuity of the actions of authorities (including the management of international obligations) is also ensured across parliamentary terms. The Government Programme describing objectives also guides their budgeting, i.e. the planning of the state budget. The ministries' long-term financial planning takes place through the General Government Fiscal Plan.

The ministries and agencies have rules of procedure that outline processes and responsibilities for activities and resources. The rules of procedure set out the statutory tasks of the authority.

Operational and financial planning is guided by the government programme in force at the time, the Group strategy if one is in force for the administrative branch, decisions allocating budgetary appropriations and the policies of the ministries' management. The strategies and the resource guidance supporting them create a framework for the agencies' key operational and financial planning documents, the spending limits proposal, draft budget and the agencies' performance agreements drawn up annually.

The ministries steer the agencies and are responsible for ensuring that their objectives and operations are in line with the Government Programme. After the approval of the state budget, each ministry concludes annual performance agreements with its agencies. The objectives set out therein cover the entire operations of the agency, so they may include few objectives set specifically for the Administration. However, the above processes set the framework for both the financial and human resources that the Administration has at its disposal.

Each agency in the Administration sets targets for itself in order to fulfil the responsibilities and obligations imposed on it by legislation. This is called normative goal setting.

Each agency plans its operations on a practical level internally in relation to the Government Programme, the performance agreement, the steering of the ministry and the internal objectives it sets for its operations. This is called tactical planning.

2.2 Administration activity measurement and compliance monitoring

The overall functioning of the Administration is examined through internal audits, reviews and external evaluations.

The ministry issues an annual statement on the final accounts on the agencies in its administrative branch, examining the fulfilment of the performance agreements and financial management. The basis for the statement on the final accounts comprises the financial statements of the agency, which include the Board of Directors' report and the financial audit report by the National Audit Office.

The effectiveness of the Administration is reviewed in relation to the implementation of international conventions approximately every seven years by means of an IMO IMSAS audit. In addition, the European Maritime Safety Agency (EMSA) regularly audits Finland's measures in implementing EU legislation.

Agencies with externally audited management systems are audited by external parties in accordance with the requirements set by the system. Internally, operations are assessed and developed through management systems, administrative rules and risk assessment plans.

2.2.1 The Annual review of the state of maritime administration

In addition to audits of separate administrative areas, the operations of the entire Administration are continuously examined and improved annually through a specific management review. The review is also used to develop these Policies on procedures, where appropriate.

The maritime management review covers, at minimum:

- changes in the operating environment,
- the status of conventions and their amendments, national implementation and promulgation, as well as legislative projects,
- reviewing the statistical data of the maritime administration.
- agency specific objectives and key processes to ensure the achievement of objectives and development needs,
 - the results of the self-assessments or internal audits of each agency and the status of possible corrective actions,
 - the results of external audits and status of any corrective actions,
 - any development proposals emerging from the operating environment or proposed by stakeholders,
- key coordination meetings within maritime administration field and their measures.
- whether there is a need to update these Policies on procedures.

3 Maritime Administration – its actors and functions

The organisation and responsibilities of the ministries and agencies are based on legislation. The tasks related to maritime safety, the marine environment, shipping, maritime transport and the enforcement of the IMO instruments belong, in particular, to the tasks of the ministries and the agencies in their administrative branch presented in the figure below.

Figure 1. The Administration



3.1 Administration ministries and national approval and implementation of IMO instruments

The key responsibilities of the ministries are legislative drafting, performance management and ownership steering in the administrative branch, international cooperation, including international organisations, the European Union and the budget of the administrative branch.

A legislative plan is prepared on the basis of the Government Programme and constantly updated. Ministry-specific legislative plans also take into account the adoption and promulgation of international conventions and their amendments. The state budget also allocates the funding required for operations and procurements by the authorities due to legislative changes.

The ministries continuously monitor and develop the quality of the legislative process and legislation through impact assessments at the beginning and after the legislative process. It is essential to conduct impact assessments to support the development of international regulation and cooperation, especially with regard to major, systemic changes related to, for example, the reduction of emissions and the introduction of new technologies. At the national level, Finland strives to improve efficiency by linking the promulgation of IMO instruments to major national legislative projects, while taking into account time constraints.

Each ministry is responsible for drafting legislation in its own mandate in accordance with the Constitution of Finland. The Ministry of Transport and Communications (MINTC) is responsible for the national preparation of the approval and implementation of the IMO conventions and amendments, as well as for monitoring IMO instruments. The ministry coordinates the necessary actions with agencies and other ministries. Conventions or their amendments are implemented into national legislation and then enforced as part of the Administration's operations.

3.1.1 Implementation and transposition of IMO instruments into national law

According to the Constitution of Finland, the implementation of international conventions in Finland follows the dualistic model. This means that (1) Finland decides to give consent to make the treaty mandatory in Finland in a way that binds Finland according to international law. In addition (2) the treaty must also be separately implemented in order to enter into force within Finland.

Consent to be bound by IMO Conventions (1) in terms of international law takes place through approval. After the approval, the instruments are (2) brought into force either by a framework or blanked act or decree. In addition, the content of instruments is often regulated by substantive law.

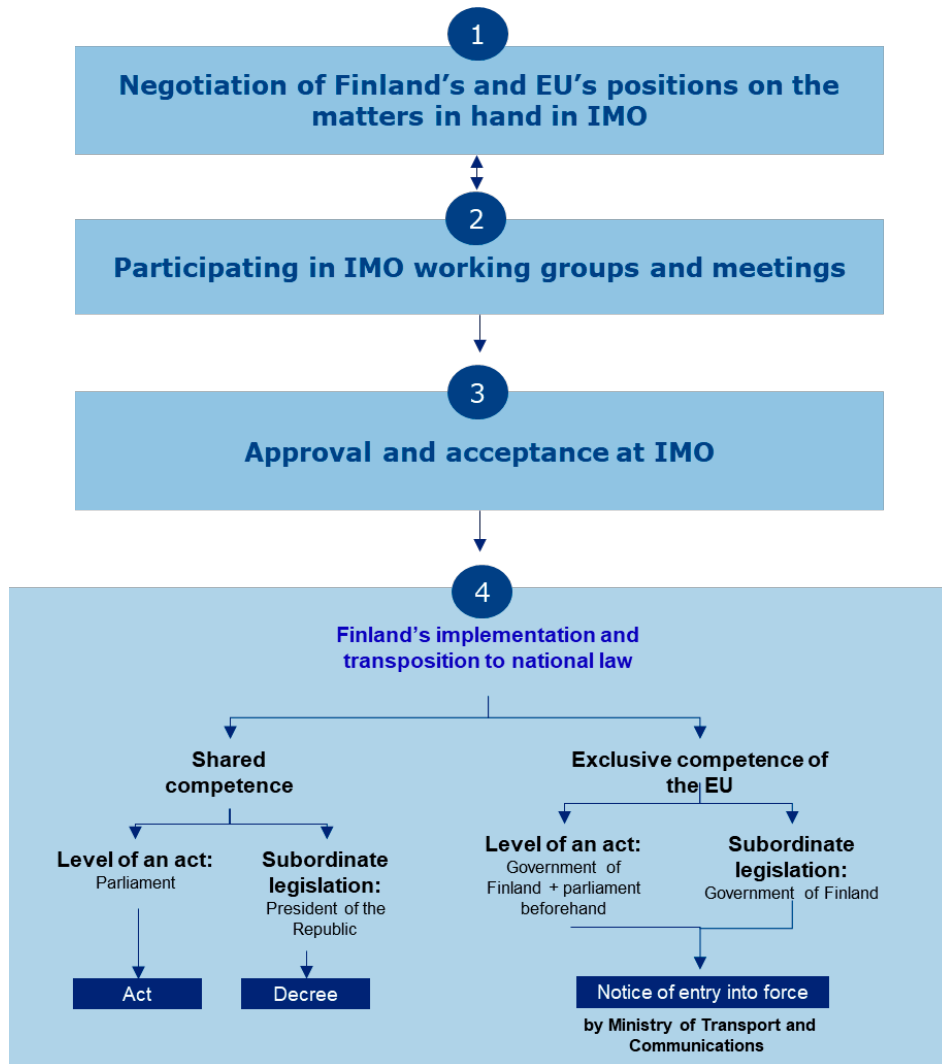
In Finland, the approval and implementation processes differ depending on whether the instrument is at the level of an act or of a subordinate legislation. In addition, there are differences in processes depending on whether European Union (EU) share competence with the Member States on a subject matter or a matter falls under the exclusive competence of the EU.

Approval process

Obligations subject to shared competence are approved by Parliament if they are of a legislative nature and by the President of the Republic in the case of subordinate legislation. Issues that fall under the exclusive competence of the EU are approved by the Government of Finland, regardless of the level of regulation. However, Parliament must be consulted on statutory obligations falling within the exclusive competence of the EU already during the negotiation phase.

Entering into force process

Obligations of a legislative nature are brought into force with an Act. In accordance with the general procedures, the Act Bringing into Force the Provisions of a Legislative Nature in the Convention is adopted by Parliament and ratified by the President of the Republic. Other obligations are brought into force with a government decree. International IMO instruments that fall under the exclusive competence of the EU are not enacted nationally; instead, their entry into force is announced by the relevant ministry.

Figure 2. Simplified process for national adoption and promulgation of IMO instruments

3.1.2 Responsible ministries

Table 1. The Administration is guided by the following responsible ministries.

Area of application	Responsible party	Area of application	Responsible party
Monitoring, approval and implementation of IMO instruments	MINTC	(environmental) Impact of ports (environment)	MOE, MINTC
Protection of the marine environment	MINTC, MOE, MOI	General preparation related to the Constitution	MOJ
Environmental impacts	MOE	Sanctions and penalties	MINTC, MOJ, MOI
Transport system	MINTCC	General coordination of international activities	MFA
Communication system	MINTC	State budget	MOF
Environmental situation information	MOE, MINTC	Statistics	MOF
General coordination of EU legislation	PMO	Customs	MOF
General monitoring of the implementation of the objectives of the government programme	PMO	Security	MOI, MINTC
Maritime policy	PMO	Safety investigation	MOJ
Fishing, fisheries	MOAF	OSHA, investigation of accidents at work, rest periods	MOSAH, MOEAE, MINTC
Maritime training and skills	MOEC, MINTC	SAR, marine pollution response	MOI

3.2 Operational tasks and who carries them out in the Administration

The implementation tasks of the Administration are divided between different agencies and institutions, and related tasks may be carried out by several different agencies. The Finnish Transport and Communications Agency supports the Ministry of Transport and Communications in the preparation of IMO meetings and in the monitoring of IMO instruments. The agency prepares lower-tier standards, i.e. regulations, related to the technical promulgation of IMO instruments. The agencies also support the ministries in their legislative work. The tasks of the agencies are described in acts, decrees and rules of procedure.

The Administration operationally fills three internationally regulated roles as the administration of the flag State, port State and coastal State. Each of these roles has responsibilities related to safe shipping and the protection of the marine environment.

3.2.1 Flag State responsibilities

The administration of the flag State is responsible for the implementation and enforcement of international maritime regulations in respect of all vessels flying its flag, as well as for the adequacy of the certificates of competency it issues to its seafarers.

Table 2. Flag State responsibilities

Task type	Operational task	Carried out by
Enforcement	Certificates and endorsements issued to seafarers	Traficom
Enforcement	Approval and control of seafarer training providers and training programmes	MOEC/Traficom
Enforcement	Interpretations of cases where the international claim can be resolved to the satisfaction of the Administration	Traficom
Enforcement	Ensuring adequate safe manning of Finnish ships	Traficom
Delegation	Authorisation of recognised organisations (RO)	Traficom
Delegation	Supervision of nominated surveyors, tonnage surveyors, inspectors and class (RO)	Traficom
Implementation	Vessel seaworthiness requirement	Traficom
Implementation	Vessel inspection requirement	Traficom
Implementation	Enforcement of sanctions for violations of international rules and standards	FBG/Traficom/ SIA/Police/courts
Implementation	Certification of ships	Traficom
Investigation	Accident investigation	SIA
Investigation	Investigation of occupational accidents	AVI

3.2.2 Coastal State responsibilities

Territorial waters and their natural resources fall under the jurisdiction of the coastal State, and their responsibilities include the fairways and waterways through these waters and the vessel traffic utilising them, which are regulated by law and secured by services to ensure vessel safety and the protection of the marine environment.

Task type	Operational task	Carried out by
Enforcement	Radio communication services	Traficom/FBG/Fintraffic
Enforcement	Weather services and warnings	FMI
Enforcement	Search and rescue activities (SAR)	FBG
Enforcement	Hydrographic services	Traficom
Enforcement	Ships' routing; setting up or discontinuing traffic separation schemes	Traficom
Enforcement	Ships' routing; Enforcement of traffic separation schemes	Fintraffic/Traficom
Enforcement	Mandatory ship reporting (GOFREP)	Traficom/Fintraffic
Enforcement	Mandatory ship reporting systems	Customs/Traficom
Enforcement	VTS services	FTIA/Traficom/Fintraffic
Enforcement	Aids to navigation (ATON)	FTIA/Traficom
Implementation	Preparedness for response to pollution incidents	FBG/FEI/rescue departments
Implementation	Surveillance of ships' emission (according to MARPOL)	FBG/Traficom/Police
Implementation	Accident investigation in Finnish territorial waters	SIA

3.2.3 Port State responsibilities

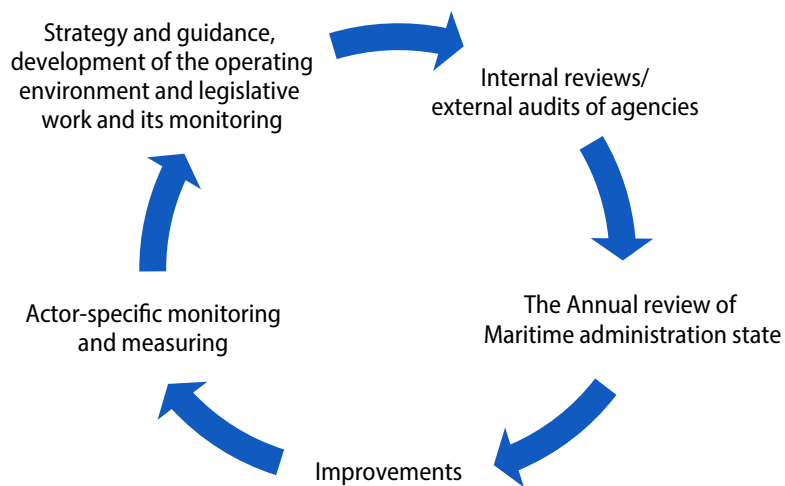
The port State administration must inspect foreign ships entering its ports and provide the services required for maritime safety and environmental protection during the port call.

Task type	Operational task	Carried out by
Enforcement	Approval and monitoring of the port reception facility's (PRF) waste management plan	ELY Centres
Enforcement	Port State control (PSC)	Traficom
Enforcement	Register of fuel oil suppliers	Traficom

4 Continuous improvement of maritime administration through the use of these Policies

The operations of the Administration are improved on the basis of continuous monitoring and an annual management review. The Policies presented may be updated in accordance with the observations made in connection with the review. The Finnish Transport and Communications Agency will be responsible for the annual organisation of the review.

Figure 3. Continuous improvement of maritime administration through the use of these Policies



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