

The establishment of unincorporated state enterprises to perform certain functions of the Finnish Maritime Administration

As part of an organisational reform in 2004, the Finnish Maritime Administration established the Finnish State Pilotage Enterprise to take over pilotage services and the Finnish Shipping Enterprise to take over icebreaking, offshore business, services for heavy fairway vessels, vessel maintenance services and ship communications traffic. A key objective of the reform was to improve impartiality, transparency and efficiency and to ensure a quality and service level matching the needs of society and customers while keeping charges as low and transparent as possible. Another objective was to improve economy and productivity in activities by shifting services that had previously been produced internally by the Finnish Maritime Administration gradually and systematically to open competition by the beginning of 2007.

Although the enterprises covered by the audit are not large in terms of turnover or total assets, their social significance is huge. Icebreaking and pilotage are indispensable for navigation and business as a whole. Finland's foreign trade is dependent on year-round shipping: 90% of exports and 70% of imports are transported by sea.

On 6 March 2009 the Cabinet Committee on Economic Policy decided that unincorporated state enterprises could in future operate only in an in-house position and produce services exclusively for state agencies and enterprises. State business activities should as a rule take place in the form of limited companies. In December 2007 the European Commission issued a decision in which it concluded that the Finnish Road Enterprise had received prohibited state aid. The decision supposedly applies to all unincorporated state enterprises.

The Cabinet Committee has decided that the Finnish Maritime Administration's internal production and the Finnish Shipping En-

terprise should be incorporated as of 1 January 2010. The Ministry of Transport and Communications will remain responsible for ownership steering. The Ministry of Transport and Communications has said that the incorporation of the Finnish State Pilotage Enterprise requires further study. On the basis of this work the ministry will also evaluate the need to amend other legislation.

The purpose of pilotage is to promote safe navigation and prevent negative impacts on the environment as a result of shipping.

The Finnish Shipping Enterprise has been given the task of maintaining preparedness to respond to oil spills and to provide ice-breaker services in Finland's waters. It must also be prepared to take care of tasks in emergencies following separate orders issued by the Ministry of Transport and Communications.

The audit examined the steering of the Finnish State Pilotage Enterprise and the Finnish Shipping Enterprise, which were established as part of the reorganisation of the Finnish Maritime Administration, from the perspective of the establishment process, ownership control and budgeting procedure. The audit examined the Finnish Maritime Administration's activities insofar as they concern the ordering of icebreaking, ship communications traffic and fairway maintenance services and the production of fairway maintenance services. The audit also examined the role of different bodies in the enterprises' steering process and how well the documents setting objectives and monitoring their implementation, i.e. the budget and the report on the final central government accounts, function as steering instruments.

The main question in the audit was whether the steering of the Finnish State Pilotage Enterprise and the Finnish Shipping Enterprise as well as the Finnish Maritime Administration has been arranged so as to create proper conditions for achieving social and economic objectives with existing resources. The audit indicated the Finnish Shipping Enterprise has achieved these objectives with smaller economic resources than before it was given its present form. The cost-effectiveness of pilotage has remained on the same level as before the reform. Unbundling official activities and production and shifting to an orderer-producer model have in themselves improved transparency.

The Finnish Shipping Enterprise and the Finnish Environment Institute have a standing agreement concerning the compensation

that the Finnish Shipping Enterprise receives for maintaining preparedness to respond to oil spills. According to the Finnish Shipping Enterprise, maintaining preparedness has been unprofitable. The National Audit Office calls for a thorough study of the costs of combatting oil spills and for this to be from the viewpoint of public finances as a whole and not just the costs to the enterprise.

The reorganisation of the Finnish Maritime Administration led to a major change in state administration and also shifted decision-making authority from Parliament to the new enterprises. The report on the final central government accounts would have been and remains the right forum for examining the implementation of the reform.

According to audit findings, the service and operational objectives that have been outlined for the Finnish State Pilotage Enterprise and the Finnish Shipping Enterprise in the budget proposals have been descriptions of tasks as prescribed in the separate Acts regarding the enterprises. These objectives are met if the enterprises comply with legislation in their activities. Consequently they have not provided value added in steering the enterprises. Furthermore the service and operational objectives that have been outlined for the Finnish State Pilotage Enterprise and the Finnish Shipping Enterprise in the budget proposals have not been in line with budgeting regulations concerning unincorporated state enterprises: they have not been concrete, nor has it been possible to monitor or even measure them. Reporting on the implementation of the enterprises' service and operational objectives in the report on the final central government accounts has been scanty.

The Ministry of Transport and Communications has set the Finnish Maritime Administration a waiting time objective for icebreaking services, which is the same in all coastal zones, and also the same objective for ships that reach port without having to wait. In the opinion of the National Audit Office, the Finnish Maritime Administration's ordering activities and the success of activities could be measured better if separate objectives were set for each of the three maritime areas.

The audit indicated that the steering of the Finnish State Pilotage Enterprise and the Finnish Shipping Enterprise by the Ministry of Transport and Communications in 2007 came closer to meeting the requirements that have been set for ownership steering.

On the basis of the audit, the documentation of practices in performance-based management processes has not been adequate. A list of the documents that are required in each stage and clear instructions for preparing documents are lacking. Feedback has not been given sufficiently on the operational and financial plan, strategy and proposed objectives.

The activities that were previously handled by the Finnish Maritime Administration have become more efficient under the enterprises that now act as producers, but competition has not been opened fast enough. In the Finnish Shipping Enterprise's fields of operation this is due to the Finnish Maritime Administration's tendering models, the lack of available icebreakers in neighbouring regions and the lack of communication vessels suitable for year-round operation. The Finnish Maritime Administration has not received tenders for icebreaking from other actors, so the enterprise has had a monopoly in this area. The Finnish Maritime Administration has purchased icebreaking services from the enterprise, following a negotiation procedure. Contract negotiations have been difficult. In fairway maintenance the delay in unbundling the Finnish Maritime Administration's internal production has also slowed the opening of competition. By taking a more active approach in performance management, the Ministry of Transport and Communications could perhaps have speeded up the opening of competition in the Finnish Shipping Enterprise's fields of operation and at least the unbundling of the Finnish Maritime Administration's internal production. Since the enterprises were established, the standard costs of icebreaking have clearly fallen. In the opinion of the National Audit Office, with the current level of earnings, the Finnish Shipping Enterprise's possibilities to renew the icebreaking fleet appear weak.

Up to 2008 the profitability of the Finnish Shipping Enterprise and reasonably priced icebreaking services were ensured by international offshore business, which is entirely market-oriented. With the weakening of the global economy and the drop in the price of oil, the risks in this field of business have materialised and the demand for multipurpose icebreakers is poor. The significance of risk management has increased in steering, but neither ownership steering nor the board of the Finnish Shipping Enterprise were adequately prepared to deal with this eventuality. Gaps in managing credit-loss risks were observed in offshore business.

The Finnish State Pilotage Enterprise's activities up to now have been profitable: after all it has a monopoly position. Other actors have shown interest in entering the field, and different views have been expressed concerning the content of legislation. In June 2009 the Ministry of Transport and Communications announced that pilotage will remain the exclusive right of the state. The Finnish State Pilotage Enterprise has been set the same service level obligation on all the fairways and channels where pilotage is required. Significant differences in the volume of traffic at ports result in differences in the efficiency of activities and cost coverage in pilotage areas. With the exception of a few areas, the enterprise's capacity, resources and costs are guided by its service level obligation rather than demand for services.

In accordance with the Act on the Finnish State Pilotage Enterprise, the enterprise charges all piloted vessels a fee based on the set unit price to cover the costs of pilotage service. Provisions concerning this unit price are issued each year by Government Decree. Unit prices have remained exactly the same since 1999.

A statement that was issued by the Constitutional Law Committee (53/2002) noted, among other things, that the bigger the difference between a charge and the costs of producing the performance in question, particularly if it is governed by public law, the more reason there is to regard this as a tax in a legal sense.

According to a survey that was conducted in 2006, the degree to which pilotage fees cover costs on routes leading to different ports varied between ports by nearly 90% at the extremes (lowest cost-coverage percentage 25, highest 216). Consequently, the current structure of pilotage fees means that they should in fact be regarded as a tax. If the state wishes to keep pilotage fees on a statutory basis, the opinion of the National Audit Office believes that cost-covering on different routes should be substantially closer than at present.

In the opinion of the National Audit Office, approving English alongside Swedish and Finnish in the requirements for a pilotage exemption certificate would increase competition in pilotage activities and would also cut logistics costs for business.

The enterprises covered by the audit accept multilevel steering as part of the unincorporated state enterprise model but consider it bureaucratic and restrictive. Both consider that incorporation as a limited company would be a better and more flexible operating

model. The audit also found that the role of the supervising ministry is conflicting, since the ministry steers both the Finnish Shipping Enterprise, which produces services, and the Finnish Maritime Administration, which orders them. It is true that steering takes place in different units at the ministry. On the basis of the audit, the position of the board of the Finnish Maritime Administration in relation to senior officials should be clarified so that the director general is clearly in charge of performance management.

At the Finnish Maritime Administration, the earnings requirements that the ministry has set for the Finnish Shipping Enterprise were judged to be at odds with the cost-cutting requirements that the ministry has simultaneously placed on the Finnish Maritime Administration.

Otherwise the audit found that different aspects of steering form a rather solid whole in which no conflicts were observed, with one notable exception, which is that the Finnish Maritime Administration has specified the conditions in procurement contracts for icebreaker services so that they in fact allow the Finnish Maritime Administration to participate in icebreakers' operational supervision. The Finnish Shipping Enterprise has wanted service contracts and the Finnish Maritime Administration time charters. The Finnish Maritime Administration has considered that it is also important for the transparency and comparability of icebreaking costs that icebreakers' time charger contracts specify the principles used in collecting stand-by, operating and fuel charges. In the opinion of the National Audit Office, this approach is not in line with the orderer-producer model, and in ordering icebreaking services the orderer-producer model would require a shift to service contracts. In this case the Finnish Maritime Administration would order a specific service and quality level and would have monitoring systems to oversee these. How services are produced would be up to the producer, and the orderer would not interfere in the detailed content of the producer's operations.

The reason there is no competition in icebreaking services is that there are no free icebreakers available. Consequently opening competition is only possible if new icebreaker capacity is procured. This is not likely to happen unless contracts are long-term, meaning at least 15 years, during which the costs of procuring icebreakers can be covered in full. For this reason the National Audit Office consid-

ers that, if long-term contracts are negotiated, these should specify for what price an icebreaker can be acquired by the state at the end of the contract period. The National Audit Office believes that the likelihood of opening competition would be increased if tenders were invited by maritime area, but the greatest financial benefits of the orderer-producer model can only be obtained if there is real competition in supplying services. The National Audit Office considers that the procurement of icebreaking services from the Swedish Maritime Administration has been ordinary procurement activity and for this reason tenders should have been invited according to normal procedure.

The National Audit Office believes that the Transport Infrastructure Agency that will go into operation on 1 January 2010 will provide new opportunities to develop the procurements that the Finnish Maritime Administration currently makes.

An unincorporated state enterprise is meant to be used as an operational model by an organisation that engages in business activities if it is necessary for the state owner to steer these activities using non-financial objectives. Since such objectives have not been set more exactly than in the Acts regarding the enterprises, it is questionable whether the state enterprise model is more functional than a limited company model would be in pilotage and state shipping activities. The National Audit Office considers that a limited company form is suitable for both pilotage and shipping activities. Possibilities to merge similar functions, such as the ferries operated by the Finnish Shipping Enterprise and Destia Oy, should be investigated.