Shipping Industry Almanac 2014
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Introduction

The Shipping Industry Almanac (the “Almanac”) is published annually by EY’s global shipping industry network, which comprises of shipping industry professionals in more than 50 EY member firms.

The Almanac has been keeping you informed and updated for the last 17 years since our first edition was published in 1998. It provides a summary of the local shipping industry infrastructure and regulatory, corporate and tax environments for more than 40 countries. The information in each country chapter was researched and prepared by resident EY shipping industry professionals.

A directory of EY shipping industry executives across our four service lines of Assurance, Tax, Transactions and Advisory is located at the back of the Almanac, and highlights our in-depth local knowledge and our global reach.

The content is based on information current as of 1 January 2014, unless otherwise indicated.

For more information, please visit us at ey.com or contact us at eyshipping.group@ey.com or call your local EY office.

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, or other professional advice. Please refer to your advisors for specific advice.
Argentina does not have a specific tax law for shipping companies. Shipping companies must comply with general tax regulations. In Argentina, companies are subject to federal taxes (such as income tax and value-added tax, among others), provincial taxes (such as turnover tax and stamp tax) and municipal taxes. However, some guidance regarding shipping activity may be found in the federal and provincial legal systems.

1. Income tax

For Argentine residents, income tax is levied on all income earned in Argentina or abroad. Income tax paid on income from activities abroad may be claimed as a tax credit. For nonresidents and foreign beneficiaries, income tax is levied exclusively on Argentine-source income. Nonresidents become residents if they have a permanent establishment in Argentina.

In general, Argentine-source income arises from assets located, placed or used in Argentina, from the performance of any act or activity in Argentina and from events occurring within Argentina.

The income tax rate is 35% and is applicable to the net income of companies residing in Argentina and the net presumed income of foreign beneficiaries (in some cases, net-income basis applies).

The following items may be deducted from gross income to assess taxable income:

- In general, all expenses necessary to earn it or to maintain and keep its source
- The amortization or depreciation of construction, equipment and other assets, in general, based on their estimated useful life
- The net operating losses (NOLs) from previous fiscal years (carryforward is allowed for five years; there is no carryback system)

The Income Tax Law has many specific requirements regarding tax deductions for foreign loans when the lender is a related company.

Section 18 of the Income Tax Law establishes the timing of the deduction of interest on foreign intercompany loans. Interest derived from loans granted by foreign related parties or from tax havens (i.e., non-cooperative countries) may only be deducted in the same tax year the payments are made or in the period of accrual, but only if actual payment takes place before the due date for filing the tax return for the tax year in consideration.

If the lender is not a related company, then the deduction of interest is allowed on an accrual basis. If the lender is a related party, thin capitalization rules must also be considered.

Thin capitalization rules are applicable when interest is paid to a foreign lender that controls the Argentine borrower company, except for those cases when interest payments are withheld at 35%. Interest paid where the liabilities exceed two times the amount of the company’s equity at year-end becomes nondeductible and are taxed like dividends. In other words, the excess interest will become a permanent difference between the book and tax basis.

Transfer pricing rules follow Organisation for Economic Co-operation and Development (OECD) guidelines and apply on transactions with related parties or with entities in tax havens (i.e., non-cooperative countries). Additionally, there is no tax consolidation system in place.

Dividends paid in excess of net income, which is assessed using the general provisions of the Income Tax Law and accumulate as of the prior fiscal year-end through the date of payment, are subject to a 35% withholding rate. The 35% rate may be reduced if the foreign beneficiary is a resident of a country with which Argentina has entered into a double taxation agreement, as long as applicable treaty requirements are met. Per the last Income Tax Law modification (September 2013), dividend distribution is taxed in Argentina at a rate of 10% when the payment is made by a local company to a foreign company or individual or local individuals.
Earnings from the sale of shares of an Argentine company owned by a foreign shareholder are taxed at a 15% rate. Taxation is made through withholding, which can be calculated by applying the tax rate to the real income or to the presumed income (90% of the sale price).

1.1.1 Shipping industry considerations
The Income Tax Law establishes that, for Argentine shipping companies, all income related to transportation, either in Argentina or abroad, is considered Argentine-source.

For foreign shipping companies, Income Tax Law presumes (without admitting evidence to the contrary) that any company providing transportation or carriage between Argentina and foreign countries has Argentine-source net income equal to 10% of the total amount of freight and passenger transport earnings from such trips (with a 3.5% effective rate).

Further, 10% of all payments made by local companies to foreign shipowners for charter services are also considered Argentine-source net income.

Foreign companies in the container business that provide transportation in Argentina or from Argentina to other countries are presumed to have Argentine-source net earnings equal to 20% of the gross income for this activity (with a 7% effective rate).

These presumptions are relevant because when an Argentine company makes any kind of payment to a foreign company providing any of the services mentioned above, it must withhold 35% of the Argentine-source presumed income and submit it to the fiscal administration.

1.2 Double taxation treaties
In order to avoid double taxation, Argentina has entered into treaties with the following countries: Australia, Belgium, Bolivia, Brazil, Canada, Denmark, Finland, France, Germany, Italy, the Netherlands, Norway, Russia, Spain, Sweden, United Kingdom and Uruguay.

In all of these treaties, except for the one signed with Uruguay, Section 8 establishes the provisions related to navigation and shipping, as well as air transportation.

According to these treaties, international shipping income may only be taxed by the country where the company is located, established or where its Board of Directors is located, as appropriate. Some treaties also include charter activities among the company’s benefits, subject to these provisions.

Argentina has also entered into other treaties (or exchanged notes) exclusively related to international transportation (by sea, air and/or land, depending on the country). The following are the signatory countries: Chile, Colombia, Cuba, Ecuador, France, Greece, Iran, Israel, Italy, Japan, Malaysia, Mexico, the Netherlands, Norway, Panama, Paraguay, Peru, Portugal, United Kingdom, United States and Venezuela.

Each treaty determines whether double taxation on sea, air or land transportation may be avoided. Although there are some variations among the countries, the main implication is that international transportation income will only be taxed by the country where the company is established.

In these cases, the presumptions used to determine Argentine-source net income (refer to section 1.1) would not apply, due to the treaties in force.

1.3 Minimum presumed income tax
The minimum presumed income tax is complementary to income tax. The minimum presumed income tax base comprises the asset value of certain taxpayers (for example, Argentine artificial persons, branches of foreign companies) in compliance with the law in force. This tax rate equals 1%.

Applicable exemptions include:

- Investments in shares of other entities subject to the minimum presumed income tax
- Taxpayers’ assets located in Argentina when the value thereof (according to regulations) does not exceed ARS200,000 (if assets exceed ARS200,000, the total asset value is subject to taxation)

Investments in new fixed assets are not computable – except for automobiles – and investments in real estate
construction are not subject to the minimum presumed income tax during the fiscal year the investment is made and its immediately subsequent year.

The annual income tax may be offset against the minimum presumed income tax for the same year. However, if in any given year the minimum presumed income tax is assessed and it is not fully absorbed by that year’s income tax, the tax effectively paid could be credited against income tax —subject to certain conditions — over the subsequent 10 years.

Tax credits resulting from the payment of similar taxes abroad on taxable assets may be computed.

1.4 **Tax on personal assets for corporations**

Based on the presumption regarding indirect ownership by foreign individuals, foreign companies holding business interests in Argentine companies are subject to taxation on personal assets. Taxes on personal assets are also levied on the branches of foreign companies established in Argentina.

The personal assets tax should be calculated and paid by an Argentine company as a substitute taxpayer. However, it is entitled to claim tax reimbursement from related shareholders.

The taxable base is assessed on the value of the local entity's equity as disclosed in the last financial statement as of December 31. The applicable tax rate is 0.50%.

1.5 **Value-added tax**

Value-added tax (VAT) is a general tax that applies to the sale of goods, the provision of services and the importation of goods within Argentine territory, including:

- Sales of personal property
- Services provided by any natural or artificial person performing business activities
- Final import of goods for consumption
- Services provided from abroad to be used in Argentina, provided the beneficiary is a registered VAT payer

VAT is applied to the goods or services net sales price (tax debit). It is assessed on a monthly basis, and at present, the tax is computed by including it in the purchase invoices of the different vendors (tax credit), deducting it from the amount of tax debits in order to assess the payment amount.

If tax credits exceed tax debits, it results in a technical tax credit, which may be used to offset future tax debits or, as the case may be, a freely available tax credit that may be recovered through cash reimbursement, used against other taxes or transferred to third parties.

Applicable VAT rates are:

- 21% for general goods and services
- 27% for certain services, such as telecommunications, electricity, gas and water supply
- 10.5% for particular transactions, such as the final purchase or import of certain capital assets

Exports are VAT exempt, but exporters may compute the tax amount they were billed by vendors as a tax credit to offset the tax amount owed for other transactions subject to VAT at the local market. If such computation results in an unabsorbed tax credit surplus, that amount is eligible for reimbursement, may be used to offset other federal taxes or may be transferred to third parties.

**Shipping industry considerations**

In connection with the shipping industry, the VAT law includes some tax exemptions for international shipping and related activities. Specifically, under the VAT law, international passenger and freight transportation is tax exempt and must be considered an export. This means that any tax credit may be recovered, transferred or used to offset other taxes.

Charter services are also tax exempt when the vessels are used for international transportation. This exemption only applies if the lessor is an Argentine shipowner, and the lessee is a foreign company. These operations will also be considered exports.

There is also a tax exemption for aircraft built for passenger or freight transportation, as well as the those
envisaged for defense and national security (in the latter case, its parts and components are also tax exempt). Ships and vessels are also VAT exempt, as well as their parts and components, as long as the purchaser is the Argentine government.

1.6 **Tax on bank account transactions**
This tax is levied on bank account transactions, equivalent transactions, on cash, and generally on all movement of funds made on one's own account and/or on third-party accounts within the Argentine territory at a general rate of 6%.

An amount equaling 34% of the tax withheld over credit transactions in levied accounts may be computed as a credit against income tax or minimum presumed income tax (prepayments and/or tax return amount).

1.7 **Turnover tax**
Turnover tax is a provincial tax charged by tax authorities in each of the 24 jurisdictions (including the 23 provinces and the autonomous city of Buenos Aires). This tax is levied on revenue resulting from traditional profit-making activities, such as business, industry, professional activity, employment or service contracts, regardless of the outcome, the nature of the service provider or the place where the activities are carried out.

The following exemptions, inter alia, may vary according to the jurisdiction involved:
- Transactions with securities, certificates and other documents issued by the federal, provincial or municipal governments
- Transactions with shares and dividends
- Interest and/or indexation on savings accounts and fixed-term and checking account deposits
- Sale of fixed assets
- Exports

Turnover tax rates vary according to the jurisdiction and the activity involved — 4% is the average rate applicable to the services rendered.

Companies subject to turnover tax that perform activities in more than one province have to allocate the tax base among the respective jurisdictions pursuant to an agreement they have entered into for this purpose.

**Shipping industry considerations**
With regard to the shipping industry, the turnover tax is a jurisdictional tax, and therefore, the operations taxability will depend on each jurisdiction. Some jurisdictions, such as Buenos Aires or Mendoza, include a tax exemption for international transportation in their fiscal codes.

In many other jurisdictions, although shipping activity is taxed, there is a provision in the fiscal codes that foreign companies from countries with double taxation treaties with Argentina will not be taxed on income derived from this kind of activity (international transportation).

When performed within Argentina's boundaries, freight and passenger transportation can only be taxed by the jurisdiction where the trip originates.

1.8 **Stamp tax**
According to the respective provincial regulations, the stamp tax is levied on public or private instruments granted within the provincial territory or, if the instruments are executed abroad, the tax is paid insofar as the agreement has effects in Argentina.

Conversely, as stated by the respective provincial laws, if the transactions are formalized using the offer letters set by one party and then tacitly accepted by the other party (i.e., without actually stating the legal implications of such document), the tax may not be triggered, regardless of the jurisdiction where it may be executed.

In general, the applicable rate is 1%, with certain exceptions listed in the respective provincial tax codes. Depending on the arrangement of the agreements entered into for the transactions analyzed, the stamp tax may be levied in the jurisdiction where the mentioned agreements are entered into and/or in the jurisdiction
Shipping Industry considerations

As with the turnover tax, the stamp tax is a provincial tax; therefore, it is necessary to observe whether each jurisdiction makes any special considerations regarding the shipping industry.

In most of them, there is no tax exemption, but in Buenos Aires, the instruments signed for the sale or rent of a vessel or aircraft are tax exempt, as long as they are exclusively used for commercial, not personal, purposes.

2. Corporate structure

The different types of business partnerships described in Argentine Corporate Law, No. 19.550 are as follows:

- Stock corporation (*Sociedad Anónima*) – its capital is divided into shares
- Limited liability company (*Sociedad de Responsabilidad Limitada*) – its capital is divided into quotas
- Public company, where the Government is the majority shareholder
- Limited partnership (*Sociedad en Comandita*)
- General partnership (*Sociedad Colectiva*)
- Partnership in which one of the partners provides the capital and the other, services
- Branch office of a foreign corporation

The most common forms of business partnerships used by foreign investors in Argentina are stock corporations, limited liability companies and, to a lesser extent, local branches of foreign companies. The main characteristics of these entities are described below.

**Stock corporation (*Sociedad Anónima* or “S.A.”)**

Capital stock is represented by shares. Shares must be registered and non-endorsable. According to the rights they grant, shares may be classified into common or preferred shares; the latter usually have priority upon payment of dividends, do not carry voting rights and, in general, are entitled to fixed cumulative dividends. There must be at least two shareholders, and the shareholders’ liability is limited to their capital contribution. In the City of Buenos Aires, the IGJ, Argentina’s Regulatory Agency for Business Partnerships, will not register companies where the multiplicity of owners is merely formal or in name only (for instance, when a shareholder owns 99.99% of shares). If the shareholders of a corporation organized in Argentina are foreign business partnerships, they have to file their articles of incorporation or bylaws with the Public Registry of Commerce.

**Limited liability company (*Sociedad de Responsabilidad Limitada* or “S.R.L.”)**

A minimum of two and a maximum of 50 partners, who may be individuals or corporate entities (except for SAs and Argentine limited liability companies with share capital [*Sociedades en Comandita por Acciones*]), may set up an SRL. Foreign corporate entities are admitted as partners of SRLs provided that they are empowered to participate in such companies by the laws of their jurisdiction of incorporation. Capital must be fully subscribed, denominated in Argentine currency and divided into partnership quotas. One-quarter (25%) of the capital must be paid up by the partners at the time the SRL is formed, and any balance must be paid up within two years thereafter. Where quotas are issued in consideration for contributions in non-monetary assets, they must be fully paid up. Partnership quotas must be of equal par value and entitle the holder to one vote each. Partners in an SRL are entitled to preemptive rights with respect to new issues of quotas. The partners may appoint one or more managers to manage the company, who may be partners, employees or third parties. The managers represent the company, either individually or jointly, as provided for in the bylaws.

Branches of foreign companies
In order to legally do business as a branch, these organizations must prove the existence of their head offices abroad, register the articles of association or bylaws with the Registry of Public Commerce and appoint and register representatives. Branches are required to keep books separately from those of their head offices, and to file financial statements with the corporate oversight agency.

3. Human capital

3.1 Labor and social security legislation

Argentina has a skilled labor force. Well-trained employees are generally not difficult to find in most industrial areas. However, for some areas experiencing a substantial increase in their industrial activity, a shortage of skilled labor may occur.

Salaries and wages for office and plant workers vary from one region of the country to another. Minimum salaries are generally established by collective bargaining, but supply and demand usually has great influence in determining the best qualified workers' salaries.

A general Employment Contract Law, supplemented by additional laws and regulations, governs employment conditions throughout Argentina. In addition, there are collective bargaining agreements that regulate specific employment conditions for each particular sector.

However, the abovementioned law does not apply to farm workers or government employees, whose working conditions are established in separate laws and regulations. There are also special laws dealing with certain groups of workers (e.g., traveling salesmen, journalists, domestic workers, among others).

3.2 Labor legislation

Almost all industrial and office workers belong to a labor union. Labor unions handle collective negotiations, which cover both employment conditions and salaries and wage scales.

Negotiations, therefore, can be by activity, by one or more sectors of an activity, by specialization or profession, by company, or by any other characteristic, but always follow the provisions set under the main collective agreement in force for the activity.

System for the promotion and protection of registered employment

In December 2008, an act was passed establishing a system for the promotion of registered employment. The system provides for a reduction benefit in the payment of employer contributions (for the Integrated Retirement and Pension System (INSSJP) to fund the senior citizen's health care plan – the Argentine equivalent of Medicare in the US – the National Employment Fund, the National System of Family Allowances, and the National Registry of Rural Workers and Employers only) for a term of two years. These contributions were reduced by 50% during the first year and 25% during the second year.

It is expected that employers will maintain the benefits of the employment promotion system as long as they do not reduce the total headcount for a term of two years after such benefits end.

Employers may join this system for a period of 12 months as from the date on which the act provisions come into effect, and then, the Argentine Executive Branch may extend such period every year.

3.3 Social security

According to current social security regulations, an employee’s salary is subject to employer and employee contributions to the Argentine social security system. Additionally, benefits in-kind are also subject to social security taxes.

Employee social security taxes are withheld from compensation at a fixed rate of 17% for the following programs, and are applied on a monthly maximum taxable base of ARS13,879.25:

- Pension Fund: 11%
- Retirees Fund: 3%
Health System: 3%
The employer social security contributions rate is 21% or 17% (including contributions to the Health System), depending on the local entity's main activity and invoicing level. Additionally, all employers have to pay a 6% contribution to the Health Care System (increasing the mentioned rates to 27% or 23%, respectively).

Employer social security and health care contributions do not have ceilings.

Shipping industry considerations regarding foreign vessels used for chartering

Decree No. 1010/2004, which includes some regulations in relation to the National Merchant Marine, aims to increase the commercial possibilities for local shipyards and seafarers in order to improve the Argentine shipping industry.

Foreign-flagged vessels chartered by Argentine shipowners, under the temporary import regime, will be treated as if they were Argentine-flagged vessels. This benefit does not apply to vessels and ships that can be built in Argentina.

There are some formal requirements in order to apply for this regime, including that vessels and naval crafts protected by this decree must be manned only by Argentine crew. Such requirement does not apply if there are not enough Argentine personnel available.

4. Grants and incentives

4.1 Specific and/or general subsidies available to shipping companies

No specific incentives are available for shipping companies.

4.2 Investment incentives for shipping companies and the shipbuilding industry

At the time of publication, there are no other specific incentives currently available to the shipbuilding industry.

5. General information

5.1 Infrastructure

5.1.1 Major ports

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1 The Argentine government has not yet decided if the benefits extend to fiscal year 2014.
5.2 Foreign exchange regulations
The Argentine foreign exchange regulatory system, effective since December 2001, establishes the requirement to bring foreign currency obtained from certain transactions into Argentina and convert it into Argentine pesos in the single and freely floating foreign exchange market.

Under the current regulations, such requirement is limited to the following situations:

- Exports of goods
- Revenues from services provided to parties located abroad
- Payables to foreign creditors for bonds and financial loans (including securities repurchase agreements)
- Debt securities issued by nongovernmental entities
- Divestiture of non-financial non-produced assets

5.3 Capital contributions from abroad
Foreign currency proceeds of capital contributions into Argentina and the related funds may be kept in an account abroad.

In relation to the use of US dollars (USD) deposited in a bank account abroad, they can be used to make payments to foreign and local suppliers, and the subsequent use of such foreign currency is not subject to the Argentine foreign exchange regulations. As a result, it is possible to use such funds to make payments to suppliers (and such payments should be made to bank accounts outside Argentina). Local suppliers of goods or services who make collections abroad from foreign bank accounts of local companies will not be required to bring such funds into Argentina.

The Argentine Central Bank (BCRA) Communiqué “A” 5237, effective 28 October 2011, established the following new requirement for accessing the domestic foreign exchange market in order to repatriate direct investments into Argentina: companies must prove the inflow of funds through the domestic foreign exchange market regarding any contributions and purchases of equity interests in local companies and real property, provided that those funds are disbursed in foreign currency as of the date thereof by the foreign investor.

In other words, if a company fails to bring into Argentina the USD deposited abroad by the shareholders, in the case of a future repatriation of the investment (either through a capital reduction, liquidation of the company or sale of shares to be collected in Argentina), access to the foreign exchange market would not be granted; thus, the foreign shareholders would not be allowed to obtain USD outside Argentina.

If, for any reason, a company decides to bring the funds into Argentina, Presidential Decree No. 616/05 establishes the creation of a nominative, non-transferable and noninterest-bearing deposit amounting to 30% of the transaction involved, for a term of 365 calendar days, for the inflow of funds into the local foreign exchange market regarding certain items. However, an exception for such deposit creation is expressly stated for funds arising from “foreign direct investment.”

2 From the point of view of the BCRA, “direct investment” is understood as a “long-term interest held by an entity resident in one country (direct investor) in an entity resident in another country (direct investee),” and it is internationally accepted that the equity interest held in the investee should be at least 10%.
exchange transactions carried out for “contributions of direct investments in Argentina” shall not be subject to the minimum deposit when certain requirements are met.

5.4 Loans from abroad
Per foreign exchange regulations, funds from loans from abroad should be brought into Argentina within 30 days of the funds disbursement. Loans should be made and kept for at least 365 calendar days, and they cannot be settled prior to such term maturity.

A minimum 30% deposit of the total amount involved in the transactions is required, in USD, which may not be used to guarantee loan transactions of any kind. However, the funds shall not be subject to the minimum cash requirement as long as:

- They are agreed on and settled at an average life of no less than two years, taking principal and interest payments into account for the calculation.
- They are used to invest in nonfinancial assets by the private sector. Nonfinancial assets comprise:
  - Investments included in the balance sheet under “PP&E” (property, plant and equipment)
  - Payments to be booked in the balance sheet as “intangible assets per mine cost” and “research, prospect and exploration costs” carried out by the borrowing company
  - Acquisition of exploitation rights that should be booked under “intangible assets” in the balance sheet
  - Purchase of goods and services to be recorded in the inventories account of the company’s accounting statement, insofar as they are not financial assets

If the funds are aimed at acquiring nonfinancial assets (such as the ones mentioned above), they must be recorded as part of the company’s assets after the date funds are settled in the local foreign exchange market and within 90 calendar days (this period can be renewed automatically for successive periods).

For the purpose of repaying principal and interest, the company is required to fulfill, among others, the following conditions:

- Interest: it may be settled in advance up to five business days from expiration of each interest installment, or at any time, provided that it has accrued.
- Principal: the debt must be expired. However, early payment is permitted if the minimum 365-day term requirement has been met. If the payment is made more than 10 days in advance of the 365-day term, the payment will be limited to the present value of the portion of the loan being repaid.

The amount resulting from the foreign exchange transaction must be credited to a bank deposit separate from normal operations.

The BCRA, through its Communiqué “A” 3602, effective since 2002, established a system for surveying foreign payables, the statements of which are related to debts as of the end of each calendar quarter.

Also, it is important to bear in mind that in order to buy foreign currency (for instance, to repay loans) from the domestic exchange market, the fiscal authorities should authorize such purchase.

5.5 Services from abroad
The Argentine Federal Tax Authorities (AFIP) – through General Resolution 3276/2012 – created a new “early declaration system for services” (Declaración Jurada Anticipada de Servicios or DJAS). Per this resolution, which entered into force on 1 April 2012, Argentine tax residents will be required to file the DJAS through the tax authorities’ website in order to disclose the provision of services by foreign residents to local residents, and those services rendered by Argentine residents to foreign parties (currently, only the DJAS provision for services by foreign residents to local residents is in force).

Each DJAS declaration will be given an identification number assigned by the AFIP website, which will be required in order to be granted access to the foreign exchange market for the purpose of making payments to foreign entities for the corresponding services. Services subject to DJAS include services and royalties for the license of trademarks, patents, technical assistance, software, exploitation rights with regard to foreign films, videos and music, among others, when the amounts involved are equal to or higher than USD100,000 or each installment exceeds USD10,000.
Additionally, all agreements where the amount of the consideration is not determined must also be disclosed. In addition to the DJAS system, the BCRA has issued Communiqué “A” 5295 (in force as of 3 April 2012), establishing that access to the foreign exchange market by Argentine residents in order to make payments abroad will require, upon compliance with several requisites, prior authorization from the BCRA for such cases as professional and technical services; IT services; royalties; patents and trademarks; copyrights; cultural and entertainment services; rights for the exploitation of foreign movies, videos and audios; and services related to the transfer of technology (Law 22,426) when:

- The recipient of the payment is directly or indirectly related to the Argentine payer.
- The recipient of the payment is located in a low-tax jurisdiction.
- The payment is made to a bank account located in a low-tax jurisdiction.

5.6 Import of goods
The applicable foreign exchange regulations allow the following import payments:

- Advance payment, which requires the importer to provide effective proof of the nationalization of the goods within 365 calendar days of accessing the foreign exchange market;
- On demand payment, which requires the importer to show the import clearance to the financial entity within 90 calendar days; or
- Deferred payment, which is made after the nationalization of the goods, and if the payment period in the invoice indicates that the payment is past due.

It is important to take into account that, among other requirements, the financial entity involved in the transaction must submit an “early import declaration” (DJAI). The DJAI establishes that importers must file certain information with the tax authorities related to their import of goods prior to the issuance of the purchase order (or similar document) to the foreign supplier (Communiqué “A” 5274).

The company must also comply with the reporting system set forth under Communiqué “A” 3602 and Communiqué “A” 4237.

5.7 Dividend payments
For earnings and dividends, the BCRA grants access to the foreign exchange market to make earnings and dividend payments as long as they are related to closed and audited financial statements. The intervening financial entity may require the documentary evidence it deems necessary to support the transaction’s legitimacy.
Australia

1. Tax

1.1 Income tax treatment of shipping companies

1.1.1 Australian domestic tax law

Shipping companies are subject to the general tax laws of Australia, including income tax, goods and services tax, stamp duty and employment-related taxes (including fringe benefits tax and payroll tax, as well as other employment considerations including superannuation, i.e., compulsory pension, and visa considerations for non-Australian crew members).

Subject to the following comments, shipping companies operating in Australia generally pay tax at the rate of 30% of taxable income. Australian tax resident companies include worldwide income in their taxable income. Non-Australian tax resident companies include only income derived from sources in Australia. The “source” of specific income depends on the individual facts and circumstances of each case and relies on a range of factors, including the place of execution of contracts, where the services are performed, and where the remuneration is payable. Where a non-Australian resident shipping company “operates” by way of leasing equipment (i.e., a bareboat charter) for use in Australian waters, specific rules apply to impose Australian royalty withholding tax on the charter payments at the non-treaty rate of 30% on gross. The imposition of such royalty withholding tax is subject to the overriding application of Australia’s double tax agreements (DTAs). For completeness, true time charter payments (i.e., payments for the provision of services) are not subject to such royalty withholding tax.

A specific regime, commonly referred to as the “freight tax regime,” applies to entities whose principal place of business is outside Australia and who own or charter a ship to carry passengers, goods, livestock or mail “shipped in Australia.” These entities will be taxed at the current corporate tax rate of 30% on 5% of the amount paid or payable to them in respect of such carriage. In this regard, 5% of charter fees is effectively deemed to be that entity’s Australian taxable income, with no offsetting deductions allowed. This means effectively a final tax of 1.5% is imposed on gross freight income.

Under this regime, “shipped in Australia” means that goods or passengers are placed on board the ship in Australia, regardless of their final destination, i.e., the regime applies to Australian coastal trade as well as exports from Australia.

In March 2006, the Australian Taxation Office (ATO) issued the finalized Taxation Ruling, TR 2006/1, which considered the type of payments that form the basis for calculating the deemed Australian taxable income for the freight tax regime. In the ruling, the ATO considered whether the following types of payments were subject to the freight tax regime:

► Amounts paid or payable by way of demurrage
► Any dispatch moneys paid by a shipowner or charterer
► Cleaning charges
► Dead freight payments

1.1.2 Potential effect of Australia's DTAs

Australia’s DTAs may impact the Australian tax treatment of shipping companies, including those subject to the specific freight tax regime. Australia has negotiated DTAs with a range of countries, including the following:

Argentina, Austria, Belgium, Canada, Chile, China, Czech Republic, Denmark, Fiji, Finland, France, Germany, Hungary, India, Indonesia, Ireland, Italy, Japan, Kiribati, Malaysia, Malta, Mexico, Netherlands, New Zealand, Norway, Papua New Guinea, Philippines, Poland, Romania, Russian Federation, Singapore, Slovakia, South Africa, South Korea (ROK), Spain, Sri Lanka, Sweden, Switzerland, Taiwan, Thailand, Timor-Leste*, Turkey, United Kingdom, United States of America, Vietnam.
* The treaty between Australia and Timor-Leste (formerly East Timor), the Timor Sea Treaty, is an agreement that creates the Joint Petroleum Development Area (JPDA) and dictates how tax revenues, etc., from petroleum resources within the JPDA are to be shared. The treaty broadly grants taxing rights over 90% of the income from petroleum resources derived from working in the JPDA to Timor-Leste and 10% to Australia.

Under the shipping and air transport profits articles of Australia's DTAs, profits from the operation of ships are generally only taxable in the country of residence unless the profits relate to operations "confined solely to places" in the other country. Unlike the business profits article (refer below), such taxing rights (i.e., over coastal shipping) will be granted to Australia regardless of the existence of a permanent establishment (PE) for the non-Australian resident company.

In this regard, it is the view of the ATO that "voyages to nowhere," embarking and disembarking in Australia, are considered to be "confined solely to places in Australia." In determining residence, tiebreaker provisions apply under most (but not all) DTAs, deeming residence to be the place of effective management.

In addition, as a result of the broad interpretation of the 2005 decision in the McDermott case (see section 1.1.3), each of Australia's DTAs needs to be carefully considered to determine whether the use (including passive use by a bareboat lessor) of equipment (e.g., ships) in Australia may cause a PE to exist.

This has been reinforced by more recent DTAs (e.g., Finland, Japan, Norway, the UK, the US) that require the lessor to "maintain" or "operate" the substantial equipment in Australia in order for a PE to arise.

Significant ATO guidance now exists on these issues in the form of public rulings: Taxation Ruling TR 2007/10 and TR 2007/11 (see section 1.1.3 below).

1.1.3 ATO activity impacting shipping companies

Application of the decision in the McDermott case

The ATO continues to focus attention on the shipping industry. During 2005, the Full Federal Court (the Court) handed down a decision in the McDermott case. This dealt with a Singaporean company that bareboat chartered (i.e., an equipment lease) a barge to a related Australian company for use in Australia. The Court determined that while the charter payments constituted a royalty for Australian tax purposes, the Australian company was not required to withhold royalty tax. The Court found that the use of the barge in Australia resulted in the Singaporean company having a PE for the purposes of the Australia-Singapore DTA.

Some current Australian DTAs (including the Singapore DTA) deem a foreign resident to have a PE and to carry on business through that PE where substantial equipment is used in Australia "by, for or under contract with" the foreign resident. Where such a PE exists, Australia's DTAs generally prevent Australia from imposing royalty withholding tax (as the income of the PE is subject to 30% Australian tax on a net assessment basis).

In this regard, it is worth noting that Australia's current approach to DTAs is to exclude equipment leasing from the definition of royalty such that withholding tax will not be levied. This approach is reflected in the US, UK and Norwegian DTAs, among others. The Court also commented that the shipping article was not applicable, as the barge was not a ship for its purposes.

Public rulings on vessel leasing structures

Over the last decade, the ATO has released a number of rulings relating to the treatment of shipping and vessel leasing operations, setting out its interpretation of how both domestic Australian tax law and DTAs treat such arrangements.


As a result of those rulings, there is now greater clarity around the approach the ATO is likely to take in considering the Australian tax implications of vessel leasing arrangements as well as the use of ships for transport and non-transport operations.

A central theme in these rulings is that the ATO will determine the implications of an arrangement by its
substance rather than its legal form. For example, if a Baltic and International Maritime Council (BIMCO) time charter arrangement is in substance a true bareboat charter (i.e., a contract for the lease of equipment, albeit with, for example, supernumerary crew), the ATO is likely to characterize the payments as a royalty.

As such, care needs to be exercised in relation to the tax implications where payments (e.g., royalties, payments for services) are made to a non-Australian resident relating to a vessel located in Australian waters. The tax implications for the parties will depend on a number of circumstances, including the substance of the arrangement, the nature of the activity undertaken, the degree of activity required and whether any of the parties have an Australian PE. In relation to finance lease or hire purchase arrangements, the foreign resident lessor/provider (subject to other facts and circumstances) should generally not have a PE in Australia, as such arrangements are viewed as a sale from an Australian tax perspective.

As a result of the ATO's interpretation in TR 2008/8, there is the potential for non-transport activities aboard a ship in Australian waters to be caught in the Australian tax net, despite not giving rise to a PE for the purpose of the treaty.

Table 1 - Summary of general characterization of charter party contracts

<table>
<thead>
<tr>
<th>Substance of arrangement</th>
<th>Character of income</th>
<th>Royalty withholding tax*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Equipment lease (e.g., a true demise or bareboat charter or dry lease) **</td>
<td>Royalty income</td>
<td>✓</td>
</tr>
<tr>
<td>Provision of service (e.g., a true time charter party or wet lease)</td>
<td>Fee for services</td>
<td>N/A</td>
</tr>
<tr>
<td>A voyage charter party</td>
<td>Fee for services</td>
<td>N/A</td>
</tr>
</tbody>
</table>

* Particular DTAs may affect the liability for royalty withholding tax, particularly if the use of the equipment results in the non-resident having a PE.

** Particular DTAs (e.g., UK, USA, Norway) do not treat payments under equipment leases as royalties.

The ATO published for comment draft Taxation Ruling (TR) 2013/D5, Income tax: the application of the ships and aircraft article of Australia’s tax treaties to taxable income derived under section 129 of the Income Tax Assessment Act 1936 by a non-resident shipowner or charterer. This draft taxation ruling clarifies the circumstances in which the ships and aircraft article of Australia’s tax treaties allocates Australia a right to tax amounts falling within section 129 of the Income Tax Assessment Act 1936 (i.e., the freight tax regime discussed in section 1.1.1). The draft ruling (once issued as final) confirms the widely held view that amounts of section 129 income from the carriage of passengers and goods that are discharged at a place outside Australia are profits from the operation of ships in international traffic that fall under paragraph 1 of the standard ships and aircraft article, and Australia does not have the right to tax such amounts when they are derived by a relevant treaty party resident.

Focus on international transactions

The ATO has continued to take an increasingly intensified interest in international tax transactions, including those related to the shipping industry such as leasing arrangements. In the wake of the discussion paper issued by the Organisation for Economic Co-operation and Development (OECD) on addressing base erosion and profit shifting (BEPS), in February 2013, and the continued work performed by the OECD in relation to BEPS, the ATO has increased its scrutiny of corporate transactions of large businesses. Specific areas of interest have included mergers, acquisitions and divestments, classification of instruments into debt and equity, capital raisings, international structures used (including leasing arrangements), debt funding and the interaction of the thin capitalization and transfer pricing regimes. Contingent on facts and circumstances, all of the aforementioned areas may be applicable to shipping companies.
The BEPS report highlighted the need for actions to be implemented to curtail base erosion and profit shifting through avenues including transfer pricing and identified modernization of transfer pricing rules as a domestic pressure point requiring unilateral action. With the OECD's work on BEPS spearheading increased international focus on transfer pricing in the backdrop, Australia’s transfer pricing rules underwent significant reform in 2013. These changes, which apply to income years beginning on or after 1 July 2013, are outlined in Subdivisions 815-B to D of the Income Tax Assessment Act 1997 and Subdivision 284-E of the Tax Administration Act 1953.

The key aims of the legislative reforms are:

- To ensure that the ATO is empowered to apply profit-based transfer pricing methodologies, where deemed appropriate
- To align Australia’s domestic legislation around transfer pricing with OECD guidelines and guidance (the OECD Model Tax Convention and OECD Transfer Pricing Guidelines are now specifically referred to as being relevant in interpreting the arm’s length principle)
- To further clarify and legislate the ATO position in relation to financing arrangements and the interaction of the thin capitalization and transfer pricing rules

Under the new rules, the onus is on the taxpayer to demonstrate that the actual conditions of its international related-party dealings are consistent with arm’s length conditions and, as such, the taxpayer does not receive a “transfer pricing benefit” in the relevant income year. This requires the taxpayer to undertake an analysis, on an annual basis, that goes beyond testing the arm’s length pricing of the actual related-party transactions. Therefore, reliance on an analysis of a prior year’s international related-party dealings for the latest income year is not adequate under the new transfer pricing rules.

Documentation requirements have also changed, such that an undocumented transfer pricing position or failure to address the documentation requirements will result in the taxpayer not having a reasonably arguable position that its international related-party dealings are consistent with arm’s length arrangements. This has relevance to the level of penalties that may apply should a transfer pricing adjustment be made by the Commissioner.

Under the new documentation requirements, taxpayers will need to maintain records that meet statutory requirements.

One of the key impacts of the new legislation is that it effectively reinforces the power of the ATO to “reconstruct” a transaction between related parties, on the basis that independent parties dealing at arm’s length would not have entered into the arrangements that actually exist between two related parties. In this case, the ATO may seek to hypothesize an arm’s length arrangement and then assess what a commercial outcome from those arrangements would be.

In addition, the ATO has released various discussion papers and rulings over the last five years relating to international transactions, business restructuring and intra-group financing and loans. Among other things, these provide the ATO’s position regarding the application of the transfer pricing, thin capitalization and general anti-avoidance provisions, as well as domestic Australian tax law and relevant compliance obligations.

The rulings released include:

- TR 2010/7 - interaction of the thin capitalization and transfer pricing provisions
- TR 2011/1 - transfer pricing impact of cross-border restructures by businesses

TR 2010/7 contains the ATO’s observations on appropriate methods to be used to determine the arm’s length consideration for cross-border intra-group debt arrangements under Australia’s transfer pricing provisions. These methods apply even where such arrangements comply with the safe harbor thresholds under the thin capitalization rules.

The ruling provides that in some cases both the transfer pricing rules set out under Subdivision 815 and the thin capitalization rules set out under Subdivision 820, Income Tax Assessment Act 1997, will be applicable.
Generally, the applicability of each set of rules is assessed on a case-by-case basis. Where the purpose of applying the arm's length test under Subdivision 815 to a certain case is different from the purpose of the tests under Subdivision 820, debt deductions will have to satisfy the arm's length test under Subdivision 815 and the tests under Subdivision 820. For example, a debt deduction otherwise allowable according to the thin capitalization rules in Subdivision 820 will also need to satisfy requirements of arm's length price applied to the debt under Subdivision 815.

TR 2011/1 considers cross-border business restructures of Australian activities and the transfer pricing implications. The ruling also sets out the ATO’s views as to the need for:
- A commercial rationale for the restructuring from an Australian benefit perspective
- Appropriate pricing of functions or assets moving overseas
- Its power to re-characterize a restructuring to reflect arm’s length behavior

Advance pricing arrangements (APA) have also been revised through the ATO’s Practice Statement Law Administration (PS LA) 2011/1, released on 17 March 2011. This restates the ATO’s commitment to APAs and sets out timelines and processes for such agreements between taxpayers and the ATO.

International dealings schedule

Completion of the International Dealing Schedule, which has replaced the previous Schedule 25A and thin capitalization schedules, is mandatory where the aggregate amount of transactions or dealings with international related parties, including the value of property transferred or the balance outstanding on any loans, is greater than A$2 million or the thin capitalization provisions apply.

Reportable tax position schedule

The ATO continued the reportable tax position (RTP) program for the 2013 income year that required some taxpayers to disclose whether they have a material RTP. A RTP is one or more of the following:
- A material position that is about as likely to be correct as incorrect or less likely to be correct than incorrect, i.e., where there is 50% or less likelihood of the position being upheld by a court
- A material position in respect of which uncertainty about taxes payable or recoverable is recognized and/or disclosed in the taxpayer’s or a related party’s financial statements
- A taxpayer triggers a capital gains tax event during the income year, the taxpayer’s capital proceeds exceed A$200 million, and there is a material difference between the accounting and tax consequences of the event

This program is applied to selected large and key taxpayers in Australia, other than those with advance compliance arrangements with the ATO. It is expected that the RTP pilot will be rolled out to a wider population of taxpayers.

Other issues

Consistent with recent OECD and G20 activity, the renewed focus of the ATO has also extended to scrutiny of tax haven countries. In this regard, Australia has recently signed tax information exchange agreements with a range of countries, including Andorra, Bahrain, Brunei, the Cook Islands, Costa Rica, Guatemala, Liberia, Liechtenstein, Macau, Mauritius and Montserrat.

1.2 Other Australian considerations

1.2.1 Shipping reforms

Navigation Act 2012

The Navigation Act 1912 has been succeeded by the Navigation Act 2012, which received Royal Assent on 13 September 2012 and commenced on 1 July 2013. The previous Act has been rewritten to reflect contemporary conditions and practices, remove unnecessary and outdated provisions and to provide much-needed confidence and certainty for industry. Changes are aimed at improving clarity and increasing flexibility, rather than changing any substantive requirements or obligations.

The new Act reflects changes in the maritime sector and is the primary legislative means for the Australian
government to regulate international ship and seafarer safety, shipping aspects of protecting the marine environment and the actions of seafarers in Australian waters. It highlights the need for ships to be operated and navigated safely by competent seafarers who have decent working and living conditions. The new Navigation Act also provides the Australian Maritime Safety Authority (AMSA) with a range of new measures to ensure compliance with safety and environmental requirements, including increased financial penalties for non-compliant vessels, exclusion of vessels from Australian ports with poor inspection histories and issuance of on-the-spot infringement notices for marine order offences. It also gives effect to the relevant international conventions to which Australia is a signatory.

*Marine Safety (Domestic Commercial Vessel) National Law Act 2012*

The Marine Safety (Domestic Commercial Vessel) National Law Act 2012 (the National Law) received Royal assent on 12 August 2012 as part of the National System for Domestic Commercial Vessel Safety. The National Law applies to the domestic commercial vessel fleet operating in Australian waters across all states and territories. Under the National Law, the AMSA is the National Regulator.

The National System for Domestic Commercial Vessel Safety aims to:

- Simplify maritime safety laws
- Apply nationally agreed standards clearly and consistently across the country
- Make it easier for seafarers and their vessels to work and move around the nation without barriers
- Deliver a uniform approach to maritime safety requirements

### 1.2.2 Shipping tax reforms

Also in 2012, the Government introduced into Parliament a comprehensive package of reform bills to the Australian shipping industry designed to increase the international competitiveness of the Australian shipping industry and allow Australian shipping companies to compete more effectively on international routes.

The reform package had four key elements:

- Tax reforms to remove barriers to investment in Australian shipping and to foster the global competitiveness of the shipping industry
- Simplified three-tier licensing framework for participation in the coastal trade
- Establishment of an Australian International Shipping Register
- Establishment of a Maritime Workforce Development Forum

The package of bills received Royal Assent on 21 June 2012.

The tax reforms contained in the package aim to address the cost disadvantages faced by Australian shipowners and encourage renewal for the aging Australian fleet. The tax reforms were effective from 1 July 2012.

The tax reforms provide a tax exemption regime for Australian ship operators for coastal shipping to and from Australia (but excluding service vessels for offshore oil and gas projects). The exemption delivers an effective tax rate of zero on the qualifying elements for corporate income tax. Ship operators can qualify for this exemption where, among other requirements, a “shipping exempt income certificate” is obtained from the Department of Infrastructure and Transport.

Broadly, a shipping exempt income certificate will be issued on a vessel-by-vessel basis when all of the following conditions are met:

a. The operator is an Australian corporation.

b. The vessel, for at least one or more days during the certificate year:
   - Meets the tonnage requirement (broadly has a gross tonnage of at least 500)
   - Is registered under Australia’s Primary or International Shipping Registers
   - Does not fall within the list of excluded vessels, preventing, among other offshore industry vessels, tugboats and vessels used mainly in inland waterways and harbors from accessing the exemption

c. During the income year, the vessel was used, or was available for use, “wholly or mainly” for business or commercial activities involving carrying shipping cargos, or shipping passengers on voyages.
d. The operator meets the management requirements.
e. The operator has a training plan that meets the training requirements.

Companies are required to apply for the shipping exempt income certificate on an annual basis and are required to make a 10-year "lock in" commitment to being an Australian registered ship and meet Australian maritime safety conditions, along with minimum training requirements.

The benefit of the income tax exemption may be reduced in certain circumstances. Any dividends paid by an Australian company to its immediate parent company out of tax exempt earnings are likely to be unfranked and subject to up to 30% dividend withholding tax (subject to applicable DTA relief). If profits remain within Australia for reinvestment in the business, withholding tax will not apply.

Other tax incentives introduced as part of these reforms include the following.

**Accelerated depreciation**

For certain vessels not eligible, or whose owners choose not to claim the above exemption, their effective lives will be capped at 10 years (rather than the current effective life of 20 years). To access this, it will still be necessary for the owner to obtain a certificate issued by the Minister, but it is not required to meet the more onerous management or training requirements of the shipping income exemption certificate criteria (i.e., only requirements (a) to (c) above will apply). See section 1.2.8 for further information on tax depreciation generally.

**Roll-over relief**

Similar to the availability of accelerated depreciation, those owners not qualifying for the shipping income exemption may take advantage of proposed roll-over relief provisions. Broadly, roll-over relief will be available to defer the gain or profit on the sale of an old vessel that is replaced by a new vessel within two years. Where the gain is higher than the cost of the new vessel, the excess will remain taxable.

**Seafarer refundable tax offset**

A refundable tax offset (payable to employers) will be introduced for withholdings on payments made to Australian resident seafarers for overseas voyages, where the seafarer is engaged on a vessel that has obtained an exemption certificate. Broadly, in order to claim the offset, the company must have at least one individual who qualifies for the tax offset for 91 days or more in the income year. Although the vessel will need to hold an exemption certificate, it will not be necessary for it to meet the management and training requirement of the shipping income exemption certificate.

**Royalty withholding tax exemption**

From 1 July 2012, payments made by an Australian company lessee under a bareboat lease to a foreign lessor may qualify for exemption from Australian royalty withholding tax (of up to 30%) where the vessel:

- Is not an excluded vessel (e.g., offshore industry vessels and inland waterway or harbor vessels)
- Under the lease, the lessee has whole possession and control of the vessel (including the right to appoint the master and crew of the ship)
- Meets condition (c) of the income tax exemption above

There is no requirement for the Australian resident company to hold either certificate in order to access the royalty withholding tax exemption.

### 1.2.3 Consolidated groups for tax purposes

From 1 July 2002, wholly owned Australian groups may elect to form a consolidated group for income tax purposes. Generally, groups with a single common Australian-resident parent entity are able to consolidate. However, Australian-resident entities with a common overseas 100% ultimate owner (i.e., a holding company) may also form a consolidated group (known as a multiple entry tax consolidated group).

Consolidation is optional, but if a group decides to consolidate, all wholly owned companies and trusts must be included, where the wholly owned entity is owned by a single common Australian-resident parent or under an Australian entry point that has elected to be included in the consolidated group.
When the consolidation election is made, the head company of the group will submit a single income tax return on behalf of all of the wholly owned entities within the group. From the time of consolidation, intra-group transactions (such as asset transfers and provision of services) are disregarded, and all tax attributes (such as franking account balances and carryforward tax losses) are held at the head company level. When a single company exits the group, its losses and franking credits must remain within the group.

1.2.4 Loss recoupment rules
Prior year losses may be utilized to reduce current year taxable income subject to the satisfaction of various rules, primarily maintaining continuity of majority beneficial ownership (known as the “continuity of ownership test”) or failing that, passing the “same business test.”

On 28 June 2013, the tax loss carry-back tax offset was enacted into law.

The stated purpose of the carry-back was to assist certain companies during the period of global economic downturn. Broadly, under the loss carry-back:

- Initially, from the 2013 income year companies were able to carry-back up to A$1 million of qualifying revenue losses to obtain a refund of tax paid in the 2012 income year.
- From the 2014 income year companies can carry back up to A$1 million of qualifying revenue losses against Australian income tax paid for up to the two earlier income years.

The loss carry-back was delivered via a refundable loss carry-back tax offset in the current income year. The amount of the offset was capped at the companies franking account balance at the end of the income year in which the offset was sought to be claimed.

In November 2013, a bill was introduced to Parliament that would, among other things, repeal the loss carry-back offset rules. Once enacted, the tax loss carry-back offset will be repealed from the 2013-14 income year and later income years.

1.2.5 Taxation of profit distributions
The current corporate tax rate of 30% generally applies to shipping companies. Distributions of profits by way of dividends that have been subject to corporate tax at the corporate level (i.e., franked) are generally not subject to further Australian tax when paid to a corporate shareholder. For resident shareholders, a credit for the tax paid in respect to underlying profits will be available and nonresident shareholders are entitled to an exemption from Australian dividend withholding tax.

If a company makes a distribution of untaxed (or unfranked) profits (for example, income subject to income tax concessions or tax timing differences), the tax outcome depends on the status of the shareholder. Non-Australian resident shareholders will be taxed at a dividend withholding tax rate of 30% unless the relevant DTA provides for a lower rate (in the range of 0% to 15%), depending on a range of factors. These include the tax residence and legal character of the shareholder and that shareholder’s percentage of shareholding. Australian-resident shareholders generally pay tax at the corporate rate of 30% or at the applicable individual rates (up to 46.5% or 47.5% for the 2013 income year).

A nonresident company carrying on business in Australia can repatriate profits without any branch profits tax. However, if that nonresident company pays a dividend out of those Australian-sourced profits to another nonresident, its shareholder may be subject to Australian income tax, subject to the operation of the relevant DTA.

1.2.6 Specific withholding regimes
The pay-as-you-go (PAYG) withholding rules apply to a range of payments, including those made to foreign residents for gaming and casino junkets (including on board ships) and construction and related activities taking place in Australia (for example, activities associated with the construction, installation and upgrading of plant and equipment).

Under the rules, the payer (generally an Australian resident) is required to withhold and remit regardless of whether the underlying income is taxed in Australia in the hands of the recipient or is exempt (e.g., under
These withholding rules also apply in addition to the traditional regimes, impacting royalties, interest and dividends, and may catch, for example, subsea services provided in Australian waters by a non-Australian resident provider. Therefore, the potential impact of these rules needs to be taken into account.

1.2.7 Taxation of financial arrangements

Foreign exchange gains and losses

The taxation of financial arrangements (TOFA) rules provide a comprehensive framework for the taxation of foreign exchange gains and losses arising from foreign currency transactions. The TOFA rules set out a number of different events that give rise to realized gains (taxable) and losses (deductible) for tax purposes. Special rules also apply to foreign currency bank accounts for calculating foreign exchange gains and losses attributable to bank account movements during the course of the year.

The TOFA rules also contain tax functional currency rules. An entity that maintains its accounts predominantly in a foreign currency may elect to determine its income and deductions in that currency, with the net result being converted into Australian currency for the purposes of calculating the entity’s Australian income tax liability. This concession is especially relevant for non-Australian residents required to report to the ATO and pay Australian tax.

Taxation of financial arrangements

Clearer rules have been introduced for the tax recognition over time of gains and losses from financial arrangements. The default accruals and realization methods are supplemented by various elective methods using accounting approaches with respect to certain financial assets. The elective accounting methods available for specified financial arrangements include hedge treatment, fair value reporting, retranslation for foreign currency arrangements, and, in certain cases, using the values in financial reports for the financial arrangements.

These laws apply to affected taxpayers (broadly, those with assets over A$300 million or annual turnover over A$100 million, or financial institutions with turnover over A$20 million or holdings of prescribed tax deferred securities). These reforms apply to financial arrangements first held in income years commencing on or after 1 July 2010.

1.2.8 Tax depreciation

A capital allowance regime provides deductions to taxpayers for the decline in value of “depreciating assets” held by them during the year. A “depreciating asset” is defined as an asset with a limited effective life that may be expected to decline in value over the time it is used.

The depreciation rate for a depreciating asset depends on the effective life of the asset. Taxpayers may choose to use either a reasonable estimate of the effective life or the effective life determined by the tax authorities. Statutory life caps resulting in accelerated rates are provided for certain assets used in the oil and gas, petroleum and transport industries as well as for Australian-registered ships.

Taxpayers may choose the prime cost method (straight-line method) or the double-diminishing-value method (200% of the straight-line rate) for calculating the tax-deductible depreciation for all depreciating assets.

The cost of a depreciating asset is generally the amount paid by the taxpayer plus further costs incurred while the taxpayer holds the asset. A taxpayer may choose to recalculate the effective life of a depreciating asset if the effective life that was originally selected is no longer accurate as a result of market, technological or other factors.

Taxpayers may choose to pool assets costing more than A$300 but less than A$1,000 as well as assets that have been depreciated to less than A$1,000. The pool balance is depreciable at a rate of 37.5% (18.75% for additions during the year), applying the declining-balance method. If the choice is not exercised, the relevant assets are depreciated on the basis of their respective effective lives.
1.2.9 Resource taxation

The petroleum resources rent tax (PRRT) has been expanded effective from 1 July 2012. Previously, the PRRT applied at a 40% rate to the taxable upstream profits of certain offshore projects only. The expanded PRRT also applied to taxable upstream project profits from the extraction of onshore non-renewable petroleum resources (e.g., coal seam gas and oil shale). PRRT is deductible for corporate tax purposes.

The mining resources rent tax (MRRT) applicable to iron ore and coal production (only) is effective from 1 July 2012. The MRRT applies a rate of 30%, after providing a 25% extraction allowance (resulting in an effective tax rate of 22.5%) to mining profits, with an allowance for certain capital expenditures. MRRT is deductible for corporate tax purposes, and a credit is allowed for state royalties. On 13 November 2013, legislation was introduced into Parliament to repeal the MRRT into effect from 1 July 2014.

1.3 Recent changes to the tax law

1.3.1 Recent developments in DTAs

During 2010, Australia signed new DTAs with Chile and Turkey. These DTAs came into force on 2 February 2013 and 5 June 2013, respectively.

Australia has continued to negotiate with Canada and the Netherlands to update their respective DTAs, and also with Pakistan to establish a DTA. In addition, Australia and Switzerland updated the existing Australia/Switzerland DTA and a revised treaty was released on 30 July 2013, however, the revised treaty is currently not in force. An amending protocol to the Australia/India DTA was assigned on 16 December 2011 and came into force on 2 April 2013.

Please refer to section 1.1.2 for a general list of countries with which Australia has a DTA.

1.3.2 Other international tax developments

Amendments and proposals

A series of amendments have been made to the income tax laws of Australia, and proposed reforms were announced during 2010 to attract foreign investment into Australia and promote the establishment of regional holding companies in Australia. These amendments included:

- A participation exemption for capital gains arising from the sale of foreign shareholdings to the extent that the underlying assets are “active;” however, interests in partnerships or entities that are treated similarly to a partnership for tax purposes (e.g., US LLCs) may not always benefit from this exemption;
- The ability to pass foreign dividends and foreign branch profits through an Australian corporate structure without attracting Australian corporate tax or dividend withholding tax;
- Exemptions for certain dividend and profit repatriations;
- Exemption for non-Australian residents on capital gains arising from the disposal of shares in Australian-resident (non-landholding) companies; and
- Simplification of the rules dealing with the treatment of foreign loss and foreign tax credits.

There were proposals to simply Australia’s Controlled Foreign Company regime and replace the repealed Foreign Investment Fund rules with foreign source income deferral rules. However, the current Australian Coalition government announced on 14 December 2013 that it would not be proceeding with these proposals.

BEPS

The former Australian government released, in July 2013, the following Treasury scoping paper: On Risks to the Sustainability of Australia’s Corporate Tax Base, arising from multinational business activities. This follows the 19 July 2013 release of the OECD comprehensive action plan to address BEPS by multinational companies.

The scoping paper recognizes that there is no clear evidence of Australia’s corporate tax base having already been eroded by BEPS activities. Nevertheless, the scoping paper identifies that the growth of the digital economy, the globalization of business and the BEPS issues pose risks for future corporate tax revenues. The paper also recommends Australia endorse the OECD action plan.
1.4 Other Australian taxes

1.4.1 Goods and services tax

Australia has a goods and services tax (GST) that is applied to most goods and services connected with Australia (i.e., goods imported into Australia or goods installed or assembled in Australia), which is levied at a rate of 10%. A shipping entity that is registered for GST can generally claim back input tax credits for GST incurred on acquisitions provided the acquisitions were made for a creditable purpose (i.e., the acquisition was acquired in carrying on an enterprise and must not relate to making supplies that would be input taxed or of a private or domestic nature).

Most goods imported into Australia are subject to GST. Where a shipping entity imports goods into Australia and the import qualifies as a taxable importation, GST is prima facie payable by the shipping entity at the time of importation. The shipping entity can then claim an input tax credit for the GST paid on the importation provided it is registered for GST and the importation was for a creditable purpose. Furthermore, approved importers can use the deferred GST scheme. This scheme enables those importers to defer the GST otherwise payable on importation until the first business activity statement is submitted after the goods are imported. In most cases, this deferral means that GST is canceled, as a corresponding input tax credit can be claimed in the same return.

GST-free status is usually applied to exports of goods, international transport, associated insurance and arranging transport and export services. While GST-free supplies are not subject to GST, the supplier may still claim input tax credits incurred on acquisitions connected with the supply.

1.4.2 Import duties

All goods imported into Australia are subject to classification and the potential to attract customs import duty. Rates of duty align specifically with tariff classifications, and although many goods attract duty at the rate of 0%, generally where duty is payable on non-excisable goods the rate will be 5%. For example, vessels exceeding 150 gross construction tonnes attract duty at a rate of 0%, whereas vessels that are 150 tonnes or less attract duty at the 5% rate. Rates of customs duty for non-excisable goods are applied to the customs value of those goods, which generally reflects the FOB value. Where duty is payable, opportunities may exist to reduce or remove the tariff. Preferential treatment may be secured where goods originate from countries with which Australia has a trade agreement, or concessional treatment may be secured where substitutable goods are unavailable from Australian supply.

Excisable goods, such as petroleum products, alcohol and tobacco, attract excise-equivalent customs duty upon importation to Australia. That is, the import duty reflects the excise duty payable on such goods produced in Australia. Import duty for such products is calculated on quantity rather than value. For example, diesel and petrol imported into Australia currently attracts duty at a rate of $0.38143 per liter.

1.4.3 Stamp duty

The various stamp duty acts may also apply to certain transactions involving vessels (e.g., acquisition or transfer of vessels or business). Given that stamp duty is a state tax, the implications essentially depend upon the state or territory of Australia in which the vessels are located. Depending on the relevant jurisdiction, the transfer or acquisition of a vessel may attract an exemption from duty. This will depend on the nature of the transaction and the jurisdiction(s) in question.

Australian stamp duty is generally not payable on the transfer of a vessel, where the vessel is not situated within the relevant state’s territorial waters at the time of the transaction. While the transfer of the vessel may not be liable to duty in these circumstances, there may be stamp duty implications arising from the transfer of the business undertaken by the vessel, if the vessel, for example, has a contract to supply goods or provides services to an Australian customer.

1.4.4 Employment taxes

Salaries and wages and non-cash benefits paid or provided to employees have the potential to attract a range of taxes in Australia, including:
• PAYG – withheld at various rates from payment of salary and wages to employees where those payments are taxable in Australia. The rate of withholding is affected by the tax residence of the individual.
• Fringe benefits tax (FBT) – payable by the employer at 46.5% of the grossed-up value of certain non-cash benefits provided to employees. As a result of the gross up applied to the taxable value of a benefit, the effective FBT rate on the taxable value of a benefit is generally between 87% and 96% (subject to certain concessions and exemptions). The headline FBT rate will increase to 47% for the FBT year ending 31 March 2015 and succeeding years.
• Payroll tax – generally payable at 4.75% to 6.85% of wages paid to employees and, in some cases, contractors. Companies may be entitled to an annual payroll tax exemption between A$550,000 and A$1.75 million, depending on the state in which the wages are incurred. When a company is related to another company (i.e., as a parent or subsidiary, or by reason of common directors, common employees or shared ownership), the companies may be grouped for the purposes of calculating their payroll tax liability and may only determine their annual exemption entitlement on the basis of the total wages of the group.
• Superannuation – conceptually equivalent to pension support. Contributions are required to be made to a superannuation fund at 9.25% (up to a capped amount) of earnings paid to employees and, in some cases, contractors. An exemption may apply depending on the location of services and tax residence of the individual.

Whether the above taxes apply will depend on a number of factors, including:
• Whether Australia has negotiated a DTA with the country in which the employee is tax resident
• Whether the “economic” employer is an Australian resident entity or has a PE in Australia (which depends upon the number of days that the employee works in Australian territorial waters in any 12-month period)
• The location of the work – for superannuation and payroll tax purposes, work undertaken more than a specified distance from the Australian territorial sea baseline may be exempt depending on whether Australia has negotiated a bilateral social security agreement with the country of residence of the employee

In addition to the above, employers may be required to take out workers’ compensation insurance in relation to seafarers.

1.4.5 Visa consideration for foreign crew members

With few exceptions (including Australian permanent residents and citizens), all people entering Australia must hold a valid visa to work in Australia. Currently, the Australian visa framework provides the following three types of temporary visas to allow foreign workers to perform work in Australian waters (including Australia’s exclusive economic zone):
• Maritime crew subclass 988 visa – allows foreign maritime crew on non-military ships to work on the ship in Australian waters, with flexibility of multiple entries over three years
• Temporary work (skilled) subclass 457 visa – allows foreign workers to live and work in Australia, with flexibility of multiple entries and visa validity which may be granted for between one day and four years (visa is subject to sponsorship by a direct employer with the proposed role and visa applicant meeting various criteria)
• Temporary work (short stay activity) subclass 400 visa – allows foreign workers to undertake short-term work that is highly specialized (the usual standard is a 42-day stay visa, unless supported by evidence that the visa could be granted for a maximum of 90 days, with either a single or multiple entry facility at the discretion of the case officer)

On 29 June 2013, the Migration Amendment (Offshore Resources Activity) Act 2013 received the Royal Assent, which will introduce a new visa framework for foreign workers that participate in or support the offshore resources sector. The Australian government will implement the new visa framework before 30 June 2014. Mechanisms of the new visa framework have been subject to public consultation and review by the Australian immigration department with the final decision on the visa mechanism expected around March 2014.
Ship operators that participate in or support the offshore resources sector and have foreign crew working on their vessels will need to become familiar with the new visa framework to ensure compliance with Australian immigration laws.

1.4.6 Carbon pricing mechanism

On 1 July 2012, Australia implemented a carbon pricing mechanism. Under the carbon pricing mechanism, Australia’s largest greenhouse gas emitters (an estimated 500 entities whose facilities emit greater than 25,000 metric tons of CO2e) will be directly liable to buy and surrender to the Government a permit for every metric ton of carbon pollution they produce.

However, on 13 November 2013, the Federal Government introduced a series of bills into Parliament to repeal carbon pricing legislation from 1 July 2014. The Federal Government has indicated that 2013–14 will be the last financial year that the carbon tax will apply and that the Government will not extend the carbon tax beyond 2013–14, even if the Parliament does not pass the carbon tax repeal bills until after 1 July 2014. Liable businesses and other entities must pay all carbon tax liabilities incurred up to 30 June 2014 under the carbon pricing mechanism, the fuel tax credits system, excise or excise-equivalent customs duties, or synthetic greenhouse gas levies. Liable businesses and other entities must pay their final carbon tax compliance obligations at the next payment time under the current legislated arrangements.

2. Human capital issues

2.1 Formalities for hiring personnel

Australia’s labor laws in the maritime industry have undergone significant change in recent years. Australia has moved from a system of organized employment to company-based employment. Employees are no longer recruited from a personnel list prepared with the assistance of the unions, nor are positions filled by the next available person on the list. Employers can now choose their employees (subject to the relevant qualifications). Although union membership is voluntary, given the historic importance of the unions in the industry, employers should be prepared to work with them.

In July 2009, the Fair Work Act 2009 (FWA) came into operation in Australia, introducing amendments in relation to national labor laws. In particular, these amendments deal with issues including unfair dismissal, bargaining in relation to enterprise agreements and dispute resolution. In addition, from 1 January 2010, employees and employers are covered by the modern awards standards, the National Employment Standards (NES) and the Seagoing Industry Award 2010, under which employees are entitled to certain minimum conditions. The NES include minimum entitlements to leave, public holidays, notice of termination and redundancy pay.

The FWA applies to Australian ships and some foreign-flagged ships operating in Australia’s territorial seas, extending to those that are operating pursuant to a license or permit while the ship is in the exclusive economic zone or in the waters above the continental shelf of Australia.

2.2 National labor law

Australia’s labor laws apply to all Australian-flagged vessels as well as internationally flagged vessels that carry Australian domestic cargo on a permit issued under the Navigation Act 1912 (and succeeded by the Navigation Act 2012).

All personnel (including international seafarers on Australian regulated ships and personnel who work on and/or supply offshore oil and gas facilities) who are required to work unmonitored in a maritime security zone must hold a Maritime Security Identification Card (MSIC). This card identifies an individual who has been the subject of a background check and is valid for five years.

2.3 Regulations on employing personnel

Employees on Australian-flagged vessels need to be residents of Australia (although not necessarily
citizens) who have marine qualifications from the AMSA or overseas qualifications recognized as an equivalent by the AMSA.

Vessels involved in coastal trade (whether Australian- or foreign-flagged) must obtain a license to trade. One of the requirements of that license is that the owner pays Australian wages to the crew. Marine qualification services are provided through nine centers around Australia.

To qualify for an AMSA marine qualification, seafarers must complete an approved course of study. These are conducted at the Australia Maritime College in Launceston, Tasmania, and at technical and further education institutes and colleges in Fremantle, Newcastle and Sydney. Additionally, for issue of a certificate of competence, the trainee has to pass an oral examination conducted by AMSA examiners on operational knowledge and critical skills.

*Overseas qualifications*

All crew members on Australian ships are required to hold an Australian marine qualification relevant to their duties. The AMSA assesses marine qualifications issued overseas to foreign residents who wish to migrate to Australia and require Australian qualifications to work on Australian ships.

**2.4 Treaties relating to social security contributions**

Social security treaties regarding double superannuation coverage have been negotiated with Austria, Belgium, Canada, Chile, Croatia, Cyprus, the Czech Republic, Denmark, Finland, Germany, Greece, Hungary, Ireland, Italy, Japan, Korea, Latvia, the former Yugoslav Republic of Macedonia, Malta, The Netherlands, New Zealand, Norway, Poland, Portugal, Slovak Republic, Slovenia, South Korea (ROK), Switzerland and the US. Reciprocal health agreements have been negotiated with Belgium, Finland, Ireland, Italy, Malta, The Netherlands, New Zealand, Norway, Sweden and the UK.

**2.5 Manning issues with flying the Australian flag**

Australian-flagged vessels are subject to Australian pilotage where the vessel exceeds 24 meters in tonnage length.

**3. Corporate structure**

**3.1 Most commonly used legal structure for shipping activities**

The most commonly used legal structure for the operation of shipping activities is a limited liability corporation, known in Australia as a proprietary limited (Pty Ltd) company.

**4. Grants and incentives**

**4.1 Specific and/or general subsidies available to shipping companies**

No specific incentives are available for shipping companies. However, there is a government system that provides shipping subsidies and applies to the shipping of certain goods and cargo between the mainland of Australia and Tasmania (the Tasmanian Freight Equalization Scheme and the Tasmanian Wheat Freight Scheme).

**4.2 Investment incentives for shipping companies and the shipbuilding industry**

At the time of publication, there are no other specific incentives currently available to the shipbuilding industry. In the meantime, there are general tax incentive programs designed to encourage research and development (R&D) activities in Australia.

A number of changes to the R&D Tax Incentive system have been enacted (in effect from 1 July 2011), including a move towards an R&D tax credit system. This involves a 40% tax credit (equivalent to a 133% tax deduction at current corporate tax rates), a cash refundable 45% tax credit for smaller companies
(with annual aggregated turnover of less than A$20 million), the removal of the former 175% incremental deduction and a narrowing of the activities that will qualify under the new R&D tax benefit program. Furthermore, the R&D Tax Incentive will also be available to an expanded range of claimants, including foreign corporations that are residents of a country with which Australia has a DTA and carries on business through a PE in Australia.

In order to claim the R&D Tax Incentive:
- The company must either be (a) incorporated in Australia, (b) incorporated under foreign law but an Australian resident for income tax purposes or (c) incorporated under a foreign law, a resident of a country with a DTA with Australia and carry on a business through a PE in Australia.
- The R&D activities must be undertaken on behalf of the company (special rules apply when the R&D is conducted on behalf of a non-Australian parent company).
- The R&D activities must include experimental activities based on principles of established science (hypothesis > experiment > observe and evaluate > conclusion) and be performed for the purpose of acquiring new knowledge, including the creation of new or improved materials, products, devices, processes and services.

The company must spend a minimum of A$20,000 in a given year.

The company must register within 10 months of the tax year-end and have contemporaneous documentation to substantiate R&D projects.

4.3 The Fuel Tax Credits scheme

Fuel imported or sourced domestically in Australia and used in a business activity may be eligible for fuel tax credits (FTCs). FTCs are a rebate of the fuel tax component, being either excise duty or excise-equivalent import duty embedded in the cost of fuel. FTCs are claimed on an entity's Business Activity Statement (BAS), and entities seeking to claim an FTC entitlement must be registered with the ATO for both GST and FTCs.

Fuel acquired for consumption in offshore oil and gas activities is typically eligible for FTCs where it is used for marine transport or actual mining activities. Certain criteria must be met before claiming FTCs, including establishing the eligibility of the fuel, the eligibility of the activity in which fuel will be, or has been consumed, and the rights of the claimant to the entitlement.

The current fuel tax rate is A$0.38143 per liter for most fuels, including diesel and petrol. The introduction of a price on carbon emissions in Australia from 1 July 2012 impacts the rate of FTCs available for each type of eligible fuel. While fuels are not covered directly under the carbon price mechanism, an effective carbon price is imposed through reductions to fuel tax credit rates. Prior to the introduction of carbon pricing, up to 100% of fuel tax was recoverable as an FTC, i.e., $0.38143 per liter. The effective price on carbon reduces the rate of FTC available, and the reduction amount varies between fuel types depending on the embodied emissions of each fuel.

The following table lists the relevant FTC impact for each fuel type over the three-year fixed price period. The amounts shown for each financial year period are subtracted from the 100% rate. Therefore, in FY2014-15, FTCs for diesel fuel acquired for consumption in an eligible activity will be available at 31.285 c/L (38.143–6.858).

<table>
<thead>
<tr>
<th>Fuel</th>
<th>100% rate</th>
<th>2012-13</th>
<th>2013-14</th>
<th>2014-15</th>
</tr>
</thead>
<tbody>
<tr>
<td>Petrol</td>
<td>38.143</td>
<td>5.52</td>
<td>5.796</td>
<td>6.096</td>
</tr>
<tr>
<td>Diesel</td>
<td>38.143</td>
<td>6.21</td>
<td>6.521</td>
<td>6.858</td>
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<tr>
<td>LPG*</td>
<td>2.5-12.5</td>
<td>3.68</td>
<td>3.864</td>
<td>4.064</td>
</tr>
<tr>
<td>LNG/CNG*</td>
<td>5.22-26.13 c/kg</td>
<td>6.67</td>
<td>7.004</td>
<td>7.366</td>
</tr>
</tbody>
</table>
* Duty rate increases over transitional period to reach full rate on 1 July 2015.

Entities that have “opted in” to have fuel emissions dealt with under the carbon pricing mechanism are not required to reduce the rate at which they claim FTCs.

On 13 November 2013, the Federal Government introduced a series of bills into Parliament to repeal carbon pricing legislation from 1 July 2014. If the legislation is passed, FTC entitlements are anticipated to increase to allow the full recovery of fuel tax included in the cost of eligible fuels (see section 1.4.6 on carbon pricing mechanism above for further detail).

5. General information

5.1 Infrastructure

5.1.1 Major ports

<table>
<thead>
<tr>
<th>Name of port</th>
<th>Location of port</th>
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<tr>
<td>Botany Bay</td>
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<td><strong>Name of port</strong></td>
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<td>Walcott</td>
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<tr>
<td>Wyndham</td>
<td>Western Australia</td>
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</tbody>
</table>

### 5.1.2 Port facilities

The following facilities are available: maintenance and repair; docking; storage; and cranes for every size of vessel (cranes, loaders, unloaders and ro-ro facilities are available at all major ports).

### 5.1.3 Airports close to the major ports

<table>
<thead>
<tr>
<th><strong>Name of port</strong></th>
<th><strong>Name of airport</strong></th>
<th><strong>Location of airport</strong></th>
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<tbody>
<tr>
<td>Adelaide</td>
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<tr>
<td>Whyalla</td>
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5.1.4 Support services for the shipping industry

The following support services for the shipping industry are readily available: banks with a shipping desk; consulting firms specializing in shipping; maritime law services; and insurance brokers for the shipping industry.

5.1.5 Maritime education

Maritime education is provided by Australian Maritime College – Launceston, Tasmania, and technical and further education institutes and colleges in Fremantle, Newcastle and Sydney. Increased government funding has been proposed to support the delivery of maritime and maritime-related vocational education and training to improve the national seafarers shortage.

5.2 Safety and environmental issues

5.2.1 Implementation of the International Safety Management Code on board vessels

All vessels registered in Australia as Phase 1 Ships have implemented the International Safety Management (ISM) Code.

5.2.2 The International Organization for Standardization 9002 certificate

Most large trading vessels apply for certification under International Organization for Standardization (ISO) 9002 through Det Norske Veritas or Lloyd's Register system. This is in addition to the ISM Code, but clearly the ISM Code forms minimum practices regarding safety on board a vessel.

5.2.3 Safety rules regarding manning

Australia’s rules regarding manning are seen as relatively strict by some in the industry.

5.2.4 Special regulations on safety and the environment

Australia has signed the International Convention for the Safety of Life at Sea and the Marine Pollution Convention. Regulations regarding safety and the environment reflect the obligations under these conventions.

Australia has recently announced that ships containing asbestos or that have not been checked for toxic substances could be turned away from Australian shores. This specifically applies to ships built after 1 January 2005.

From 1 January 2013, new requirements apply which prohibit the discharge of garbage waste into the sea from ships, except in very limited circumstances. Marine Notice 6/2012 outlines these changes, among others in relation to revised garbage discharge regulations for ships.

5.2.5 Australian Maritime Safety Authority

The AMSA is the national safety regulator for all commercial shipping in Australian waters.
5.2.6 The National Plan

The AMSA manages Australia’s National Plan to Combat Pollution of the Sea by Oil and Other Noxious and Hazardous Substances (National Plan) and works together with state and northern territory (NT) governments, and the shipping, oil and chemical industries and emergency services to maximize Australia’s marine pollution response capability.

The National Plan provides a national framework for responding to marine pollution incidents. The aim of the National Plan is to protect the natural and built environments of Australia’s marine and foreshore zones from the adverse effects of oil and other noxious or hazardous substances spilled into the marine environment. It also aims to minimize those effects where protection is not possible.

A review of Australia’s National Plan and National Maritime Emergency Response Arrangements (NMERA) was completed during 2011. The key outcome is that the National Plan and the NMERA will be integrated into a single emergency response arrangement; however, these changes will take time to implement.

5.3 Registration

Australia has two shipping registers:

• The Australian General Register is primarily used by domestic vessels and Australian vessels with international certification that:
  • Wish to have access to the Australian coastal trade
  Or
  • Choose to remain on the Australian General Register
• The Australian International Shipping Register (AISR) will be open to international trading ships that meet specific criteria. The purpose of the AISR is to provide a register that is a competitive alternative to other registers and is available to Australian companies that own or operate ships.

Both registers have been discussed in further detail below.

5.3.1 Australian General Register

Registration requirements

The Australian General Register currently lists the particulars of some 7,000 active ships. All Australian-owned commercial ships of 24 meters and over in tonnage length and capable of navigating the high seas must be registered.

All other craft, including government ships, fishing and pleasure craft, need not be registered, but may be if the owners desire. In this regard, an Australian citizen or body corporate established under Australian corporate law can apply to have a ship registered, provided it is:

• Less than 12 meters in length overall and wholly owned or operated by Australian residents or by Australian nationals and residents together
• On demise (bareboat) charter to an Australian-based operator
• Owned in common where more than half the shares are owned by Australian nationals

Flagging

Registered commercial ships over 24 meters in tonnage length must fly the Australian Red Ensign. All other registered ships have the choice of flying either the national flag or the Red Ensign. An unregistered Australian-owned ship can be issued with a certificate entitling it to fly either flag.

Registration

A ship must be registered if the owner intends to use it for travel from Australia to places outside Australia, or on voyages from foreign ports to Australia or other overseas destinations. Any ship demise chartered to Australian-based operators, or any craft under 12 meters in length, owned or operated by Australian residents, nationals or both, can be registered if the owner or operator wishes.

After registration
Once a ship has been registered, the owner or registered agent must comply with the rules laid down in both the law and regulations. So that the register can be kept up to date, the registrar must be informed of the following:

If it is intended to change the name or home port of the ship or if there is any change in the name or address of the owner or registered agent
- If the ship or a share in the ship is sold
- If any alterations are made to the ship
- If there are changes to any registered mortgages
- If the registration certificate is lost or destroyed
- If the ship is lost or destroyed

The law provides heavy penalties, including fines and prison sentences, for owners or registered agents who do not comply with the registration rules. The rules apply until a ship has been removed from the register – for example, through loss – or after it has been sold to foreign nationals. In the case of ships that are not required to be registered, the registered owner may remove the ship from the register at any time.

Ship registration procedure

Ships that were originally registered in Australia under the British system (i.e., before 1982) were automatically transferred to the new register subject to nationality eligibility at the time of changeover.

Applications can be made in person or through the mail at the Shipping Registration Office in Canberra or at any office of the AMSA. As the registration of a ship gives good title to the owners, an application for registration must be accompanied by the following:
- Application
- Details of any previous registration
- The builder’s certificate
- Any encumbrance statements that are relevant
- Tonnage certificate, if applicable
- Bills of sale tracing the vessel’s ownership back to the builder
- Proof of the owner’s or owners’ nationality
- Notice of the appointment of a registered agent
- In order of preference, three proposed names for the ship
- The proposed home port for the ship (this must be an approved home port)

Marking and measuring

A ship will not be registered unless it has been marked with its official number, its tonnage or length overall, its name and its home port.

Registration of ships are intended to go on international voyages and that are 24 meters and over in tonnage length are not possible unless the tonnage has been measured in accordance with the relevant law.

Changes to the registration of ship mortgages

Security interests currently recorded on the Australian General Register have been moved to the new Personal Property Securities Register (PPSR) since early 2012.

The PPSR replaces more than 20 existing asset registers, including registers operated by the Australian government such as the Australian General Register, among others.

5.3.2 AISR

The AISR was established on 1 July 2012 to provide a competitive alternative to other registers. As with the Australian General Register, the AMSA will regulate vessels on the AISR. AISR will require vessel owners or operators to meet ownership requirements or provide evidence that the ship is being operated by an Australian entity under a demise charter.
Inclusion on the AISR will be a discretionary option for owners and operators (the vessel would otherwise be registered on the Australian General Register). The AMSA will have the discretion to decide whether to permit a ship to be registered. This process is intended to ensure ships are of an appropriate standard.

Consistent with the operation of other international registers, vessels on the AISR will be permitted to operate with mixed crews with the majority of officers and crew not required to be Australian citizens or residents. This reflects the global nature of shipping, with crew drawn from across the world. However, at least two senior positions (engineering and deck officers) are to be filled by Australians.

To ensure that the AISR is competitive, international labor terms and conditions will apply to seafarers working on board ships registered in the AISR while they are engaged in international trading. A minimum safety net is provided through the application of the International Labour Organization’s (ILO) Maritime Labour Convention 2006 (MLC), which Australia has ratified.

In addition, ships on the AISR will have access to a range of tax incentives to ensure the register is competitive with other registers.

5.3.3 Requirements for the officers and crew serving on vessels
Officers and crew serving on Australian-registered vessels must be Australian nationals (Australian residents) but not necessarily citizens.

5.4 General comments

Bunker duty

A vessel on an international voyage is eligible to purchase bunkers duty-free. An international voyage means that the owner or master intends for the ship to depart Australia and proceed directly or indirectly to a place outside Australia. This is best illustrated in the examples below:

- A voyage of a vessel arriving in and departing from Australia at a single port remains an international voyage.
- A voyage of a vessel carrying international cargo for discharge at a number of Australian ports and then departing from Australia remains an international voyage.
- A voyage of a vessel currently engaged in making international voyages and on its international schedule loading no more than 10% of the vessel's deadweight tonnage with Australian coastal cargo remains an international voyage. If more than 10%, the voyage is not part of an international voyage.
- A repositioning voyage of a vessel especially to load Australian coastal cargo is not part of an international voyage.
- A repositioning voyage of a vessel, where the intention at the time of leaving the port being repositioned from was to proceed to the reposition port to load cargo that it will carry to a place outside Australia, is part of an international voyage.
- A repositioning voyage where it is not known at the time of leaving the port being repositioned from whether the ship will be loading cargo that it will carry to a place outside Australia is not part of an international voyage.

A “place outside Australia” does not include:

- A ship or an area of water outside Australia
- An installation outside Australia
- A reef or an uninhabited island outside Australia
- Waters and installations in the JPDA

Where there does not exist the requisite intention to depart Australia for a place or port beyond Australian waters

On 16 June 2009, Australia became a party to the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (the Bunkers Convention). Generally, the Bunkers Convention places a strict liability
upon shipowners for pollution damage resulting from the discharge or escape of bunker oil from their ships and requires owners of ships with a gross tonnage of greater than 1,000 tons to be insured to cover their liabilities for bunker oil pollution.

The AMSA has released a notice of amendment to the application of the Bunkers Convention in Australia. The amendment aligns Australia’s position to that adopted internationally by the IMO. Australia requires owners and operators of Australian tankers to hold a Bunkers Certificate from the AMSA. Owners and operators of Australian tankers who currently hold a foreign issued Bunkers Certificate should replace their certificate with a certificate from the AMSA upon its expiry.

**Penalties for pollution offenses**

Marine Notice 19/2011 provides information on the amendments contained in the Maritime Legislation Amendment Act 2011, which received Royal Assent on 4 December 2011. The amendments include the increase of maximum penalties for strict liability offenses for illegal discharge of oil in various forms (increased from 500 to 20,000 penalty units [A$2.2 million for an individual; A$11 million for a corporation as of the issue of the Notice]). Other amendments include pollution offenses as provided for under the Navigation Act 2012 and associated penalties.

**Amendments to International Convention for the Prevention of Pollution from Ships (MARPOL)**

On 4 August 2011, the Protection of the Sea (Prevention of Pollution from Ships) Amendment (Oil Transfers) Act 2011 received Royal Assent. That act is designed to prevent pollution during oil transfer operations between ships. From 1 April 2012, ships greater than 150 gross tons intending to conduct such operations at sea (within a country’s exclusive economic zone) are required to have an onboard ship-to-ship transfer plan approved by the Flag State Administration. Notification must also be given at least 48 hours prior to the commencement of oil transfer operations. It is noted that bunker operations are excluded from these amendments as well as fixed and floating offshore platforms.

On 25 September 2012, the Maritime Legislation Amendment Act 2012 received Royal Assent. This act implemented amendments to MARPOL, which entered into force on 1 January 2013 and will:

- Impose new restrictions on the discharge of sewage from passenger ships in special areas of the sea that are particularly sensitive or vulnerable to pollution
- Strengthen the regulations relating to the disposal by ships of garbage at sea
- Make mandatory the current voluntary Energy Efficiency Design Index for new ships of 400 gross tonnage and over that will be built on or after 1 January 2013 for international trade, and the current voluntary Ship Energy Efficiency Management Plan from that date for all ships of 400 gross tonnage and over that are engaged in international trade
Barbados

1. Tax

1.1 Tax facilities for shipping companies

Barbadian legislation provides three different corporate vehicles that can be used for shipping activities. The tax incentives are briefly outlined below.

Shipping corporations incorporated under the Shipping Corporation Act (the SCA) are limited to carrying on the following activities:
- To own and/or operate ships
- To do such other things as are necessary and incidental to the ownership and operation of such ships
- To hold shares or other equity interests in foreign entities that are established for the purpose of owning and/or operating ships

Shipping corporations may carry on business, conduct their affairs and exercise their powers in any jurisdiction outside Barbados.

A company incorporated under the SCA is not subject to corporate tax in Barbados.

In addition, Barbados does not impose tax on capital gains.

Shipping corporations are exempt from withholding tax on most payments made to nonresidents.

International Business Companies (IBC) licensed under the IBC Act conduct a wide range of business activities, but must not do business within Barbados.

IBCs are liable to corporate tax on their worldwide income at the following rates:
- 2.50% on all profits and gains up to US$5 million
- 2.00% on all profits and gains exceeding US$5 million but not exceeding US$10 million
- 1.50% on all profits and gains exceeding US$10 million but not exceeding US$15 million
- 0.25% on all profits and gains in excess of US$15 million

IBCs may elect to take a credit in respect of taxes paid in a country other than Barbados. This credit cannot reduce the tax payable in Barbados to a rate less than 0.25% on the profits and gains for an income year.

IBCs are exempt from withholding tax on management fees, royalties, interest, dividends and fees paid to a nonresident.

No tax is imposed in respect to the transfer of most assets.

IBCs are exempt from withholding tax on management fees, royalties, interest, dividends and fees paid to a nonresident.

IBCs have access to most of Barbados’ tax treaties.

Regular Barbados Companies (RBC) incorporated under the Barbados Companies Act (the BCA) and tax residents in Barbados are liable for corporate tax on their worldwide income at the rate of 25%.

RBCs can be used to provide qualifying overseas professional services to residents outside the Caribbean Community (CARICOM) market. Under Barbados’ domestic tax legislation, the term “qualifying overseas professional services” includes, among others, shipping activities.

When income is derived from the provision of qualifying overseas professional services, in computing the tax payable on such income, a foreign currency earning credit (FCEC) would be applied against the tax otherwise payable. The application of the FCEC can reduce the effective corporate tax rate to as low as 1.75%.

Dividends made by an RBC out of foreign-sourced income are exempt from withholding tax in Barbados.

RBCs can benefit from all the Barbadian tax treaties.
1.2 **Tax facilities for seafarers**
No personal tax or social security obligations should arise.

1.3 **Tax treaties and place of effective management**
Barbados has entered into tax treaties with the following countries:
Austria, Bahrain, Botswana, Canada, CARICOM, China, Cuba, Finland, Iceland, Luxembourg, Malta, Mauritius, Mexico, Netherlands, Norway, San Marino, Seychelles, Spain, Sweden, Switzerland, United Kingdom, United States, and Venezuela.

Barbados has also signed treaties with the following countries that have yet to come into force: Ghana, Portugal, Qatar and Singapore.

Barbados has signed bilateral investment treaties with the following countries: Belgium, Canada, China, Cuba, Germany, Italy, Mauritius, Switzerland, United Kingdom, the United States and Venezuela.

1.4 **Freight taxes**
Barbados does not levy freight taxes.

1.5 **Special vessel registration benefits for the shipowner**
There are no tax registration benefits.

1.6 **Changes to tax law anticipated in the near future**
_No changes are expected in the near future._

2. **Human capital**

2.1 **Formalities for hiring personnel**
The Barbados Shipping Act (the BSA) does not impose restrictions on the nationality of the master, officers or crew. No work permit is required.

The master of every Barbadian ship shall enter into an agreement with every seaman whom he engages as one of his crew. Crew agreements should be in accordance with the provisions of the BSA and in the form determined by the Principal Registrar, who is based in London.

Upon the execution of a crew agreement, the master shall inform the Principal Registrar of the name, grade and number of the certificate and endorsement of each officer employed on the ship, including himself.

2.2 **National labor law**
_Crew members of Barbadian ships are subject to the provisions of the BSA._

2.3 **Regulations on employing personnel**
Officers must hold either a certificate or an endorsement issued under the BSA of a grade appropriate to their rank. Ratings must obtain a certificate of competency from the Principal Registrar.

Officers and ratings must hold a valid medical certificate of competency complying with the Convention on Standards of Training, Certification & Watchkeeping for Seafarers (STCW) 78/95 and a valid medical certificate allowing the issuance of the Barbados Officers Endorsement Document.

2.4 **Collective labor agreements**
There is no obligation to have a collective labor agreement.

2.5 **Manning issues of registering a ship in Barbados**
The manning scale for the size and type of ship is subject to the approval of the Principal Registrar, who will issue the Minimum Safe Manning Certificate.
3. Corporate structure

3.1 Most commonly used legal structures for shipping activities
The most commonly used legal structures for the operation of shipping activities are the shipping corporations and IBCs. The RBC structures have been recently introduced in legislation. This vehicle is expected to be popular in the future due to the fact that it qualifies for treaty purposes.

3.2 Taxation of profits distribution
Under domestic law, there is no taxation on profits distribution derived from foreign-sourced income, other than portfolio investment.

4. Grants and incentives

4.1 Specific and/or general subsidies available to shipping companies
There are no subsidies for shipping companies.

4.2 Investment incentives for shipping companies and the shipbuilding industry
There are no investment incentives.

4.3 Special incentives for environmental awareness
There are no special incentives for environmental awareness.

4.4 Issues with flying the Barbadian flag
The Barbadian flag enjoys the status of being on the Paris Memorandum of Understanding (MOU) on Port State Control White List and the U.S. Coast Guard's QUALSHIP 21 Program, thereby lessening the controls on ships flying the Barbadian flag.

4.5 Major changes in shipping subsidy legislation in the near future
No major changes are expected in the near future.

5. General Information

5.1 Infrastructure

5.1.1 Major ports
- Deep Water Harbour
- Port St. Charles
- Port Ferdinand

5.1.2 Port facilities
The following facilities are available: bunkering, fresh water, garbage disposal, lifts and cranes, medical services, stevedoring, storage, and tugboats.

5.1.3 Airport close to the major ports
The international airport of Barbados is approximately a 20-minute drive from the Deep Water Harbour and approximately a 45-minute drive from Port St. Charles and Port Ferdinand.

5.1.4 Support services for shipping industry
- Ship agents
- Surveyors
- Maritime law services
Although Barbadian banks do not have specialized shipping desks, the Barbadian branches of well-established
international banks are equipped to deal with shipping companies.

5.1.5 Maritime education
Maritime education is provided by the Caribbean Maritime Institute located in Kingston, Jamaica. This institution has been recognized by CARICOM as the leading center for maritime education, training, research and consultancy.

5.2 Safety and environmental issues

5.2.1 Implementation of the International Safety Management Code on board vessels
Owners and managers of Barbados-registered ships of 500 gross registered tons or more are required to comply with the International Safety Management (ISM) Code.

5.2.2 Safety rules regarding manning
The safety rules regarding manning may be characterized as quite strict. Most of the maritime legislation (particularly on safety issues) is set out in the BSA and regulations made under the same act.

5.2.3 Special regulations on safety and the environment
Barbados is party to most International Maritime Organization (IMO) conventions on safety and the environment. In addition, Barbados enacted the Shipping Oil Pollution Act (SOPA), which establishes a code of regulations, enforcement procedures and liabilities for the discharge of oil anywhere in the world by Barbados-registered ships.

5.3 Registration

5.3.1 Registration requirements
The headquarters of the Barbados Maritime Ship Registry (BMSR) are based in London, England. The procedure for registration of ships under the Barbadian flag is simple and straightforward. A ship qualifies for registration if it is owned by an individual who is a Barbados or a CARICOM citizen, or a company incorporated in Barbados or in CARICOM. In addition, foreign-going ships and near-coastal trade ships of 150 gross registered tons or more may, regardless of the nationality of the owners, be approved for registration. The BMSR operates a separate Yacht Registry open to all yachts carrying 12 persons or fewer. Ships older than 20 years are restricted from registration.

5.3.2 Ship registration procedure
Provisional registration: Provisional Certificates may be issued by the Principal Registrar or by any registrar appointed by him or her in different ports around the world. In order to obtain a Provisional Certificate, the owners shall provide the following:

- Certificate of registration
- Notice of name proposed for a Barbadian ship
- Particulars of the ship
- Copies of bill of sale or builder's certificate
- Copies of the incorporation documents of owner
- Details of the master
- Confirmation of class
The Provisional Certificate will be valid for a period of six months from the date of issuance. During this period of time, permanent registration must be completed.

Permanent registration: permanent registration takes place either in London, England or Bridgetown, Barbados. In order to obtain a Provisional Certificate, the owners shall provide the following:
• Approved notice of name
• Appointment of authorized officer
• Certified copies of bill of sale or builder's certificate
• Declaration of ownership
• Certified copies of incorporation documents
• Managing owner declaration
• Cancellation from previous registry
• Protection and indemnity (P&I) cover
• Former Tonnage Measurement Certificate
• Safety of Life at Sea (SOLAS), Load Line and International Convention for the Prevention of Pollution from Ships (MARPOL) Certificates
• Descriptive Particulars Survey Certificate
• Radio Accounting Authority (AAIC) with application and particulars for radio station license
• Minimum Safe Manning Proposal
• Registration and annual fee

Subsequently, the owner will receive a Ship's Carving and Marking Note, which has to be completed by the Classification Society’s surveyor and then returned to the Principal Registrar.

5.3.3 Parallel registration
The BSA provides for bareboat charter registration of foreign-registered ships under the Barbadian flag. Bareboat charter registration shall apply for the duration of the Bareboat charter, and no mortgage instrument shall be recorded before the registry in respect of any bareboat-chartered ship registered under the laws of a foreign country.

The BSA also provides for the bareboat charter registration of Barbadian ships under a foreign flag as long as the ship is registered as a Barbadian ship under the BSA, and the bareboat charter registry where the ship is to be registered is a compatible registry.

No mortgage instruments shall be recorded against those ships in the foreign registries.

5.3.4 Requirements for the officers and crew serving on vessels
The BSA does not impose restrictions on the nationality of the master, officers or crew. No work permit is required.

Officers must hold either a certificate or an endorsement issued under the BSA of a grade appropriate to their rank. Ratings must obtain a certificate of competency from the Principal Registrar.

Officers and ratings must hold a valid medical certificate of competency complying with STCW 78/95 and a valid medical certificate allowing the issuance of the Barbados Officers Endorsement Document.

5.3.5 International conventions
Barbados is a contracting party to all major IMO conventions.

5.3.6 Mortgages
A registered ship or share in a registered ship may be security for a loan or other valuable consideration, and on the production of the prescribed mortgage, the Principal Registrar shall record it in the register.

Mortgages shall be recorded in the order in time in which they are produced to the Principal Registrar.

Loans and mortgages can be recorded during the provisional registration stage.
Barbados
1. Tax

1.1 Special tax facility for shipping companies: the tonnage tax regime

The law of 2 August 2002, introduced a special tax regime for shipping companies (tonnage tax). The law of 27 December 2004, adapted this special regime in light of remarks made by the European Commission (EC). This initiative aims to make Belgian shipping more competitive in the global market by creating a positive fiscal environment in line with other major maritime countries. It also aims to preserve and restore European Union (EU) maritime employment and know-how.

Qualifying operations for this regime are those that are engaged in the exploitation of seagoing vessels for the transport of goods or persons in international traffic, as well as for the exploration of natural resources at sea. Furthermore, the profit obtained from the operation of a vessel with a certificate of registry for the performance of towing operations, the performance of assistance and other activities at sea, as well as all operations that are directly connected with the aforementioned operations, qualify.

In order to be able to benefit from the Belgian tonnage tax regime, i.e., to be eligible to have “profits from ocean shipping” taxed on a lump-sum basis (according to Article 115, §2, 2° of the law of 2 August 2002), the Belgian company or branch:

a) Must be the owner, co-owner or bareboat charterer of a seagoing vessel that is managed to a considerable extent in Belgium and not bareboat-chartered out to a third party

Or

b) Must be engaged in the crew and technical shipping management for third-party owners (i.e., carrying out the commercial management in Belgium for another taxpayer), provided that the ship managers are entrusted with both the management of the entire crew and the technical management of the seagoing vessel(s), and the company takes over the full responsibility from the owner of the vessel's operation and all the duties and responsibilities regarding safety and pollution

Or

c) Must have chartered seagoing vessels on a time charter or voyage charter basis

In the case of b) and c), respectively, the annual total of the net daily tonnages of the seagoing vessels for which the commercial manager acts, or of the chartered vessels, may not contribute more than three times the annual total of the net daily tonnages of the vessels that he or she manages as owner, co-owner or bareboat charterer. Jointly owned or bareboat-chartered seagoing vessels are included in the overall tonnage if the co-ownership or co-chartering is at least 5%.

Also, ship managers (this refers to the management of a seagoing vessel for the account of third parties and concerns the technical management and/or the supply of crew) benefit from the same profit calculation, but the regulation is reserved for taxpayers whose sole activity is the management of ocean-going vessels. A further requirement is that at least 75% of the number of vessels managed for third parties should fly the Belgian flag.

As already stipulated above and according to Article 115, §2, 2° of the law of 2 August 2002, seagoing vessels have to be managed to a considerable extent in Belgium. “Management” refers to the main responsibility for the activities, including:

- Concluding agreements concerning the ship
- Taking care of the ship’s supplies
- Taking care of the ship’s maintenance
- Entering into insurance contracts
- Keeping the accounts
- Fulfilling administrative formalities
Appointing masters

“Considerable extent” indicates that the taxpayer carries out most activities or that he or she has them carried out under his or her authority.

To this end, the Royal Belgian Shipowners’ Association has developed a self-assessment matrix, which has also been adopted by the Belgian tax authorities. This self-assessment matrix can be used as a guideline or tool to verify compliance with the requirement of “ship management to a considerable extent in Belgium.”

This matrix is divided into three components. These management fields are (i) strategic and commercial management, (ii) technical management and (iii) crew management. Management includes not only control, but also requires the execution of certain tasks. The management can be performed in Belgium by the owner, co-owner or bareboat charterer of the seagoing vessel(s) (the Belgian shipping company) or can be subcontracted to a Belgian company.

Furthermore, within the respective management fields, weighing factors are assigned to the various tasks to be executed. Each field of management represents a total score of a maximum of 12 points. An adjustment factor with regard to employment in Belgium is incorporated and added to the self-assessment matrix. The aforementioned adjustment factor is capped at a maximum of 10% of the total score of 36 points and amounts to 0.02 per Belgian employee.

The matrix therefore will enable the user to verify compliance with all criteria and fields of management in Belgium.

The tonnage tax regime was proposed as an alternative to the normal corporate income tax regime for shipping companies resident in Belgium or the Belgian permanent establishments of shipping companies resident in other states. It is possible for existing companies to opt for the tonnage tax at any time, but once they have opted for the regime, it remains applicable for at least 10 years, unless the activity ceases before the 10-year period has lapsed. The regime will be granted as of the first day of the business year following the year during which a formal request was filed.

After 10 years, the tonnage tax regime is automatically renewed, unless the company gives notice to the authorities at least 3 months before the end of the tenth year.

It is also possible for existing companies to create a separate shipping division whenever they opt for tonnage tax for their shipping activities besides other (non-shipping) activities.

The lump-sum fixation of the profit is based on an amount per vessel, per day and per 100 net tons:

<table>
<thead>
<tr>
<th>Total net tonnage</th>
<th>Income per day per 100 tons (€)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 1,000</td>
<td>1.00</td>
</tr>
<tr>
<td>1,001–10,000</td>
<td>0.60</td>
</tr>
<tr>
<td>10,001–20,000</td>
<td>0.40</td>
</tr>
<tr>
<td>20,001–40,000</td>
<td>0.20</td>
</tr>
<tr>
<td>More than 40,000</td>
<td>0.05</td>
</tr>
</tbody>
</table>

The one-off profit will be subject to the Belgian corporate tax rate of 33.99%.

The tariff for vessels exceeding 40,000 tons, which is lower than in many other countries, can be applied only in the following cases:

► For newly built seagoing vessels;
► For secondhand vessels less than five years old that were (permanently) registered in a non-EU Member State; and
► For secondhand vessels older than five years that were registered in a non-EU Member State during the five years before the assessment year in which the special tonnage tax regime will be applied.
As tonnage tax is an alternative to normal income tax, depreciation, capital gains and capital losses are included. Consequently, companies planning an investment should evaluate whether they should opt immediately for tonnage tax or initially benefit from investment deduction and accelerated depreciation (see section 1.2) and enter the tonnage tax regime only after a few years.

Neither carried forward losses nor losses in another division (that is, engaged in a business that does not qualify for the tonnage tax regime) can be set off against the lump-sum profit of the shipping division. Carried forward losses will be frozen until exiting the regime.

The tonnage tax regime is effective as of 1 January 2003.

1.2 Tax facilities for shipping companies: in the normal and the alternative tax regime

In the margin of the tonnage tax regime, an alternative regime for operations engaged in the shipping business was created by the law of 2 August 2002. This regime, approved by the EU, came into force on 1 January 2003.

Accelerated depreciation

Seagoing vessels may use accelerated depreciation over their useful economic lives, generally over a period of eight years. Depreciation may be calculated on a straight-line basis. The straight-line rates are:

- For newly built seagoing vessels (the following rates are provided by law):
  - 20% for the first financial year
  - 15% for the second and third financial years
  - 10% for subsequent years
- For secondhand seagoing vessels that are acquired for the first time by a Belgium-based taxpayer (the following rates are provided by law):
  - 20% for the first financial year
  - 15% for the second and third financial years
  - 10% for subsequent years
- For other secondhand vessels (the following rate is mentioned in the comments issued by the tax authorities on the Income Tax Code):
  - 10% a year

The declining balance method is not allowed for vessels that are depreciated according to the rates provided by law. It is still applicable to the other vessels, but the Belgian legislature has imposed a restriction: the maximum depreciation is twice the depreciation of the straight-line method.

Tax exemption of capital gains on seagoing vessels

In order not to discriminate between companies that have opted either for or against tonnage tax, the law of 2 August 2002, also provides for a deferred taxation of the capital gains realized on seagoing vessels if certain conditions are complied with. These conditions are largely congruent with those mentioned in Article 47 of the Belgian Income Tax Code (among other conditions, vessels must have been owned for at least five years, must have compulsory reinvestment within five years and compulsory recording of the capital gain on a blocked reserve account).

Investment deduction

The law of 2 August 2002, provides for a new rate of investment deduction, i.e., 30% of the acquisition value of new vessels or secondhand vessels that are acquired for the first time by a Belgian company. The investment deduction is an investment incentive that operates by decreasing (at once) the corporate income taxable base of the operation that is making the investment by a certain percentage of the acquisition value of the assets that have been acquired during the business year. Alternatively, the deduction can be operated as a certain percentage on annual depreciations.

Notional interest deduction
The notional interest deduction is a general measure, available to all Belgian companies (except for those companies that have opted explicitly for the tonnage tax regime) and foreign companies with a Belgian permanent establishment liable to Belgian corporate income tax, granting a tax exemption or deduction of 2.742% of the company’s risk capital for the assessment year 2014 and 2.630% as of assessment year 2015 onward. The above rates are increased by 0.5% for small and medium-sized companies.

The company’s risk capital corresponds to its equity as it appears in its non-consolidated annual accounts of the preceding financial year. Based on Belgian accounting law and generally accepted accounting principles (GAAP), risk capital includes a company’s paid-up share capital, share premiums, re-evaluation surpluses, reserves, carried forward results and capital subsidies.

The above rates, however, are applicable only to the adjusted risk capital. Indeed, the risk capital has to be reduced by certain items, e.g., the fiscal net value of financial fixed assets consisting of participations and (owned) shares, the re-evaluation surpluses and capital subsidies. Variations during the financial year of the paid-up share capital or of the aforementioned items to be deducted are taken into account on a pro rata basis.

In principle, the real estate and net equity of permanent establishments in treaty countries outside Belgium should be excluded from the notional interest deduction (NID) calculation basis of Belgian companies. However, further to European Court of Justice (ECJ) case law, the rules have been amended as of assessment year 2014 in order to grant a limited application of NID on real estate and permanent establishments located in the EU or the European Economic Area (EEA).

As of assessment year 2013, the carry forward of future excess notional interest deduction has been abolished. The deduction of previously existing carried forward excess notional interest is limited (i.e., maximum deduction of 60% of the residual taxable base, no limitation for first €1 million).

Finally, the deduction is not conditioned upon any investments in tangible or intangible assets, neither an effective dividend distribution nor an obligation to reserve the profits so obtained.

1.3 Other tax facilities for shipping companies

Customs

Customs duties are suspended with respect to goods intended for incorporation in the vessels, for the purpose of their construction, repair, maintenance or conversion, and with respect to goods intended for fitting to or equipping such vessels. This measure is found in the Integrated Tariff of the European Communities (TARIC), Section IV.

Value-added tax facilities

In Belgium, there are several value-added tax (VAT) exemptions from which shipping companies could benefit.

The most important VAT exemptions are summarized below.

VAT exemptions

The Belgian VAT legislation foresees a VAT exemption for the supply of certain vessels.

The vessels that qualify for the exemption are the following:

- Sea vessels, used for passenger transport or transport of goods, for fishing or for the practice of any industrial or business activity
- Lifeboats and rescue ships for assistance on sea
- Warships
- Barges used for commercial inland shipping

A VAT exemption also applies to the delivery of goods and services to builders, owners and users of vessels of goods, which are destined to be incorporated in or to be used for the exploitation of these vessels. Please note, however, that yachts and pleasure boats are excluded from the above VAT exemption.
Furthermore, a Belgian VAT exemption is also — under certain conditions — applicable to the following supplies:

- The modification, repair, maintenance, hiring and certain other services rendered in direct connection with seagoing vessels
- Goods destined for the provisioning of certain seagoing vessels (board provisions supplied to vessels for coastal fishing and barges for inland commercial navigation are excluded)
- Services used in the framework of exempt transport of goods, such as loading, unloading, transfer, packing, weighing, examination and receipt

In order to apply (most of) the aforementioned VAT exemptions, certain formalities have to be fulfilled (the recipient must provide the supplier with an order document including certain wordings).

All the aforementioned VAT exemptions allow the recovery of Belgian-input VAT. The VAT exemptions of course only apply to the extent the place of supply of the transaction is located — from a VAT point of view — in Belgium.

**Other VAT facilities**

Next to the above VAT exemptions, there are several measures put in place to facilitate and/or relieve companies from VAT-related obstacles when distributing goods through Belgium.

**Import deferral license and VAT warehouse**

Import VAT is, in principle, to be paid at the time of customs clearance. However, Belgium offers the opportunity to defer the payment of import VAT to the VAT return.

Whereas companies importing goods in the past had to make a cash deposit in order to benefit from the import VAT deferment scheme, the Belgian government has decided to abolish, as of 1 January 2013, the mandatory cash deposit.

Furthermore, please note that the Belgian government, with a view to reduce the burden relating to pre-financing of import VAT in the hands of non-established companies, has also made it possible for global fiscal representatives (see below) to apply for an import deferral license.

Such companies, regardless of how they are registered for VAT purposes in Belgium (direct registration, via an individual fiscal representative or via a fiscal representative with a global VAT identification number), can defer import VAT to their periodic VAT return, where they can set off VAT payable and recoverable. As a result, companies should no longer bear the cost of pre-financing import VAT when customs clears goods in Belgium.

Furthermore, in Belgium there is also the possibility to trade goods within a warehouse regime. When certain conditions are met, goods can be traded within a VAT warehouse without having to charge Belgian VAT.

**Fiscal representation under a global VAT number**

In Belgium, companies performing imports and subsequent supplies do not require an individual Belgian VAT registration as such. Provided certain conditions are met, such transactions can be reported to the VAT authorities using a so-called global VAT number of a forwarding company or customs broker.

**Harbor fees**

Exemption from harbor fees is possible, but it depends on negotiations with the port authorities and on job-creating potential.

**Registration duties**

The law of 2 August 2002 provides for an exemption from registration duties on mortgages on vessels. Only a €25 registration tax is levied. This reduction only applies to seagoing vessels.

*The exemption is effective as of 9 May 2003.*

### 1.4 Tax facilities for seafarers

There are no special tax facilities for seafarers (there are, however, certain incentives for their employers; see
1.5 Tax treaties
Belgium has concluded more than 90 treaties based on the Organisation for Economic Co-operation and Development (OECD) model treaty for the avoidance of double taxation.

In principle, the place of effective management determines a country’s right to tax profits of international shipping operations. The place where the business is actually managed or where the administration is carried out is the decisive factor. It is normally the state where the enterprise operating the vessel resides. If the place of effective management is not the same state as the state of incorporation, profits are taxable in the state of effective management.

Therefore, if a foreign company has a legal branch in Belgium, the shipping profits gained in Belgium by this Belgian branch are taxable in the country when the company is a resident, provided that Belgium has concluded a double tax treaty with this country and the profit falls under Article 8 of this treaty. If the profits of the Belgian branch do not meet the previous conditions, these profits are taxable in Belgium.

1.6 Freight taxes
No freight taxes are levied, and no treaties that grant relief from freight tax have been concluded.

1.7 Special vessel registration tax benefits for the shipowner
There are no special benefits for the shipowner.

1.8 Changes to tax law
As a consequence of the 2013 budgetary measures, several changes have been made.

• Withholding taxes
The standard statutory withholding tax rate for interest and dividends was increased to 25%, with some exceptions.

Capital gains on shares
As of assessment year 2014 (FY close of 31 December 2013, or a later date), the net capital gains on shares are taxable at 0.412% (and tax exempt if the company is a small or medium-sized enterprise (SME), if dividends on such shares qualify for the subject-to-tax test of the participation exemption, subject to a one-year holding period. If the holding requirement is not met, capital gains on shares will be taxable at 25.75%. In all other cases, capital gains on shares will be taxable at 33.99%.

Fairness tax
The fairness tax is a separate corporate tax assessment of 5.15% on distributed profit that has not been effectively taxed as a result of the NID or carried forward losses. The fairness tax is applicable as of assessment year 2014 (FY close of 31 December 2013, or a later date) and is calculated as follows:

\[
\text{Tax base “after the first operation” = } \frac{5.15\% \times \text{untaxed distributed profit}}{\text{NID + carried forward tax losses}}
\]

The “untaxed distributed profit” refers to the distributed dividends (as defined) less the final tax base. Distributions of reserves taxed at the latest during assessment year 2014 are grandfathered. In accordance with the last in, first out (LIFO) rule, taxed reserves that were last constituted are considered to be distributed first.

The tax base “after the first operation” refers to the tax base in the corporate tax return after excluding certain transfer pricing adjustments and separately taxed items but before exemptions based on tax treaties, patent income deduction, participation exemption, NID, carried forward tax losses and investment deduction.

1.9 Community customs law
Blue Belt initiative
In 2013, the European Commission released plans to facilitate customs formalities for vessels. The plan is called the Blue Belt initiative and aims to make the shipping industry more competitive by reducing costs, simplifying administration and facilitating trade. The main purpose is to allow ships to operate freely within the Blue Belt area with a minimum of administrative formalities to fulfill.

If a ship leaves the territorial waters of the EU when traveling between two EU ports, the ship leaves the EU Customs Territory. Consequently, customs clearance is required both at the moment of departure and the moment of arrival. The EU has therefore initiated the Regular Shipping Service scheme. Under this scheme, EU goods carried onboard with a status of Regular Shipping Service maintain their Union status when leaving a Member State's port for discharge at another Member State's port.

The Blue Belt initiative sets out two key proposals. The first one focuses on the purely intra-EU movements of vessels through further simplification of the Regular Shipping Service scheme in the customs legislation. In November 2013, the Commission adopted a modification to the Implementing Regulation of the Customs Code to make the Regular Shipping Service status more attractive. This concerns shorter and lighter procedures, a consultation period being reduced from 45 to 15 days and shipping companies being allowed to proactively apply for authorizations covering Member States with whom they potentially want to engage in business.

Secondly, the initiative focuses on customs formalities applicable for ships that call in third-country ports. For vessels carrying both EU and non-EU goods and calling in non-EU ports (e.g., in Norway and Russia), the Commission has proposed to significantly improve customs procedures. Through an eManifest (electronic cargo document), customs would be able to make the distinction between Union and non-Union goods as where currently all goods arriving in EU ports are considered to be non-Union goods, even if they come from a previous EU port without passing through a third-country port. The objective is to facilitate a swift clearance for the Union goods and apply the appropriate customs processes to the non-Union goods. An implementing act is currently being prepared, and the eManifest should be ready to be applied as of mid-2015.

Union Customs Code adopted by the European Parliament and the Council

The European Parliament and the Council have jointly adopted the regulation laying down the Union Customs Code (UCC). The UCC is a recast of the Modernized Customs Code (MCC), which was adopted in 2008 to replace the existing Community Customs Code (CCC). The UCC entered into force on 30 October 2013; however, most provisions will not apply before 1 June 2016. Most articles refer to the delegated and implementing acts of the UCC, from which applications are foreseen as of June 2016. Therefore, currently, the CCC and its implementing provisions are still applicable.

The Commission has stressed the following considerations to repeal the MCC and replace it with the UCC. First, it became apparent that a very limited number or even no new IT systems could be introduced supporting centralized clearance and other new customs concepts. Second, the MCC needed alignment with the Lisbon Treaty, according to which implementing provisions have to be split between delegated acts and implementing acts of the UCC, from which applications are foreseen as of June 2016. Therefore, currently, the CCC and its implementing provisions are still applicable.

First sale for export

Currently the EU customs valuation rules (CCC) allow importers, under conditions, to attest upon importation to an earlier transaction (instead of the last transaction that led to the introduction to the customs territory). Said earlier sale concept generally results in a lower value for customs.

Due to lacking proposals of the delegated and implementing acts of the UCC, it is unclear whether the earlier or first-sale concept will be withheld or not. However, the draft implementing provisions of the MCC (which did not enter into force), showed that law-making bodies in the EU were not all in favor of the first-sale concept at that time.

Royalties and license fees

Another important topic for EU importers is the dutiability of royalties and licenses. Under the proposals
implementing provisions of the MCC, royalties and license fees were much more easily included in the customs value than is the case under currently applicable CCC.

Focusing on the UCC, it is unclear currently, due to lacking proposals of the UCC delegated and implementing acts, how the "condition of sale" will be defined and extended.

Centralized clearance

Centralized clearance, according to which it is possible for authorized EU traders to declare goods electronically and pay their customs duties at the place where their business is established (regardless of the Member State where the physical transaction takes place), remains an important concept in the UCC as it was in the MCC. The UCC introduces additional responsibilities for the customs offices involved and on the exchange of information necessary for verification. As previously noted, centralized clearance can only be successful under the condition that the required IT systems are linking customs offices across the EU with one another (cfr. Customs 2020 program).

Authorized Economic Operators

The implementation of the UCC will introduce further benefits for Authorized Economic Operators (AEO), such as access to guarantee waivers, centralized clearance and self-assessment. If a company currently holds a customs authorization for an economic procedure, such as Customs Warehousing, Inward Processing or Temporary Storage, under the UCC, it will be a requirement to either hold AEO status or meet the AEO customs simplification criteria to maintain the authorization. Further, the UCC specifically expresses that an AEO certified company will "enjoy more favorable treatment than other economic operators in respect of customs controls according to the type of authorization granted, including fewer physical and document-based controls.

Free trade agreements: recent developments

a) Reform of the EU Generalised Scheme of Preferences

The EU Generalised Scheme of Preferences (GSP) helps developing countries by providing cheaper access for their products to the EU (preferential EU duty rates apply). Prior to the year 2014, 176 countries and regions were covered by such preferential import tariffs for specific products originating from developing countries.

As of 2014, a series of countries or regions can no longer benefit from the preferential GSP import tariffs, as the old GSP regime was reformed and does no longer include overseas countries and territories (e.g., the Falkland Islands) having already favorable market access, as well as EUROMED countries (e.g., Jordan), CARIFORUM members (e.g., the Dominican Republic), Economic Partnership Agreement (EPA) members (e.g., Ghana), and Mexico and South Africa having access to alternative agreements and partnerships with the EU. Besides this rationalization effort, countries classified by the World Bank as high-income or upper-middle income are also being removed from the EU GSP, such as Argentina, Brazil, Malaysia, Qatar, Russia, Saudi Arabia and the United Arab Emirates.

For EU GSP beneficiary countries, product graduation does apply, implying that for several countries, such as India, specific product categories are excluded from the GSP preferential treatment.

The GSP+ scheme has also been revised.

b) Multilateral convention on pan-EUROMED Rules of Origin

Contracting parties to the Pan-EUROMED Convention:

- European Union (28) - Turkey
- European Free Trade Association (EFTA) States (4)
- Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, West Bank and Gaza Strip, Syria, Tunisia
- Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro, Serbia, Faroe Islands (DK)

The Regional Convention on preferential Pan-Euro-Med rules of origin introduces the principle of cumulation of origin based on a single legal instrument to which the individual bilateral free trade agreements refer. The
main objective of this single Regional Convention is to move toward the application of identical rules of origin for the purpose of cumulation of origin for goods traded between all Contracting Parties and give the opportunity to better react to rapidly changing economic realities.

The Convention was open for signature as of 15 June 2011, and since then, most parties have signed it. The Contracting Parties that have ratified the Convention will need to refer to it in the origin protocols of their free trade agreements with their pan-EUROMED partners that have completed their respective ratification procedures as well.

c) Ongoing free trade agreement negotiations

1. US

The EU-US Transatlantic Trade and Investment Partnership (TTIP) aims to open up trade and investment between the EU and the US, which together comprise 40% of global economic output. Negotiations between the EU and the US started in July 2013. The three main focus areas of the partnership are market access, regulatory aspects and rules.

Market access covers, for example, cutting customs tariffs on imported goods, allowing firms from either side to bid for government procurement contracts and opening up services markets to make it easier to invest. Negotiations focus as well on the protection of people in terms of health, safety, environment, financial and data security. The third area negotiators discussed during the first three meetings in the course of 2013 focused on trade-related matters. These include measures to ensure free and fair competition, access to energy and raw materials, the protection of people's rights at work and the environment.

The negotiators expect to start working in March 2014 on the wording of provisions to facilitate the compliance with each other’s existing rules and to enable regulators to work together more closely in the future when drafting new rules.

2. Canada

On 18 October 2013, a political agreement was reached between the EU and Canada on the key elements of a Comprehensive Economic and Trade Agreement (CETA). The agreement envisages removing 99% of tariffs between the two parties, and it is expected that the overall benefits of the agreement will increase the level of the EU's annual Gross Domestic Product by approximately €12 billion. The CETA with Canada will be the first free trade agreement between the EU and a G8 country.

3. Japan

The EU and Japan launched negotiations for a free trade agreement in April 2013. So far three negotiation rounds have taken place. The next one is scheduled at the beginning of 2014. The negotiations with Japan will address a number of EU concerns, including non-tariff barriers and the further opening of the Japanese public procurement market. Both sides aim at concluding an ambitious agreement covering the progressive and reciprocal liberalization of trade in goods, services and investment, as well as rules on trade-related issues.

4. Association of Southeast Asian Nations (ASEAN)

On 20 September 2013, the EU and Singapore presented the text of a comprehensive mutual free trade agreement (EUSFTA) that already was agreed upon in December 2012. The Directorate General (DG) for Trade forecasts that the EU exports to Singapore could rise by some €1.4 billion over 10 years. Furthermore EUSFTA also has the potential to open the door into Southeast Asia, where the EU is currently pursuing negotiations on free trade agreements with ASEAN-members Malaysia, Vietnam and Thailand. The Council of Ministers must first approve the EUSFTA before it passes before the European Parliament for final ratification in a plenary vote.

5. Southern Mediterranean

Negotiations for a Deep and Comprehensive Free Trade Area (DCFTA) between the EU and Morocco were launched in 2013. Two rounds of negotiations have taken place so far. The third round of talks is planned in January 2014. The deal will extend significantly beyond the scope of the existing Association Agreement
to include trade in services, government procurement, competition, intellectual property rights, investment protection and the integration of the Moroccan economy into the EU single market. Morocco is the first Mediterranean country to negotiate a comprehensive trade agreement with the EU. Similar negotiations are expected with Tunisia, Egypt and Jordan.

6. **India**

Negotiations for a free trade agreement between the EU and India were started in June 2007 and are currently ongoing. India still benefits from trade preference under the GSP when exporting to the EU. However, for some product groups, the preferences have been suspended (product graduation under EU GSP).

7. **Mercosur**

In 2000, the first round of negotiations of an EU-Mercosur Association Agreement was initiated, but they were suspended in 2004. The negotiations were resumed in May 2010. Since then, nine negotiating rounds were held between the EU and Mercosur, which have focused on the trade rules rather than customs duty reductions.

8. **GCC**

Negotiations for a free trade agreement were suspended by the Gulf Cooperation Council in 2008.

9. **African, Caribbean and Pacific countries**

In 2002, negotiations for EPAs between the EU and several African, Caribbean and Pacific (ACP) countries began. These negotiations covered seven regional groups: West Africa, Central Africa, Eastern and Southern Africa (ESA), the Eastern African Community (EAC), South African Development Community (SADC) EPA Group, CARIFORUM and the Pacific.

With CARIFORUM, a full EPA already was signed in 2008. An interim EPA has also been signed by Zimbabwe, Seychelles, Mauritius and Madagascar. The EU negotiations are now entering a decisive phase in the EAC and the SADC EPA Group.

d) **Free Trade Agreement negotiations concluded, but agreement not yet applied**

1. **Eastern Neighborhood**

During the Eastern Partnership Summit on 29 November 2013, the EU initialed the recently concluded Association Agreements for a DCFTA with Moldova and Georgia. Both Agreements are expected to be signed in the course of next year. At the same time, Armenia decided to participate in the Eurasian Economic Union.

2. **Ukraine**

Negotiations between the EU and Ukraine for a deep and comprehensive Free Trade Agreement were concluded in December 2011. The European Commission adopted the proposals on the signing and provisional application of the agreement. The provisional application would also include the trade pillar. In November 2013, Ukraine decided to temporarily suspend the preparations for signing, but the EU offer is still on the table.

3. **Singapore**

On 20 September 2013, the EU and Singapore presented the text of a comprehensive mutual free trade agreement (EUSFTA) that already was agreed upon in December 2012. DG Trade forecasts that the EU exports to Singapore could rise by some €1.4 billion over 10 years. The procedures allowing the agreement to become effective are expected to be completed by late 2014.

Furthermore, EUSFTA also has the potential to open the door into Southeast Asia, where the EU is currently pursuing negotiations on free trade agreements with ASEAN members Malaysia, Vietnam and Thailand. The Council of Ministers must first approve the EUSFTA before it passes before the European Parliament for final ratification in a plenary vote.

e) **New Free Trade Agreements that entered into force in 2013**

1. **Central America (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama)**
On 1 December 2013, the trade pillar of the EU-Central America Association Agreement became applicable for Guatemala. Guatemala was the last counterparty of this agreement to implement the deal establishing a free trade area between Central America and the EU. The trade deal was already provisionally applied with Honduras, Nicaragua and Panama on 1 August 2013, and with Costa Rica and El Salvador on 1 October 2013.

2. Colombia and Peru

Colombia and Peru, two members of the Andean region, have concluded a free trade agreement with the EU that became provisionally applicable with Peru on 1 March 2013, and with Colombia on 1 August 2013. The door is still open for the other Andean countries — Ecuador and Bolivia — to enter into the partnership.

2. Human capital

2.1 Formalities for hiring personnel

The law of 3 June 2007 (replacing the law of 5 June 1928), regarding labor contracts for seafarers stipulates that an employment contract must be in writing, has to be drawn up in three copies and must contain specific clauses. Subject to certain conditions, an employment contract can be signed by means of an electronic signature. The seafarers must be registered in a book kept by the Belgian maritime authorities.

**Duration of the contract**

According to the employment law for seafarers, the employment contract must include the duration of the contract or the voyage(s) for which it was signed. It has to be entered into for a certain period of time, but it can be renewed without limitation. If the vessel is still at sea when the contract expires, the agreement is still valid until reaching the next port, where there is a possibility of disembarking. The law of 3 June 2007, stipulates different possibilities for terminating an employment contract.

**Wages**

The wage scales for seafarers registered in the Merchant Navy Pool and for non-Pool seafarers are fixed in collective bargaining agreements. Also, the stipulations in the law of 3 June 2007, concerning loss of wages, payment of wages, power of attorney and advanced payment have to be taken into account.

2.2 National labor law

Belgian labor law applies if a vessel sails under the Belgian regist.

2.3 Regulations on employing personnel

**Crew**

- All seafarers employed on a Belgian-flagged vessel have to be registered with the Belgian maritime authorities (Directoraat-generaal Maritiem Vervoer – FOD Mobiliteit en Vervoer).
- They need to apply for a Belgian seaman's book and must have a valid medical certificate and a valid Standards of Training, Certification & Watchkeeping (STCW) certificate (standard application forms can be found on www.mobilit.fgov.be).
- A copy of the employment contract, as well as a copy of the certificate of service, must be sent to the maritime authorities.
- Moreover, EU-resident seafarers must be registered in the Belgian Merchant Navy Pool.

These regulations are based on the STCW Convention, which was implemented in Belgian legislation by the Royal Decree of 24 May 2006.

**Nationality of the captain**

In principle, the command of a vessel registered in Belgium must be entrusted to a Belgian captain. The authorized official may waive this rule at the vessel owner's request if trade or shipping circumstances so require.
Minimum standards
There are regulations on minimum standards for living conditions onboard. Belgium has ratified International Labour Organization (ILO) Convention 68.

Social security
In accordance with EU Regulation 883/2004, the flag of the vessel in principle determines the applicable social security scheme.

On vessels flying the Belgian flag, a distinction is made between:

- Crew who are EU citizens and crew whose place of residence is a country with which Belgium has signed an agreement on social security – these are subject to the statutory order of 7 February 1945, relating to social security for seafarers in the Merchant Navy. They are insured in Belgium.
- Crew not mentioned above may be excluded from the scope of the aforementioned statutory order. In this case, with respect to social security, these crew members are either covered in their countries of origin or by a private insurance contract entered into by the shipowner to cover them.

Regulation 883/2004 (and its implementing regulation) has replaced Regulation (EC) No 1408/71 as of 1 May 2010. However, the rules set out by Regulation 1408/71 with regard to the so-called “flag of vessel” principle have remained unchanged.

During a transitory period (10 years), the provisions of Regulation 1408/71 will continue to apply to existing situations as long as the factual elements of that situation have not changed, unless the employee explicitly requests that the new regulation be applied.

2.4 Competent authority to tax income of employees
As a general rule, most Belgian double tax agreements stipulate that the state where the place of effective management is located can tax the wages of the employees in case of international traffic. However, it is recommended to check the applicable double tax treaties and DITO protocols, since some treaties and protocols contain exceptions to this rule.

2.5 Collective bargaining agreements
There are several collective bargaining agreements (CBAs) for seafarers registered in the Belgian Merchant Navy Pool, for example:

- CBA for officers
- CBA for ratings
- CBA with clauses (obligations for seafarers) that are common to officers and ratings

Free days
In view of the fact that seafarers are onboard for 24 hours, 7 days a week, a system of compensation holidays was created. This system and the legal holidays are defined in the CBAs mentioned above.

Essentials of the discharge law
The applicable CBAs define the termination of the employment contract, including the dismissal and the resignation procedures.

Working hours
Belgium has ratified ILO Convention 180 on working hours.

2.6 Treaties relating to social security contributions
The following treaties are in force:

- EU Regulations 1408/71 and 883/2004. In these regulations, the seafarer is generally required to work onboard a vessel that flies the flag of an EU Member State. (Please note that EU Regulation 833/2004, the new version of EU Regulation 1408/71, has entered into force.) The regulation is applicable to the 10 new Member States as of 1 May 2004 (in case bilateral treaties existed with such countries, they will be replaced by the corresponding provisions of EU Regulation 883/2004).
A number of bilateral treaties, for instance:
- The treaty with Luxembourg of 25 March 1991
- The treaty with the Tunisian Republic of 29 January 1975
- The treaty with Israel of 5 July 1971
- The administrative agreement of 28 March 1978, annexed to the treaty with Turkey of 4 July 1966
- The treaty with the United States of America of 19 February 1982

2.7 Manning issues with flying the Belgian flag
Several measures have been taken to decrease the crew cost of Belgian-flagged vessels. The effective difference between gross and net wages is about 13%.

Social security
EU citizens registered in the Belgian Merchant Navy Pool benefit from the following reductions of social contributions:
- Total exemption from employer’s social security contributions
- Partial exemption from employee’s social security contributions
- Reduced contributions to the Accidents at Work Fund

Withholding tax deducted from salaries
For certain seafarers employed on board vessels that are registered in the EEA, shipowners are exempt from the payment of withholding tax on professional income levied on seafarer wages, provided certain conditions are met (in accordance with the law of 20 July 2005).

Tax measures for shipping companies
For more details, please refer to section 1.

3. Corporate structure

3.1 Most commonly used legal structures for shipping activities
Most companies operate as limited liability companies, or Naamloze Vennootschap (NV).

The liability of the shareholders of an NV is limited to their interest in its share capital. The tax rate depends on the amount of taxable profit, but in most cases, amounts to the standard rate of 33.99%. Foreign companies can also opt to operate via a legal branch in Belgium, rather than establishing a company.

3.2 Taxation of profit distribution
Under the participation exemption, up to 95% of dividends received by a Belgian company or branch are tax exempt. The dividends received exemption applies only if the distributing company is subject to a standard corporate income tax regime in its country of residence (taxation condition) and if the recipient of the dividend holds a participating interest of at least 10% for a minimum of one year, or with a purchase value of at least €2.5 million (participation condition).

4. Grants and incentives

4.1 Specific and/or general subsidies available to shipping companies
Flemish strategic transformation support for investments
The Flemish Government offers a grant for strategic investment projects in tangible fixed assets in the Flanders region.

This grant focuses on:
- Investments in strategic clusters and lead plants in Flanders
• International growth and development of innovative small and medium enterprises (SMEs)
• Investments that lead to transformation and realize a sustainable anchoring of important employment in Flanders

This grant is open to SMEs with an establishment (the location where the investments take place) in the Flemish region. Large companies only qualify for investments in the Flemish regional development zones.

The project has to generate a minimum amount of eligible costs within a maximum period of three years:
• €1 million for small enterprises
• €2 million for medium enterprises
• €3 million for large enterprises

The basic grant is 8% of the eligible costs. A bonus grant of 25% of the basic grant can be obtained if an increase of employment can be proved.

This grant is open continuously, but a company can only apply once a year and needs to apply before the investments start.

Flemish strategic transformation support for training

The Flemish Government offers a grant for strategic training projects in the Flanders region.

This grant focuses on trainings within the context of:
• Investments in strategic clusters and lead plants in Flanders
• International growth and development of innovative SMEs
• Investments that lead to transformation and realize a sustainable anchoring of important employment in Flanders

This grant is open to all companies (also companies engaged in the shipping industry) with an exploitation seat in the Flemish region that carry out major training projects.

The project has to generate a minimum amount of eligible costs within a maximum period of three years:
• €100,000 for small enterprises
• €200,000 for medium enterprises
• €300,000 for large enterprises

The basic grant is 20% of the eligible costs. A bonus grant of 25% of the basic grant can be obtained if an increase of employment can be proved.

It is possible to submit an application combining both strategic transformation support for investments, as well as for training as long as both projects are undertaken in the Flemish region.

Flemish grants for ecological investments

The Flemish Government offers grants to enterprises that make certain ecological investments in Flanders.

All enterprises that are established in Flanders and whose main activity belongs to one of the admitted sectors on the basis of the European Classification of Economic Activities (NACE) code can apply for the following two grants: EcologiePremie Plus (EP+) and Strategic Ecology Support (STRES).

The EP+ incentive is only granted to technologies that are on a limitative technology list (LTL). This list contains about 150 technologies (note: ecological investments that are eligible for aid through green certificates and cogeneration certificates are not eligible for an ecological incentive).

The height of EP+ support is determined by the performance of the technology in which the investment is made and varies according to the size of the enterprise (a distinction is made between SMEs and large enterprises). Furthermore, the subsidy percentage depends on the nature of the investment; for an ecological investment, it ranges from 5% to 35%; for an investment in renewable energy sources or high-efficient cogeneration, the grant ranges from 5% to 45%; and for an energy-saving investment, the support ranges from 5% to 60%. An additional bonus between 3% and 10% can be added if an enterprise can prove it has performed an energy audit, or it has a valid environmental certificate or
an environmental management system.

As of January 2013, ecological investments in technologies that cannot be standardized because of their unique company-specific character — and are therefore excluded from the LTL — can claim a Flemish grant, called STRES. In order to be eligible for STRES, a minimal eligible investment budget of €3 million is required. The following strategic goals will be assessed and evaluated:

- Whether the project offers a global environmental or energy solution at the enterprise level with closed energy and material cycles and process-integrated solutions
- Whether the project strives to support generic environmental- or energy-related policy objectives
- Whether the project is part of a global vision of the company with respect to the environment or the durable use of energy
- The extent to which the technology outperforms current European standards
- The extent to which the technology achieves environmental objectives for which no standards apply

The height of this incentive depends on the same parameters as EP+ (above) and ranges from 5% up to 70%. Both incentives are calculated on the basis of the additional investment cost of the eligible investment components and can amount to €1 million at most over three years.

In December 2013, a new incentive instrument aimed at stimulating investments in three specific types of ecological technologies was introduced. In particular, the following technologies are supported:

- Green heat with a capacity greater than 1 MW
- The utilization of waste heat
- The production and injection of biomethane

Support is not granted for projects that are eligible for aid through green certificates and cogeneration certificates, nor for investments that qualify for EP+ or STRES funding. Additional specific conditions apply to each technology.

Depending on the size of the firm, the following support percentages apply:

- Green heat: 45–65%
- Waste heat: 20–40%
- Biomethane: 45–65%

This percentage is calculated based on the extra investment costs of the installation compared to a reference installation to determine the amount of support. Funding is limited to €1 million per project.

The program operates according to a call-based system. For the first call, application submissions were accepted between 5 December 2013 and 5 February 2014. Calls will be launched at least once every six months.

**Pallet Transportation Aid**

This is a temporary initiative of the Flemish Government to stimulate inland river transport in Flanders, especially for construction materials (e.g., gypsum blocks, quickly building blocks and bricks). Within that segment alone, there is a real potential of 6 to 7 million tons of goods per year qualifying for a modal shift from road to waterway.

Projects that are submitted must:

- Have the operational start-up of pallet transport by barge as aim
- Incorporate an inland mode of transportation including a start or end point in Flanders
- Have the aim to safeguard the long-term continuity of the project

Over the next three years, the Flemish Government has more than €1.5 million at its disposal for the initiative. As of February 2014, two calls had been launched, which closed in March 2012 and July 2013. An application could be made for:

- Investment support: a one-time financial compensation paid under an 80:20 state to private ratio, up to
€200,000 over three years

• Operating aid: a sliding scale support based on demonstrated extra operating costs compared to pallet transport by road

The applications were evaluated on efficiency and volume guarantee, realism, the extent of modal shift, social value and general deployability (generic solution for multiple players). The new call has not been announced yet.

Public-Private Partnerships for the construction of loading and unloading facilities

Since 1998, companies in Flanders, irrespective of their nationality or activity, can build a loading and unloading facility along the navigable waterways (outside the seaport areas) with the aid of government funding. In particular, companies are able to enter a public-private partnership (PPP) with the waterway managers in which both parties contribute their know-how and share funding.

The overall project costs for the construction of a loading and unloading facility include costs that are eligible (mainly study and construction costs of the infrastructure), as well as costs that are not eligible for the PPP arrangement (for instance equipment for the transshipment to and from the waterway). In principle, the government finances 80% of the eligible costs. However, the public share is limited to half of the overall project costs.

The Flemish region only invests in infrastructure that remains or becomes its property. After the construction of the facilities, a concession is granted to the private partner who pays a fee for its use.

The following projects qualify for this funding scheme:

• Projects of general strategic and/or economic importance
• Projects involving the relocation of a quay wall that is not compatible with the environmental or planning requirements
• Projects concerning the reconstruction or revalorization of an old quay wall or an almost inexisten transshipment site
• Projects along tidal waterways

The current PPP scheme is valid until 31 December 2016.

Walloon region

The Walloon region offers several investment, training and environmental subsidies through regional and European structural funds. The eligibility criteria and geographic scope of the various schemes differ from one another. More information can be found on http://europe.wallonie.be and www.wallonie.be/nl/entreprises/gerer-une-entreprise/financement-et-mesures-d-aide/aides-financieres/index.html.

4.2 Investment incentives for shipping companies and the shipbuilding industry

Certain investment incentives are also available to shipping companies. A major incentive is the investment credit, i.e., a deduction from the taxable base amounting to 30% of the acquisition value of new vessels or secondhand vessels that are acquired for the first time by a Belgian company. This investment deduction is not applicable under the tonnage tax regime (see section 1.2).

4.3 Special incentives for environmental awareness

There are no special incentives.

4.4 Issues with flying the Belgian flag

Vessels flying the Belgian flag benefit from several tax incentives that are not available to other taxable vessels in Belgium (see section 1).

4.5 Major changes in shipping subsidy legislation in the near future

TEN-T

The successor of the Marco Polo program will be integrated in the revised TEN-T program (trans-European transport) and will be financed in the program period 2014-20 through two instruments:
1) CEF (Connecting Europe Facility): INFRASTRUCTURE

CEF investments will focus in particular on projects such as:
- Effective interconnectivity across borders (e.g., building missing cross-border links, removing bottlenecks along main trans-European transport corridors, building multimodal platforms)
- Effective interoperability (deployment of intelligent traffic management systems)
- The use of innovative technologies in order to enhance safety and environmental friendliness of the transport infrastructure

The aim is to contribute to making the European transport system more sustainable and efficient.

2) Horizon 2020: INNOVATION

The four main priorities for transport research are:
- Sustainability
- Seamless transport (systems)
- Keeping transport competitive
- Making transport research responsive

Various call-based support measures

In the past, several temporary measures, including adopting a call-based system, have been launched. Some of these have recurring characteristics. Examples include:
- Support fostering the use of small waterways
- Support for intermodal transport
- Support for new traffic using middle-sized ships on waterways that face infrastructural obstacles

Up-to-date information regarding such calls can be found on the following websites:

5. General information

5.1 Infrastructure

5.1.1 Major ports
The major ports are:
- Antwerp (second-largest port in Europe for international shipping freight)
- Ghent
- Ostend
- Zeebrugge

5.1.2 Port facilities
The following facilities are available:
- Maintenance and repair
- Cranes for every size of vessel (in Antwerp and Zeebrugge)
- Specialist terminals (Antwerp) for items including: cars, cereals, china, clay, coal and ores, coffee, containers, fertilizers, forest products, fruits, hazardous cargo, iron and steel products, perishable goods, plastics, roll-on and roll-off cargo, sugar and tank storage
- Dense network of roads (Antwerp: 400km, Ghent: 135km, Zeebrugge: 180km, Ostend: 55km), railways (Antwerp: 1,113km, Ghent: 250km, Zeebrugge: 40km, Ostend: 20km) and canals (+/-1,500km)
- More than 350km of pipelines in the Antwerp urban area alone for natural gas, crude oil, oxygen, hydrogen, ethylene, propylene, nitrogen and all kinds of liquid hydrocarbon

The total area of the port complex is 21,229ha (Antwerp: 13,057ha, Ghent: 4,667ha, Zeebrugge: 2,847ha,
Ostend: 658ha), which breaks down as:

- Water area of the docks: +/- 3,959ha (Antwerp: 2,128ha, Ghent: 623ha, Zeebrugge: 1,009ha, Ostend: 199ha)
- Industrial sites: 3,720ha (Antwerp), 2,780ha (Ghent)
- Covered warehouse space: 542ha (storage capacities of industrial firms are not included - Antwerp)

5.1.3 Airports close to the major ports
Antwerp-based companies can choose between Brussels airport and Antwerp airport. Brussels airport is 30 minutes from Antwerp by road, is used by most of the largest airlines and has direct links to every continent. It is also one of Europe’s largest airports for air freight, and some hundred different cargo agencies are based at Brucargo already. Antwerp airport has a solid position in the interregional airlines network linking major European cities. Furthermore, Schiphol airport (the Netherlands) is 1 hour and 25 minutes from Antwerp by road.

5.1.4 Support services for the shipping industry
The following support services for the shipping industry are available:

- Banks with a shipping desk
- Consulting firms specialized in shipping
- Maritime law services
- Insurance brokers for the shipping industry

5.1.5 Maritime education
The Antwerp Maritime Academy offers Master's and Bachelor's programs in Nautical Science for the deck department and a Bachelor’s program in Marine Engineering.

Furthermore, certain maritime training institutes provide maritime training at a high-school level. The University of Antwerp (UA) offers various programs in transport and maritime law and management (ITMMA). The University of Ghent (UGent) and UA offer a combined curriculum in Maritime Sciences, while the Antwerp/Flanders Port Training Center offers programs including, among others:

- Container terminal management
- Customs, taxes and trade affairs
- Dredging technologies
- IT and electronic data interchange (EDI) in port business
- Port engineering
- Port environmental policy and technology
- Port management
- Port security

5.2 Safety, security and environmental issues

5.2.1 Implementation of the International Safety Management Code on board vessels
Belgium has implemented the International Safety Management (ISM) Code.

Almost every shipping company has International Organization for Standardization (ISO) 9002 certification.

5.2.2 Safety rules regarding manning
No information is provided.

5.2.3 Special regulations on safety and the environment
The Belgian Government has approved and ratified most International Maritime Organization (IMO) regulations.

5.2.4 Security measures
Belgium has implemented both the International Ship and Port Facility Security (ISPS) code established by the IMO and its EU translation, as established by Regulation (EC) No. 725/2004 and Directive 2005/65/EC, respectively, of the European Parliament and of the Council of 31 March 2004, and 26 October 2005, respectively, on enhancing ship and port facility security, by the law of 5 February 2007.

5.2.5 AEO Security and safety certificate
See section 1.9.

5.3 Registration

5.3.1 Registration requirements
The owner and the operator of a ship can, under certain conditions, apply to register a ship. The owner, as a natural person, must either be a national of an EU Member State or reside in Belgium. The headquarters of a company must be in the EU.

Operators are subject to the following conditions for vessel registration:

- They must have an operation in Belgium, registered in the Trade Register.
- They must control the ship from that operation.
- They must be authorized by the shipowner to register the vessel.

5.3.2 Ship registration procedure
In general, a vessel can be registered in Belgium in the register of ownership or in the bareboat register. All vessels must be inspected by the Belgian Maritime Inspectorate. Vessels aged more than 15 years (from keel laying) will be subjected to stricter inspections. Only registered vessels are entitled to fly the Belgian flag (according to Article 2 of the law of 21 December 1990).

The vessels involved have to be inspected by the Belgian Maritime Inspectorate. In order to facilitate the inspection, a certain number of documents must be presented in advance, such as:

- The registration declaration form duly filled out
- The original tonnage certificate
- The document of title
- The original foreign certification (both in the absence of any registration and on de-registration with the lifting of the mortgage)
- The articles of association of the company or companies that own the vessel

Following the technical survey, the Belgian Maritime Inspectorate issues a “certificate of classification.” The vessel cannot be registered without this certificate. This document includes all of the certificates relating to IMO conventions (e.g., International Convention for the Safety of Life at Sea (SOLAS), International Convention for the Prevention of Pollution from Ships (MARPOL)).

5.3.3 Parallel registration
A vessel registered in the Belgian full register cannot be registered in another country except in the bareboat register of that country. In this case, the ship may fly the flag of the latter country.

5.3.4 International conventions regarding registration
Brazil

1. Tax

1.1 Tax facilities for shipping companies

Brazil does not have a tonnage tax system. Brazilian shipping companies (EBN) are subject to the same corporate income taxes as other Brazilian legal entities.

Brazilian resident legal entities are subject to income tax on their worldwide income at a rate of 15%, with a surtax of 10% for profits exceeding BRL240,000 per year. In addition, a social contribution tax on corporate net profits also applies at a rate of 9%. Therefore, the combined corporate income tax (CIT) rate is approximately 34%.

Taxpayers may annually elect to pay CIT based on taxable profits determined as either (i) a percentage of gross revenues (lucro presumido) or (ii) per their actual income under accounting records (lucro real). The taxation regime based on a percentage of gross revenues is limited to companies with annual gross revenues that do not exceed BRL78 million. Under the taxation regime based on actual income, the tax is calculated based on the company's accounting profits, which are adjusted for nondeductible expenses and non-taxable revenues. In general, operating expenses are deductible for CIT purposes, provided they are "necessary and usual" to the company's activity.

As a general rule, fixed assets may be depreciated based on their useful life. Documentation is required to support the useful life when it differs from the useful life provided by the Brazilian Internal Revenue Service (RFB). Examples of RFB annual depreciation rates are as follows: 5% for most shipping vessels, 10% for machinery and equipment and 20% for vehicles, computer hardware and software. Certain limits apply for the deduction of royalties and trademarks from the taxable income.

Tax losses may be carried forward indefinitely, though there is a 30% limit for offsetting the company's taxable income in a tax period. No carryback or inflation adjustments are permitted. Changes in ownership control or in the business activity may restrict the ability of offsetting the carried forward tax losses. Limitations also apply to the offsetting of non-operating tax losses.

Capital gains recognized by Brazilian resident entities are included as ordinary income and taxed at the standard rates of CIT. In general, capital losses incurred in a calendar year may offset operating profits or capital gains generated in the same year. Excess capital losses may be carried forward indefinitely, but offsetting is also limited to 30% of future capital gains.

When recognized by nonresidents, capital gains arising from the disposal of assets located in Brazil are subject to taxation in Brazil at a rate of 15%, regardless of whether the buyer is located in Brazil or abroad. The rate increases to 25% when the beneficiary is domiciled in a low-tax jurisdiction (please see section 5.4.1 for countries considered as tax havens). Indirect dispositions of Brazilian assets are usually not taxable.

It is important to mention, however, that Brazil grants reciprocal income tax exemption to foreign shipping companies domiciled in countries where Brazilian shipping entities have the same benefit in relation to their international shipping traffic activities.

Charter of vessel fees paid by a Brazilian resident to a beneficiary domiciled abroad is subject to the withholding tax (WHT) at a zero rate; however, when the beneficiary is domiciled in a country where the corporate tax rate is lower than 20% or, whose internal legislation imposes secrecy regarding shareholding structure of legal entities or their ownership (i.e., a low-tax jurisdiction), the WHT increases to 25%.

For other applicable taxes and specific tax facilities for EBN, please see section 1.4 below.

1.2 Tax facilities for seafarers

There are no special tax facilities for seafarers. Individual resident Brazilian taxpayers are taxed on their worldwide income based on a progressive tax table with rates varying from 0% to 27.5%.
Nonresidents are taxed on their Brazilian-source income only, at a rate of 25%. Capital gains are taxable at a rate of 15%.

### 1.3 Tax treaties and place of effective management

Brazil has concluded tax treaties with the following countries:

Argentina, Austria, Belgium, Canada, Chile, China, Czech Republic, Denmark, Ecuador, Finland, France, Hungary, India, Israel, Italy, Japan, Luxembourg, Mexico, Netherlands, Norway, Peru, Philippines, Portugal, Slovak Republic, South Africa, South Korea (ROK), Spain, Sweden, Turkey; Ukraine.

Though Brazil is not a member of the Organisation for Economic Co-operation and Development (OECD), these tax treaties are based, in all significant areas, on the OECD model treaty. Under these treaties, federal taxes paid to other countries may generally be used to offset Brazilian income tax on the same income if the treaty country grants reciprocal treatment.

Apart from the Philippines, in general, profits from the operation of ships or aircraft in international traffic are taxable only in the contracting state in which the place of effective management of the enterprise is situated. Whenever it is domiciled in both treaty countries, it is considered to be domiciled in the country in which its effective management headquarters are based.

### 1.4 Freight taxes

All ships are required to pay the extra freight tax for the Merchant Marine Renewal (AFRMM) when unloading cargo in a Brazilian port. The AFRMM is charged on freight, as such considered the remuneration for the water transportation of the relevant cargo, increased by handling charges, at a rate of 25% for ocean navigation, 10% for coasting navigation and 40% for inland navigation on liquid bulk cargos, carried in the north and northeast regions. The taxpayer is the consignee, as indicated in the bill of lading, though the cargo owner may have joint liability for the payment of the AFRMM.

AFRMM is suspended for assets imported under any special customs regimes granted by the Receita Federal do Brazil (RFB), such as under the drawback or the temporary admission regime with suspension of taxes, up to the date of registration of the import declaration (DI) in the event of nationalization.

Provision of carriage services is also a state value-added tax (VAT) (ICMS) taxable event for cargo carriers whenever performed between a shipper and a recipient located in distinct municipalities or states. For cargo transportation between states, ICMS rates vary from 7% to 12%, depending on the port of departure. For cargo transportation within one state, ICMS rates vary from 17% to 19% depending on the state where such transportation occurs.

Additionally, for carriage operations started abroad, the ICMS-taxable event is the final step of the carriage operation preceding its arrival in a Brazilian port of entry. As a general rule, ICMS rates vary from 17% to 19% depending on the state where the port of entry is located. Therefore, except for express tax benefits granted by the taxing authority, intramunicipal (among cities) and interstate carriage service providers will be subject to ICMS, as this type of operation is classified as an ICMS-taxable event.

Intramunicipal (within one city) carriage operations are subject to service tax (ISS). The ISS rates for intramunicipal carriage operations range from 2% to 5% depending on the municipality. Two federal contributions, namely the Social Integration Participation Program Tax (PIS) and the Social Security Financing Tax (COFINS), are also levied on revenues from carriage service (freight) performed within Brazil, at rates of 1.65% and 7.6%. On the other hand, export revenues for services in general are exempt from PIS and COFINS when representing the inflow of foreign funds into Brazil.

**Brazilian shipping companies**

Some specific tax facilities and financing incentives apply to EBN for Brazilian-flagged vessels and foreign-flagged vessels registered in a Brazilian Special Registry (REB). The registration procedure must be performed before the Brazilian Maritime Court (Tribunal Marítimo).

As a general rule, the celebration of a bareboat charter agreement with an EBN entity is required for foreign-
flagged vessels to perform coastal, inland and port or maritime support navigation in Brazilian waters and to its enrollment with REB. Additional requirements also apply, including temporary suspension of the flag and compliance with tonnage conditions.

Freight revenues arising from goods carried between Brazil and a foreign country by Brazilian-flagged vessels registered under the REB are exempt from federal contributions, such as the PIS and the COFINS. Moreover, ships registered under the REB are also exempt from federal contributions to the Fund for the Development of Maritime Professional Education.

1.5 Taxes and contributions on operating results of a foreign ship on cruise travel in Brazil

A specific tax treatment applies to any foreign ship that enters into Brazilian territory and subsequently sails along the national coast on cruise travel that includes:

- Calls at national ports
- Commercial activities and service provision, including goods originating from abroad, intended for supply of the ship and for sale to passengers

The foreign shipping company on cruise travel in Brazil shall designate a corporate attorney-in-fact in Brazil, who in this capacity and bearing responsibility for tax issues shall be vested with powers, including the power to compute and pay federal taxes and contributions due on activities carried out aboard the ship or related thereto while it sails along the coast of Brazil. For this purpose, an inventory of all products available for sale shall be delivered to the customs authorities at the port of entry. Monitoring the initial balance, inputs and outputs and the final balance is required, as a report with such data and relevant tax payments, including those relating to the taxation levied on the nationalization of imported products, shall be presented to the customs authority of the last port of call in the country for obtaining authorization for the ship to departure.

The operating income from such activities shall be subject to taxation by CIT and social contribution on net profit (SCT). PIS and COFINS federal contributions are also levied on gross revenues.

1.6 Special vessel registration tax benefits for the shipowner

Freight revenues relating to the transportation of goods between Brazil and any foreign country are exempt from some federal contributions (PIS, COFINS and the Fund for the Development of Maritime Professional Education) when carried by vessels registered under the REB, as described in section 1.4 above.

1.7 SISCOSERV system

SISCOSERV stands for Integrated System of Foreign Trade in Services, Intangibles and Other Operations that Produce Variations in the Net Worth of companies. This is an online system created by the Federal Government to improve public policies related to services and intangibles, which provides information to other electronic systems used by public offices, including the Brazilian Federal Revenue.

As a general rule, residents in Brazil (e.g., individual and legal entities in the form of a subsidiary or branch) selling and/or acquiring services, intangibles or conducting business with nonresidents that produce variations in the net worth of individuals, legal entities or non-personalized entities are required to record export or import of services in SISCOSERV.

Although SISCOSERV is not intended to control taxation, this tool could affect the monitoring of federal taxes. Overall, SISCOSERV requires companies to closely monitor their compliance tax policy. The impact to shipping agencies is still unclear.

2. Human capital

2.1 Formalities for hiring personnel

New employees shall have their working papers (employment registration) completed in a timely fashion by the employer with the information required (including wage, job title and hours of work). The employer must also secure enrollment for the collection of taxes and contributions due to employees.
In addition to such conditions, the Brazilian Immigration legislation establishes that a foreign individual may only enter the country and be engaged in gainful employment or professional activities under certain types of entrance visas, depending on the type of activity and physical presence in the country, as follows:

1. Business: up to 90 days
2. Technical - item V: one year
3. Marine - item V: two years
4. Work - item V: two years
5. Permanent: up to five years

Items (2), (3) and (4) above are different subtypes of the generic Temporary Item V visa, but only item (4) is conditioned to the existence of a local employment contract. As it involves the performance of an activity in the Brazilian labor market, its issuance by the Brazilian Consulate depends on an authorization of the Ministry of Labor and Employment. The application for such visas must be supported by a Brazilian company, either as an employer or sponsor.

2.2 National labor law
Brazilian labor laws apply to crew members of all Brazilian-flagged vessels or crew members hired by an EBN in Brazil or to work in Brazil.

When contracted through a local employment contract with a Brazilian entity, individuals must be duly registered as employees and remunerated through the Brazilian company payroll. All amounts paid through local payroll are subject to Brazilian individual WHT (rates vary from 0% to 27.5%), as well as to social security tax withholding at source (rates of the contribution made by individuals to the National Institute of Social Security [INSS] vary from 8% to 11%).

Moreover, local employment contracts will also trigger corporate payroll costs and provisions, including an annual bonus corresponding to one-month salary (also referred to as the 13th monthly salary or Christmas bonus) and a one-third vacation bonus (in addition to the salary for the vacation period of 30 days per year, after each 12-month period), in addition to other labor rights granted by the legislation, such as transportation and meal tickets/vouchers, compensation of overtime hours with a 50% premium (during weekdays and Saturdays) or a 100% premium (on Sundays and holidays), among others.

Brazilian entities are also obliged to pay monthly contributions on the total remuneration paid to its employees (a few exceptions apply) to the Severance Pay Indemnity Fund (FGTS), at a rate of 8%, and to the INSS, at rates that vary from 25.8% to 28.8% (depending of the level of risk associated with the activity developed by the entity).

2.3 Regulations on employing personnel
Brazil requires Brazilian marine workers to bear specific certificates and habilitations to work onboard vessels, as per the ability level established by the maritime authority to exercise the relevant functions. International marine cards held by foreign crewmembers working on foreign-flagged vessels operating in Brazilian waters, with no employment relationship, may be used to comply with the habilitation required in certain cases and for a limited period of time. Depending on the period of time a foreign-flagged vessel will be operating in Brazilian waters, a minimum number of Brazilian crewmembers is required.

Brazilian labor law also has specific rules applicable to shipping workers, mostly related to work load and safety in the work environment.

In addition, it also establishes that all independent port workers (trabalhadores avulsos) should be hired through port labor management agencies created by the port operators. Only private port terminals located outside organized ports are allowed to hire fixed-term employees for the execution of port-related services, as recently authorized by a Provisional Measure enacted in December 2012. As the Provisional Measure shall be amended during the discussions in the Brazilian National Congress, this authorization may suffer significant changes in the near future.
2.4 Collective labor agreements
Brazilian labor law allows the negotiation of agreements between shipping companies and workers unions. The negotiations result in collective agreements, which rule the relations between the companies and their employees. The main Brazilian shipping workers unions are SINDAPORT, SINTRAPORT, SINDAMAR and SINDMAR.

2.5 Treaties relating to social security contributions
EBN employees are liable to pay contributions under the Brazilian social security system. Dockworkers are also inserted within the Social Security system as independent workers (trabalhadores avulsos).

The Brazilian employer must also pay social security contributions on the Brazilian payroll.

Brazil has concluded several international bilateral and multilateral social security conventions with the following countries: Argentina, Bolivia, Cape Verde, Chile, Ecuador, Germany, Greece, Italy, Japan, Luxembourg, Paraguay, Portugal, Spain and Uruguay.

Brazil has also signed agreements with Belgium, Canada and Quebec, South Korea and France, which are under a ratification process within the National Congress and, therefore, are not in force in Brazil yet.

2.6 Manning issues with flying the Brazilian flag
As a general rule, in Brazilian-flagged vessels, the captain, the engine room head engineer and two-thirds of the crew must be Brazilian individuals.

For vessels enrolled in REB, however, the requirement for Brazilian individuals is limited to the captain and the engine room head engineer.

3. Corporate structure
3.1 Most commonly used legal structures for shipping activities
The most common forms of business entities in Brazil are the corporation (sociedade anônima – S.A.), which may be publicly held with stock traded on the stock exchange; the public corporation or closely held private corporation (that is, privately owned by a small number of shareholders and without its stock traded on the stock exchange) and the limited liability company (sociedade limitada – LTDA). The liability of each shareholder of a corporation is limited to the amount subscribed by the individual or company. Quota holders in an LTDA are liable for the full amount of the company’s legal capital until it has been paid in full.

Companies domiciled in Brazil, and branch offices, agencies and representative offices in Brazil of companies domiciled abroad, are subject to corporate taxation as independent entities. Income derived by Brazilian companies from their foreign subsidiaries and foreign branches is subject to CIT and SCT, as described in sections 1.1 and 1.5, respectively, above.

International Financial Reporting Standards and Law No. 11638/07
In the process of aligning Brazilian accounting standards with International Financial Reporting Standards (IFRS), Law No. 11638 was enacted on 28 December 2007 and amended the Brazilian Corporation Law (Law No. 6404, dated 15 December 1976), in order to allow international accounting convergence, as well as to increase the transparency level of overall financial statements, including those of large companies not organized as corporations (sociedades anônimas).

Effective from 1 January 2008, the law prescribed, among other accounting changes, that accounting standards issued by the Brazilian Securities Commission (CVM) must be aligned with international accounting standards adopted in the main security markets, i.e., standards issued by the International Accounting Standards Board (IASB), which is currently considered the international reference for accounting standards.

Privately held companies may now elect to adopt the standards issued by the CVM for publicly held
corporations, which allows them to also participate in the accounting convergence process. Large companies, those that individually or under common control have total assets in excess of BRL240 million or gross revenues of more than BRL300 million, must maintain bookkeeping and prepare financial statements observing the Brazilian Corporation Law and must also be audited by independent auditors registered with the CVM.

**Transitional tax regime**

In November 2013, the Provisional Measure 627/2013 was enacted, which has terminated the Transitional Tax Regime and implemented a set of new rules, aligning tax regulations with IFRS and new Brazilian accounting regulations.

Provisional Measure 627/2013 is still subject to congressional approval and presidential sanction when transformed into law; therefore, its provisions may be amended or excluded during this process. In general, the new provisions will be in force as of January 2015, but under certain circumstances, companies may choose to anticipate effects for 2014.

### 3.2 Taxation of profit distribution

Dividends paid out of profits accrued from 1 January 1996 are not subject to WHT on distribution to resident or nonresident shareholders. Profits earned prior to 1996 are subject either to a 15% (profits distribution declared in 1994 and 1995) or 25% (profits distribution declared prior to 1994) WHT when distributed to nonresident shareholders.

### 3.3 Interest on net equity

A Brazilian company may calculate interest on net equity (INE) on the net equity value (adjusted by the deduction of certain accounts) paid to both resident and nonresident shareholders. INE is a hybrid mechanism to reimburse capital to the extent that amounts paid are treated as deductible expenses for corporate tax purposes at an effective rate of 34% (similar to financial expenses), while shareholders are paid for their investment in capital.

Interest on net equity is calculated on the adjusted net equity by applying the official long-term interest rate (TJLP), but its deductibility is limited to 50% of current earnings or accumulated profits. Interest on equity paid either to domestic shareholders or to foreign shareholders is subject to WHT in Brazil, charged at a general 15% rate (or 25% if payment is made to a low-tax jurisdiction).

### 4. Grants and incentives

#### 4.1 Specific and/or general subsidies available for shipping companies

The state’s official financing is available to EBN for shipbuilding, conversion, modernization and overhaul of ships previously registered in the REB, at interest rates similar to those available for building, converting, modernizing and exporting vessels.

There is also a merchant marine and shipbuilding financing program, which is a federal government program. With the participation of the Brazilian Development Bank (BNDES), the program provides financing to Brazilian dockyards for the construction of ships and to EBN for ordering ships and equipment from Brazilian shipbuilders.

#### 4.2 Investment incentives for shipping companies and the shipbuilding industry

There are currently two tax incentives applicable to infrastructure, as follows.

REPORTO (Regime Tributário para Incentivo à Modernização e à Ampliação da Estrutura Portuária) is a special regime aimed to foster investments in the modernization and enlargement of port facilities by port operators, port concessionaries, public use port lessees, companies authorized to operate port facilities of private and public use and dredging companies.
The regime grants the suspension of the Import Duty, IPI, PIS and COFINS upon the acquisition of certain machinery, equipment and spare parts, among other goods, destined to be incorporated to the fixed asset for use in port facilities operations. Suspension is converted into an exemption five years after the purchase of goods. Applicability depends on meeting certain requirements and will be effective until the end of 2015.

REIDI (Regime Especial de Incentivos para o Desenvolvimento da Infra-Estrutura) is a special regime aimed to foster the investments in the infrastructure sector by private entities, specifically by companies interested in investing in the transport, port facilities, energy, sanitary and irrigation sectors.

In order to be able to be granted by REIDI, the company shall apply before the appropriate Ministry within the Federal Government.

REIDI benefits mainly constitute the suspension of PIS and COFINS charged on local acquisition and importation of new machinery, tools and equipment to be used in or integrated to infrastructure investments destined to be incorporated in the fixed asset of the beneficiary. Upon the use or incorporation of such goods to the infrastructure investments, the suspension of the PIS and COFINS social contributions will be converted into zero rates.

REIDI benefits shall be valid by a period of five years, counted as from the approval of the infrastructure project by the competent tax authorities.

4.3 Special incentives for environmental awareness
There are no special incentives for environmental awareness (though environmental legislation in Brazil is quite strict, so that noncompliance may result in heavy penalties).

4.4 Issues with flying the Brazilian flag
Please see section 2.6 above.

4.5 Major changes in shipping subsidy legislation anticipated in the near future
No changes in the legislation concerning subsidies for shipping are anticipated in the near future.

5. General information

5.1 Infrastructure
In December 2012, the Brazilian government enacted the Provisional Measure 595 (MP 595) with new provisions for the operation of local ports and for the activities performed by port operators. The original text of the provision, which is to be discussed by the Brazilian National Congress, establishes significant modifications.

This is a new attempt to improve the regulatory framework of the industry by reducing costs and the average time for loading and unloading and to ensure competitiveness.

As per the reasoning presented upon enactment of such rule, new rules were meant to eliminate the distinction between owned cargo and third-party cargo, authorizing private port terminals to operate loads from third-party companies. Nevertheless, the wording of such rules supporting this interpretation is not exactly clear.

There are also new rules for ports concessions depending on the activity to be performed by the operator (as public or private port). Further requirements demanding public selection consultation and calling for the authorization for installation of a private port terminal, among others, have been introduced.

Moreover, within the boundaries of an organized port, there will be only leased terminals or terminals explored through concession of the entire port. Thus, it will no longer be possible to have private port terminals within organized ports, though it is not clear what will be the treatment given to the existing private terminals that are currently located within organized ports.

New management responsibility between authorities of the industry is also established.
Private port terminals located outside organized ports are now authorized to hire fixed-term employees for the execution of port-related services, without the intermediation of port labor management agencies created by the port operators. Concerned about a potential reduction in the flow of work, which could eventually be channeled to private port terminals now authorized to operate loads from third parties, independent port workers have been quite reactive to these new rules.

As the Provisional Measure may be amended during the discussions in the Brazilian National Congress, significant changes are expected in this new regulatory framework.

<table>
<thead>
<tr>
<th>Name of port</th>
<th>Location of port</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belém</td>
<td>Belém – Pará</td>
</tr>
<tr>
<td>Macapá</td>
<td>Ilha de Santana – Amapá</td>
</tr>
<tr>
<td>Manaus</td>
<td>Manaus – Amazonas</td>
</tr>
<tr>
<td>Porto Velho</td>
<td>Porto Velho – Rondônia</td>
</tr>
<tr>
<td>Santarém</td>
<td>Santarém – Pará</td>
</tr>
<tr>
<td>Vila do Conde</td>
<td>Barcarena – Pará</td>
</tr>
<tr>
<td></td>
<td>North</td>
</tr>
<tr>
<td>Aratu</td>
<td>Salvador – Bahia</td>
</tr>
<tr>
<td>Areia Branca</td>
<td>Areia Branca – Rio Grande do Norte</td>
</tr>
<tr>
<td>Cabedelo</td>
<td>Cabedelo – Paraíba</td>
</tr>
<tr>
<td>Fortaleza</td>
<td>Fortaleza – Ceará</td>
</tr>
<tr>
<td>Ilhéus</td>
<td>Ilhéus – Bahia</td>
</tr>
<tr>
<td>Itaquí</td>
<td>São Luís – Maranhão</td>
</tr>
<tr>
<td>Maceió</td>
<td>Maceió – Alagoas</td>
</tr>
<tr>
<td>Natal</td>
<td>Natal – Rio Grande do Norte</td>
</tr>
<tr>
<td>Pecém</td>
<td>Fortaleza – Ceará</td>
</tr>
<tr>
<td>Recife</td>
<td>Recife – Pernambuco</td>
</tr>
<tr>
<td>Salvador</td>
<td>Salvador – Bahia</td>
</tr>
<tr>
<td>Sergipe</td>
<td>Barra dos Coqueiros – Sergipe</td>
</tr>
<tr>
<td>Suape</td>
<td>Ipojuca – Pernambuco</td>
</tr>
<tr>
<td></td>
<td>Midwest</td>
</tr>
<tr>
<td>Cáceres</td>
<td>Cáceres – Mato Grosso</td>
</tr>
<tr>
<td>Corumbá/Ladário</td>
<td>Corumbá – Mato Grosso do Sul</td>
</tr>
<tr>
<td></td>
<td>Southeast</td>
</tr>
<tr>
<td>Angra dos Reis</td>
<td>Angra dos Reis – Rio de Janeiro</td>
</tr>
<tr>
<td>Barra do Riacho</td>
<td>Barra do Riacho – Espírito Santo</td>
</tr>
<tr>
<td>Forno</td>
<td>Arraial do Cabo – Rio de Janeiro</td>
</tr>
<tr>
<td>Itaguaí</td>
<td>Itaguaí – Rio de Janeiro</td>
</tr>
<tr>
<td>Niterói</td>
<td>Niterói – Rio de Janeiro</td>
</tr>
</tbody>
</table>
5.1.1 Major ports

5.1.2 Port facilities

The following facilities are available at most of the ports:

- Maintenance and repair
- Docking
- Storage
- Cranes for every size of vessel

<table>
<thead>
<tr>
<th>Name of port</th>
<th>Location of port</th>
</tr>
</thead>
<tbody>
<tr>
<td>Panorama</td>
<td>Panorama – São Paulo</td>
</tr>
<tr>
<td>Pirapora</td>
<td>Pirapora – Minas Gerais</td>
</tr>
<tr>
<td>Ponta Ulbu</td>
<td>Anchieta – Espírito Santo</td>
</tr>
<tr>
<td>Praia Mole</td>
<td>Vitória – Espírito Santo</td>
</tr>
<tr>
<td>Pres. Epitácio</td>
<td>Presidente Epitácio – São Paulo</td>
</tr>
<tr>
<td>Santos</td>
<td>Santos – São Paulo</td>
</tr>
<tr>
<td>São Sebastião</td>
<td>São Sebastião – São Paulo</td>
</tr>
<tr>
<td>Rio de Janeiro</td>
<td>Rio de Janeiro – Rio de Janeiro</td>
</tr>
<tr>
<td>Tubarão Terminal</td>
<td>Vitória – Espírito Santo</td>
</tr>
<tr>
<td>Vitória</td>
<td>Vitória – Espírito Santo</td>
</tr>
<tr>
<td>South</td>
<td></td>
</tr>
<tr>
<td>Charqueadas</td>
<td>Charqueadas – Rio Grande do Sul</td>
</tr>
<tr>
<td>Estrela</td>
<td>Estrela – Rio Grande do Sul</td>
</tr>
<tr>
<td>Imbituba</td>
<td>Imbituba – Santa Catarina</td>
</tr>
<tr>
<td>Itajaí</td>
<td>Itajaí – Santa Catarina</td>
</tr>
<tr>
<td>Paranaguá</td>
<td>Paranaguá – Paraná</td>
</tr>
<tr>
<td>Pelotas</td>
<td>Pelotas – Rio Grande do Sul</td>
</tr>
<tr>
<td>Porto Alegre</td>
<td>Porto Alegre – Rio Grande do Sul</td>
</tr>
<tr>
<td>Rio Grande</td>
<td>Rio Grande do Sul</td>
</tr>
<tr>
<td>São Francisco do Sul</td>
<td>São Francisco do Sul – Santa Catarina</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Port</th>
<th>Airport name/location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Angra dos Reis</td>
<td>Antonio Carlos Jobim International Airport – Rio de Janeiro/RJ (approximately 140km)</td>
</tr>
<tr>
<td>Aratu</td>
<td>Dep. Luís Eduardo Magalhães International Airport – Salvador/BA</td>
</tr>
<tr>
<td>Belém</td>
<td>Belém International Airport – Belém/PA</td>
</tr>
<tr>
<td>Fortaleza</td>
<td>Pinto Martins International Airport – Fortaleza/CE</td>
</tr>
<tr>
<td>Imbituba</td>
<td>Florianópolis International Airport – Florianópolis/SC</td>
</tr>
<tr>
<td>Itaguaí</td>
<td>Antonio Carlos Jobim International Airport – Rio de Janeiro/RJ (approximately 50km)</td>
</tr>
</tbody>
</table>
5.1.3 Airports close to the major ports

<table>
<thead>
<tr>
<th>Port</th>
<th>Airport name/location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Itaquí</td>
<td>Marechal Cunha Machado International Airport - São Luís/BA</td>
</tr>
<tr>
<td>Maceiói</td>
<td>Zumbi dos Palmares International Airport - Maceiói/AL</td>
</tr>
<tr>
<td>Manaus</td>
<td>Eduardo Gomes International Airport - Manaus/AM</td>
</tr>
<tr>
<td>Natal</td>
<td>Augusto Severo International Airport - Parnamirim/RN</td>
</tr>
<tr>
<td>Niterói</td>
<td>Antonio Carlos Jobim International Airport - Rio de Janeiro/RJ</td>
</tr>
<tr>
<td>Pecém</td>
<td>Pinto Martins International Airport - Fortaleza/CE</td>
</tr>
<tr>
<td>Pelotas</td>
<td>Pelotas International Airport - Pelotas/RS</td>
</tr>
<tr>
<td>Porto Alegre</td>
<td>Salgado Filho International Airport - Porto Alegre/RS</td>
</tr>
<tr>
<td>Recife</td>
<td>Guararapes International Airport - Recife/PE</td>
</tr>
<tr>
<td>Rio de Janeiro</td>
<td>Antonio Carlos Jobim International Airport - Rio de Janeiro/RJ</td>
</tr>
<tr>
<td>Rio Grande</td>
<td>Pelotas International Airport (60 km). Salgado Filho International Airport - Porto Alegre/RS is also close (approximately 300km).</td>
</tr>
<tr>
<td>Salvador</td>
<td>Dep. Luís Eduardo Magalhães International Airport - Salvador/BA</td>
</tr>
<tr>
<td>Santos</td>
<td>Cumbica - Guarulhos/SP and Viracopos - Campinas/SP (approximately 100km)</td>
</tr>
<tr>
<td>São Sebastião</td>
<td>Cumbica - Guarulhos/SP and Viracopos - Campinas/SP (approximately 203km)</td>
</tr>
<tr>
<td>Suape</td>
<td>Guararapes International Airport - Recife/PE (approximately 40km)</td>
</tr>
</tbody>
</table>

5.1.4 Support services for the shipping industry

The following support services are available:
- Banks with a shipping desk
- Consulting firms specializing in shipping
- Maritime law services
- Insurance brokers for the shipping industry

5.1.5 Maritime education

Maritime education is provided by several training centers in Rio de Janeiro, such as:
- Instruction Center Almirante Graça Aranha (CIAGA)
- Instruction Center Almirante Wandenkolk
- Merchant Marine Officers’ Academy (EFOMM)
- Rio de Janeiro Naval School

The Department of Ports and Coasts, through the Professional Maritime School, trains maritime, port and fishing workers, according to international standards established for the performance of such activities. There are also two large specialization and training centers for maritime workers, one in Rio de Janeiro and the other in Belém, in addition to a wide network of the Department of Ports and Coasts, offering courses to more operational categories of workers.

5.2 Safety and environmental issues

5.2.1 Implementation of the International Safety Management Code on board vessels

The International Safety Management (ISM) Code for vessels, established by the International
Maritime Organization (IMO) Safety of Life at Sea (SOLAS) convention, has been mandatory in Brazil since July 1998.

5.2.2 Safety rules regarding manning
The safety rules regarding manning are considered by some in the industry to be fairly strict. Rule No. 30, issued by the Labor Ministry, sets forth obligations with which shipping companies should comply.

5.2.3 Special regulations on safety and the environment
There are numerous environmental and conservation regulations that may be relevant to shipping companies, including, but not limited to:

• Convention No. 147, by the International Labour Organization (ILO), on Merchant Shipping Minimum Standards
• International Convention for the Prevention of Pollution from Ships, executed in London on 2 November 1973
• International Protocol on Preparedness, Response and Co-operation in Case of Oil Pollution Incidents, executed in London on 30 November 1990
• ILO Convention No. 134, on Seafarers’ Prevention of Accidents, executed in Geneva in 1970

Besides the above legislation, Resolution No. 398/08 by the National Council for the Environment (CONAMA) provides for minimum requirements for the Individual Emergency Plan for oil pollution incidents from organized ports, port facilities or terminals, ducts, platforms and respective support facilities, and provides guidelines on the plan preparation.

5.3 Registration

5.3.1 Registration requirements
EBN must be in compliance with Resolution No. 843/07 of the National Agency for Water Carriage (ANTAQ) in order to obtain the proper authorization to operate as a shipping company in Brazil. Such authorization can only be granted to legal entities incorporated under Brazilian law, with their head office and management in the country, which comply with technical, economic and legal requirements, established by rules issued by ANTAQ and other supplementary standards.

For the purpose of filing the application to receive authorization, the legal entity must evidence compliance with one of the following requirements:

• Own at least one Brazilian vessel, adjusted to intended navigation and prepared to operate
• Present a charter agreement of a Brazilian vessel, adjusted to intended navigation, entered into with the owner of the vessel for a period over one year
• Present the contract and financial chronogram of the construction of a vessel in a Brazilian shipyard

The following documents must be presented by the legal entity when requiring authorization:

• Registration of the vessel with the agency of the Water Carriage Traffic Security System of the Merchant Marine of Brazil
• Registration of the vessel under its name with the Registry of Maritime Ownership of the Maritime Court
• General liability insurance in force

Additionally, the company must present a good economic and financial situation characterized by:

• Shareholders’ equity amounting to BRL8 million for long course ocean navigation, BRL6 million for cabotage and BRL2.5 million for port support and maritime support navigation
• Liquidity ratio not lower than one and a formal request for authorization addressed to ANTAQ, presenting respective documentation

5.3.2 Ship registration procedure
The authorization request to operate shall be formalized in an application addressed to ANTAQ’s general director, supported by the following documentation:
• Updated articles of incorporation of the company that intends to operate as a shipping company in Brazil, duly registered and including the business purpose of the legal entity, intended activity of water carriage and support services
• Audited balance sheet and financial statements for the most recent fiscal year
• Certificate of registration with an agency of the Water Carriage Traffic Security System of the Merchant Marine of Brazil or certificate of ownership of vessels
• Certificate attesting to the absence of bankruptcy or agreement with creditors issued by the distributor of the legal entity's head office location
• Certificate of good standing from the federal, state or municipal finance offices of the legal entity's head office location and certificate of good standing with respect to social security and as regards deposits related to the Unemployment Compensation Fund
• Tonnage certificate
• Design specifications of the ship and descriptive memorial

ANTAQ is entitled to request other documents that it deems necessary.

5.3.3 Parallel registration
Foreign-freighted vessels with flag suspension can be registered under REB if some specific conditions are met, as described in section 1.4 above.

5.3.4 Requirements for the officers and crew serving on vessels
As mentioned in section 2.6, Brazilian-flagged vessels must necessarily have Brazilians in the positions of captain and engine room head engineer and also have Brazilians comprising two-thirds of the crew, though vessels enrolled in REB are only required to have Brazilians in the positions of captain and engine room head engineer.

5.3.5 International conventions regarding registration
Laws Nos. 7652/88, 9774/98 and 9432/97, which govern shipping registration, do not mention any international conventions. However, Article 27 of Law No. 10233/01 establishes that ANTAQ shall have the competence to authorize Brazilian companies to perform deepwater and coastal maritime services as well as to provide maritime and port support services. The legislation referred to also specifies that ANTAQ is responsible for the involvement of Brazil with international maritime entities as well as in conventions, agreements and treaties regarding water transport, and for overseeing the compliance of Brazilian and foreign deepwater maritime companies with treaties, conventions, agreements and other international covenants to which Brazil is bound.

5.3.6 Special requirements/rules relating to registration
In addition to the requirements presented in items 5.3.1 and 5.3.2, shipping companies wishing to operate in Brazil are obliged to comply with free competition principles. ANTAQ is responsible for preventing any practice that may be harmful to competition, as well as abuse of economic power. They are furthermore obliged to perform authorized water carriage or support services, by complying with the operation-specific characteristics, relevant rules and regulations, so as always to meet the requirements related to regularity, continuity, efficiency, security, public interest and preservation of the environment. Additionally, the companies can only operate vessels that are supported by a comprehensive general liability insurance policy in force.

5.4 General comments
5.4.1 Countries considered tax havens under Brazilian law
For Brazilian purposes, tax havens are those countries or jurisdictions that do not impose taxes on income or in which income is taxed at a rate lower than 20% or, also, whose internal legislation imposes secrecy as regards the shareholding structure of legal entities or their ownership.

The payment of services, interests, charter, royalties and rent by Brazilian companies to beneficiaries
domiciled in the countries listed below is subject to WHT at the rate of 25%:
American Samoa, American Virgin Islands, Andorra, Anguilla, Antigua and Barbuda, Aruba, Ascension Island, Bahamas, Bahrain, Barbados, Belize, Bermuda, British Virgin Islands, Brunei, Campione d’Italia, Cayman Islands, Channel Islands, Cook Islands, Costa Rica, Cyprus, Djibouti, Dominica, French Polynesia, Gibraltar, Grenada, Hong Kong, Isle of Man, Labuan, Lebanon, Liberia, Liechtenstein, Kiribati, Macao, Madeira, Maldives, Marshall Islands, Mauritius, Monaco, Montserrat, Nauru, Netherlands Antilles, Niue, Norfolk Island, Oman, Panama, Pitcairn Islands, Qeshm Island, Saint Helena, Saint Kitts-Nevis, Saint Lucia, Saint Pierre and Miquelon, St. Vincent and the Grenadines, Samoa, San Marino, Seychelles, Singapore, Solomon Islands, Swaziland, Switzerland*, Tonga, Tristan of Cunha, Turks and Caicos Islands, United Arab Emirates, Vanuatu.

* The effects that may derive from the inclusion of Switzerland on the Brazilian Black List are suspended, as of 24 June 2010, by the Brazilian Internal Revenue Service (IRS) Executive Act # 11/2010.

In addition to the 25% WHT, Brazilian transfer pricing rules are applicable whenever a transaction is carried out with a country considered a tax haven.

There is also specific treatment on thin capitalization (see section 5.4.3) and corporate income taxes deductibility (see section 5.4.4.) when the transaction is carried out with a country considered a tax haven.

5.4.2 Jurisdiction considered as a Privileged Tax Regime

Law 11.727/08 introduced Articles 24-A into Law 9.430/96 and brought the Privileged Tax Regime (PTR) concept to the Brazilian Tax System.

A PTR is defined as any tax regime where one or more of the following is present:

- Income is not taxed or the maximum income tax rate is less than 20%.
- Tax advantages are granted to nonresidents without an obligation of having substantive economic activity in the country.
- Tax advantages are granted to nonresidents conditioned on the absence of conduction of substantive economic activity in the country.
- Income generated abroad is not taxed or the maximum income tax rate is less than 20%.

Information on the company’s owners, ownership of assets or rights or economic transactions performed is confidential.

In order to determine which jurisdictions should be considered PTRs, the Brazilian IRS enacted the Normative Instruction # 1037/2010, which introduced a list of entities in jurisdictions that are considered PTRs (Grey List).

The Uruguayan legal entities organized as a Sociedades Financeiras de Inversão (Safilis)
The Danish holding company without substantial economic activity
The Dutch holding company without substantial economic activity*
The legal entities organized as an international trading company (ITC)
The Hungarian legal entities organized as an offshore or Korlátolt Felelősségű Társaság
The US legal entity organized as a limited liability company (LLC), owned by non-US residents, which are not subject to tax in the USA
The Spanish legal entities organized as an Entidad de Tenencia de Valores Extranjeros (ETVEs)*
The legal entities organized in Malta as an ITC or an International Holding Company
The effects that may derive from the inclusion of the Dutch holding company and the Spanish ETVEs on the Brazilian Grey List are suspended, respectively, as of 24 June 2010, by the Brazilian IRS Executive Act # 10/2010 and, as of 30 November 2010, by the Secretaria de Receita Federal (SRF) Executive Act # 22/2010.

Brazilian transfer pricing rules are applicable whenever a transaction is carried out with a country considered a tax haven and more restrictive thin capitalization rules (see section 5.4.4) are applicable.

### 5.4.3 Thin capitalization rules

Thin capitalization rules were introduced into the Brazilian corporate income tax system to apply to inbound and/or outbound transactions performed either with related parties or with jurisdictions classified as low-tax jurisdiction or under a PTR.

Under such rules, irrespective of whether the intercompany loans are compliant with the general rules governing the deduction of expenses and Brazilian transfer pricing rules, interest expenses arising from financing arrangements executed with a related party are only deductible if the related Brazilian borrower does not have a debt-to-equity ratio greater than 2:1. Any excess interest is not deductible for corporate income tax purposes.

Additionally, interest expenses deriving from financing arrangements executed with a contracting party established in a low-tax jurisdiction or under a beneficial tax regime, irrespective of whether related or not to the Brazilian borrower, are only deductible if the debt-to-equity ratio of the Brazilian borrower does not exceed 0.3:1.

### 5.4.4 Effective beneficiary

Any payment made, directly or indirectly, to an individual or company resident in a low-tax jurisdiction or under a beneficial tax regime is not deductible for income tax purposes, unless the following requirements are met:

- Identification of the effective beneficiary of the income
- Evidence of the operating capacity of the recipient
- Supporting documentation regarding the price paid for rights, goods and services

Further, effective beneficiaries will be deemed to be those entities to which the income can be attributed not created with the sole purpose of avoiding taxes.

### 5.4.5 International conventions

Brazil has signed shipping agreements with the following countries:

Algeria, Argentina, Bulgaria, Chile, China, France, Germany, Poland, Portugal, Romania, Russia, United States of America, Uruguay.
Canada

1. Tax

1.1 Tax facilities for shipping companies

Foreign shipping companies (including foreign subsidiaries of Canadian corporations) may be exempt from taxation in Canada (pursuant to a treaty or under Paragraph 81 (1) (c) of the Income Tax Act (the Act) for income earned in Canada from international shipping, if the country in which that person resides grants substantially similar relief for the same year to a person resident in Canada.

Canadian corporations engaged in shipping are subject to tax in Canada on their worldwide income.

Under a proposed amendment to the Act, “international shipping” is defined as the operation of ships owned or leased by a person or partnership that are used, either directly or as part of a pooling arrangement, primarily to transport passengers or goods in international traffic, except where (c) below applies, to any port or other place on the Great Lakes or St. Lawrence River in Canada, including activities incident to or pertaining to the operation of those ships, but does not include:

- off-shore storing or processing of goods
- fishing
- laying cable
- salvaging
- towing
- tug-boating
- offshore oil and gas activities, including exploration and drilling activities
- dredging

Or

- leasing a ship by a lessor to a lessee that has complete possession, control and command of the ship, unless the lessor or a person affiliated with the lessor has a defined “eligible interest” in the lessee.

1.2 Tax depreciation regime

Depreciation included in a resident's financial statements is added back, and tax depreciation at prescribed rates is deducted for tax purposes, beginning when the asset is available for use.

A new vessel (including furniture, fittings, radio communication equipment and other equipment attached thereto), constructed and registered in Canada, which has never been used for any purpose before it is acquired, is included in a separate class with a prescribed annual depreciation rate of 33.33% of the capital cost (16.66% for the year of acquisition). For most vessels constructed outside Canada, an annual tax depreciation rate of 15% (7.5% for the year of acquisition) generally applies to the remaining non-depreciated capital cost. Where a nonresident person commences or ceases to use a vessel wholly within Canada's domestic trade, a deemed acquisition or disposition of the vessel generally takes place at fair market value.

1.3 Tax facilities for seafarers

Seafarers who are residents of Canada are subject to tax in Canada on their worldwide income. The fair value of rations and quarters may be excluded from the seafarers' income for the period when the vessel is at sea for a period of not less than 36 hours. Whether time on board a ship in port would be included in the term “at sea” depends on the circumstances.

Individuals who are residents of the province of Quebec; work as seafarers; are engaged in the international transportation of goods; hold an eligibility certificate issued by the Minister of Transport; and carry on duties on a ship operated by a resident of Canada (or a foreign subsidiary of such person) may deduct, for Quebec provincial income tax purposes, an amount equal to 75% of the remuneration received from this ship-owner.
1.4 Tax treaties and place of effective management
Canada has concluded tax treaties with more than 80 countries. Most treaties have a special article dealing with international shipping. The basis for taxation under the treaties is generally based on the place of residence. Canada in general applies the common law test of “central management and control” to determine residence. However, Canadian domestic law contains an important exception for foreign-incorporated international shipping corporations (including foreign subsidiaries of Canadian persons) that meet certain conditions. Subsection 250(6) of the Act provides that a corporation that is formed under the laws of a country other than Canada and carries on an international shipping business that meets specified tests is deemed to be resident in its country of incorporation and not resident in Canada.

The key requirements to be satisfied are:

- The corporation's principal business in the taxation year must consist of the operation of ships that are used by the corporation primarily in transporting passengers or goods in international traffic.
- All or substantially all of the corporation's gross revenue for the year must be derived from its international shipping business.

Accordingly, it is possible that a corporation formed outside Canada and carrying on qualified international shipping operations could employ all of its management and operational personnel in Canada without being considered to be a resident of Canada.

1.5 Freight taxes
No freight taxes are levied in Canada. Charges for pilotage, harbor dues, berthing, towage, wharfage and other port charges vary according to the location.

1.6 Specified vessel registration tax benefits for the ship-owner
A new vessel constructed and registered in Canada may be eligible for the benefits of accelerated tax depreciation rates in Canada as described in section 1.2 above.

1.7 Shipbuilding business in Quebec
The province of Quebec has a refundable tax credit for the construction or conversion of vessels for a taxation year of a corporation that carries on a shipbuilding business in Quebec, corresponding to an amount of up to 37.5% of qualified construction or conversion expenditures incurred during the year to construct or convert an eligible vessel. The tax credit cannot exceed an amount of up to 18.75% of the cost of constructing or converting the vessel. The rate of the tax credit, as well as the ceiling based on the cost of construction or conversion, varies depending on whether the vessel is a prototype or the first, second or third unit of the same series. To be eligible for the credit, a vessel must be built or converted in Quebec as part of a project for which the Ministry of Regional and Economic Development has issued a certificate.

1.8 Tariffs and duties
Canada imposes a tariff and import duty on foreign-made ships and foreign-made floating structures that are brought into Canada for domestic use, and on vessels brought into Canada for international use that are subsequently registered or required to be registered as Canadian vessels by Canadian authorities (for example, a Canadian Register of Vessels or a Coasting Trade License requirement). In this case, registration for goods and services tax (GST) and harmonized sales tax (HST) – Canada's value-added tax (VAT) legislation – will also be required.

Vessels and floating structures (including drilling platforms and rigs) typically attract a duty rate of up to 25% when imported into Canada. Duty rates are reduced where the vessel or floating structure is eligible for preferential treatment (e.g., when the vessel or floating structure originates in a country that has a free trade agreement with Canada).

Alternatively, vessel and floating structure imports may be eligible for duty remission under the following remission mechanisms.
Remission orders

Specific or individual remission orders on a particular vessel or category of ships may also be available to certain importers. Successful application for a specific remission typically involves third-party consultations, as well as a strong economic case.

Standing remission orders

Certain vessels – On 23 September 2010, a remission order was passed granting relief from custom duties on certain vessels, including ferry boats of a length of 129 meters or more, tankers and certain types of cargo vessels (e.g., freighters, container vessels, self-unloaders, car carriers or bulk unloaders) imported into Canada on or after 1 January 2010. The duty relief is intended to promote the replacement of aging vessels and to modernize Canada's shipping services. Canadian residents must strictly comply with the conditions of the order, which has no expiry date.

Temporary importation of vessels duties remission – When a vessel is imported into Canada to perform work for which no Canadian vessel is available, it may be possible to obtain duty relief on a temporary basis. For a standard, preapproved temporary vessel importation (for a maximum period of 12 months), the duties (including GST) can be calculated and remitted every month on a reduced tax base of 1/120 of the value of the vessel. In order for the vessel to be eligible for this relief, a written Coasting Trade License Application (Form C-47) must be made prior to the vessel arriving in Canada. It is important to note that where a vessel operates in Canada under a Coasting Trade License, that vessel's owner or operator is conducting business in Canada and is required to register for GST/HST purposes and to collect GST/HST on supplies of services made in Canada.

Exported vessels remission – Incomplete vessels, vessel equipment and vessel parts, typically imported by Canadian shipyards for export production, may be eligible for remission of all duties payable on qualifying inputs into exported vessels, on condition that such goods are brought into or attached to vessels that are declared by the Minister of Industry to be:

- Eligible ships under the Shipbuilding Temporary Assistance Program Regulations
- Eligible ships for export under the Shipbuilding Industry Assistance Regulations

Mobile offshore drilling units (MODUs) remission – If a drilling unit qualifies as a MODU (e.g., a drilling platform, a jack-up, a drill ship or a semisubmersible) and meets certain other conditions, full-duty relief can be obtained where an application is filled with the Canada Border Services Agency. The conditions include:

- The MODU is used only in drilling activity for exploration, delineation or development of the offshore project.
- The MODU is temporarily imported into Canada during the period commencing on or after 4 May 2004, for exploration, delineation or development activities and ending on or before 4 May 2014.
- The importer files such evidence as may be required to determine eligibility for the remission.
- The claim for remission is made prior to 4 May 2016 (e.g., duty relief may be obtained retroactively).

2. Human capital

2.1 Formalities for hiring personnel and workplace safety

The Maritime Labour Standards, as set out in Part 3 of the Canada Shipping Act 2001 (CSA 2001), govern the hiring of personnel for commercial maritime activities on Canadian vessels operating worldwide, as well as on commercial vessels operating in Canadian waters. These standards describe, in detail, labor agreements that are required for crew hired on vessels with unlimited or international voyages and, to a certain extent, on vessels of 100 gross tonnage or more.

The Safe Working Practices Regulations of the CSA 2001 further describe practices that commercial ships must follow to maintain a safe environment.
Being a signatory to the International Maritime Organization's Standards of Training Certification & Watchkeeping (STCW) 1995 Convention, Transport Canada Marine Safety is required to implement a quality assurance system for the certification and training of Canadian seafarers, including meeting training standards, obtaining the requisite certificates of competence and passing required examinations.

2.2 National labor law

The Canada Labour Code applies to crew members of all Canadian vessels. The CSA 2001 Safe Working Practices Regulations apply to anyone employed in any working area associated with any ship in Canada or on any Canadian ship outside of Canada.

The Marine Occupational Safety and Health Regulations, which are part of the Canada Labour Code, apply to the following:

- Personnel employed on ships registered in Canada
- Personnel employed on un-commissioned ships of Her Majesty in the right of Canada
- Personnel employed in the loading or unloading of ships

In July 2010, Transport Canada announced the implementation of new regulations for the marine sector to further protect the health and safety of workers. These regulations replace the existing Marine Occupational Safety and Health Regulations, which came into force under Part II of the Canada Labour Code in 1987.

Harmonizing the new regulations with the Canada Occupational Health and Safety Regulations, the regulatory changes are aimed at standardizing the level of health and safety protection for workers both off board and on board.

2.3 Regulations for employing personnel

In addition to Part II of the Canada Labour Code (Labour Standards), which regulates employment in Canada in general and in its shipping industry as a whole, the Marine Personnel Regulations (MPR) of the CSA 2001 regulate certifications, crew and labor standards.

Other applicable regulations and guidelines include:

- The Regulations Respecting Hours of Work of Employees Engaged in Shipping on the West Coast of Canada and East Coast of Canada and Great Lakes Shipping Employees Hours of Work Regulations, which deal with standard hours of work and overtime in the East Coast, Central and West Coast shipping industries.
- Minimum wage is established in each province and territory.
- Further information is available in the Canada Shipping Act and Regulations – Marine Personnel Regulations, SOR/2007-115.
- The General Pilotage Regulations, recently amended in April 2012, define marine medical examination standards for seafarers in Canada.

2.4 Collective labor agreements

The Canadian marine sector employed approximately 29,000 people in 2011.

The Canada Labour Code is the basis for the Canadian Government's labor relations strategy. Given that the shipbuilding and marine industry has a strong manufacturing component, most of it falls within the jurisdiction of provincial governments. The federal government has authority over industries of an extra-provincial or international character, such as the railways, bus operations, trucking, pipelines, ferries, tunnels, bridges and canals, and shipping and related services (e.g., long-shoring).

Canadian shipbuilding unions include:

- Unifor
- BC Ferry and Marine Workers’ Union
- Shipyard General Workers’ Federation of British Columbia
- Marine Workers and Boilermakers Industrial Union
• International Long-shore and Warehouse Union of Canada

2.5 Treaties relating to social security contributions
With few exceptions, every person in Canada over the age of 18 years and earning a salary must contribute to the Canada Pension Plan. The employee and the employer each contribute half of the amount. Canadians working in Quebec contribute to the Quebec Pension Plan.

• Canada’s publicly funded health care system comprises 10 provincial and 3 territorial health insurance plans.
• The Medicare system provides access to universal and comprehensive coverage for medically required hospital and physician services.

3. Corporate structure

3.1 Most commonly used legal structures for shipping activities
A corporation is the most commonly used legal structure for shipping activities. Canadian corporations are subject to the maximum combined federal and provincial or territorial tax rates, which can vary from 20% to 31% of taxable (net) income for the 2013 calendar year.

A Canadian corporation that primarily operates ships typically allocates income to those provinces where it has a permanent establishment using a port-call-tonnage and salaries allocation formula. Nonresident corporations conducting business in Canada through a branch are taxable at the full corporate rate on their net business income earned in Canada. Furthermore, they must pay an additional tax of 25% on after-tax income, subject to an allowance for investment in Canadian property. This branch tax may be reduced by a treaty.

3.2 Taxation of profit distribution
In general, dividends paid by one Canadian corporation to another are tax-free. Dividends paid by a Canadian corporation to a foreign shareholder are typically subject to a 25% withholding tax rate, which may be reduced by a tax treaty.

4. Grants and incentives

4.1 Specific and/or general subsidies available for shipping companies
There are none that are specific to the shipping industry.

4.2 Investment incentives for shipping companies and the shipbuilding industry
The public sector has undertaken the following initiatives:

• Structured Financing Facility (SFF) for Canadian shipbuilding and industrial marine industry:
  o SFF is a market-based tool administered by Industry Canada that is intended to address some of the competitive gaps between Canadian and foreign shipyards.

The five-year program, instituted in 2001, was designed to stimulate economic activity in the Canadian shipbuilding industry by providing financial assistance to buyers and lessees of Canadian-built ships. A recent notification stated that boat construction or modifications should be completed no later than 31 March 2013.

  o SFF is focused on leveraging market opportunities, promoting investments to complement Canadian competencies in the areas of those opportunities and assisting innovation in key technologies.
  o SFF responds to requests from the industry to modify tax regulations to permit the use of specific tax provisions in situations where Canadian vessels are sold to leasing companies rather than to operators.
  o SFF provides an equivalent benefit to the purchasers of Canadian-built ships in such circumstances,
including buyers and lessees, and is an alternative to the accelerated capital cost provision in the tax regulations.

- To be eligible, an applicant can be a purchaser or lessee of a vessel or offshore marine structure. An applicant can propose that the contribution for financing support is provided to a recipient who is a purchaser, lender or lessor.

- SFF provides financial support in the form of a buy-down of financing costs. Support can be provided for up to 15% of the purchase price paid to a Canadian shipyard for the construction or modification of an eligible vessel or offshore marine structure. Financial support is a non-repayable contribution and is subject to the following limitations:
  - If the vessel or offshore marine structure is meant to be exported, and a fixed-rate loan has been used to finance the acquisition or modification, the interest rate of the loan cannot normally be bought down below the Commercial Interest Reference Rate (CIRR) as defined by the Organisation for Economic Co-operation and Development (OECD).
  - To receive SFF support, the applicant must waive the right to the accelerated capital cost allowance (ACCA). Income tax regulations will be revised to this effect.
  - Furthermore, the eligible vessel should be at least 25 meters in length, and the price paid for the shipyard work should not be less than CAD$5 million.

- In addition to the SFF, the following initiatives are in place:
  - Scientific Research and Economic Development tax credits are available through the Canadian Customs and Revenue Agency.
  - The National Research Council of Canada is working to increase the country's competitiveness in the growing ocean and marine technologies sector. The organization provides expertise, innovative solutions and technologies in ocean engineering. Research and services support a wide range of Canadian and international projects, ranging from high-performance naval vessel operations to offshore oil and gas exploration.

- The Ferry Services Contribution Program, started in 1941, provides financial assistance for inter-provincial ferry transportation in Atlantic Canada and Eastern Quebec. Transport Canada owns four ferry vessels and six shore facilities. These are leased to operators for a nominal amount. This program helps to ensure a safe, reliable and affordable transportation system and provides funding to private operators for ferry operations and the maintenance of Transport Canada's assets. The program is set to expire on 31 March 2014.

  In addition, Transport Canada provides an annual grant to the Province of British Columbia in accordance with an agreement signed in 1977. Grant value, initially CAD$8 million, was increased to CAD$26.9 million in 2010-11.

### 4.3 Special incentives for environmental awareness

According to the Canadian Government, marine transportation, which is an environmentally friendly mode of transportation, can complement Canada's environmental objectives. In many circumstances, marine transportation is widely recognized as having environmental benefits in terms of reduced emissions and fuel efficiency.

Since 1999, Transport Canada has been providing funding support for the promotion of Intelligent Transportation Systems projects and research in Canada. Intelligent Transportation Systems are a broad range of information and communication technologies used to make transportation systems safer, more efficient and environmentally friendly within the existing infrastructure. In the Intelligent Transportation Systems Plan for Canada: En Route to Intelligent Mobility (1999), the Canadian Government set out a strategy for the development and deployment of intelligent transportation systems across urban and rural Canada. Federal funding is provided under the Strategic Highway Infrastructure Program (SHIP).

In January 2012, the Canadian Government launched the Shore Power Technology for Ports (SPTP) Program. The CAD$27.2 million contribution program aims to install shore power in order to reduce air emissions from ships. This program followed Transport Canada's successful Marine Shore Power Program
introduced in 2007. In 2013, the Canadian Government announced new SPTP projects in British Colombia and Halifax.

4.4 Issues with flying the Canadian flag
Section 64 (1) of the Canada Shipping Act 2001, Part 2 states: “A Canadian vessel has the right to fly the Canadian flag.”

Obligation to fly the Canadian flag
The master of a Canadian vessel, except for the one registered in the small vessel register, needs to make sure that a vessel flies the Canadian flag in the following circumstances:
- When signaled to do so by a vessel under the command of the Canadian Government or Canadian Forces
- When entering, leaving or anchored in a port

Exception
The Chief Registrar may, on application, suspend the registration of a Canadian vessel in respect of the right to fly the Canadian flag if the vessel is shown on the registry of a foreign state as a bareboat-chartered vessel.

4.5 Major changes in shipping subsidy legislation in the near future
No changes in shipping subsidy legislation are expected in the near future.

5. General information

The CSA 2001 is an updated version of the Canada Shipping Act, which dates back more than 100 years. CSA 2001 and its associated revisions came into effect in July 2007. It is the principal legislation that governs the activities of Canadian vessels in all waters, and of all vessels in Canadian waters. The Act has been simplified by:
- Including definitions only when the ordinary dictionary meaning has been narrowed down or expanded
- Removing technical details from the Act to simplify the legislative framework — these details are placed in regulations, standards or other documents
- Using language that is clearer and much easier to understand
- Moving all liability provisions to the Marine Liability Act

References to the Canada Shipping Act in this document are sourced from the 2001 version.

Port Divestiture Program
The Port Divestiture Program (PDP) was introduced in 1996 as part of the Canadian Government's efforts to modernize the country's marine system. The PDP initiative is managed by Transport Canada. Under PDP guidelines, Transport Canada administers the transfer of ownership and operations of its regional or local ports to local communities. This results in a more efficient and effective port system with local accountability. Greater autonomy would enable ports to apply more effective business principles while promoting employment and economic growth. Once ports have been transferred, Transport Canada ends its operational role, which includes directly enforcing regulations, collecting user fees and monitoring port operations. Originally a six-year program, the PDP has received multiple extensions and is now scheduled to end in March 2014. The Canadian Government has divested 488 ports since 1996, resulting in savings of more than CAD$470 million to Canadian taxpayers. The Economic Action Plan 2012 has proposed CAD$27.3 million over two years (2012–14) for the divestiture of regional port facilities and ongoing operations of federally owned ports.

5.1 Infrastructure

5.1.1 Major ports
Under the National Marine Policy, ports are classified into the following three categories:
- Canada Port Authorities (CPAs) federal agency ports (18, after inclusion of the Port of Oshawa in February 2012, which was under the Harbour Commission until 2011)
Regional and local ports, of which there are 41
Remote ports, of which there are 26

The domestic marine sector can be classified under four geographic regions – the Pacific Coast region; the Great Lakes/St. Lawrence; the Atlantic region, and the Northern region. The national ports system includes the 18 Canada Port Authorities, listed below, along with the Port of Oshawa, which used to be a Harbour Commission port until February 2012, and operated under the Harbour Commissions Act of 1964. In May 2009, Canada’s Transport Minister John Baird announced his intention to create a CPA to operate the Port of Oshawa. Strategically located at the eastern edge of the Greater Toronto area, the port serves industries with specialized needs dependent on reliable, cost-effective water transportation. Furthermore, in July 2010, the federal government announced its plans of investing CAD$10.2 million to improve the Port of Oshawa.

Additionally, there are 239 ports that were formerly operated by Transport Canada and have been divested; of these, 66 are federal ports, 42 provincial and 131 local ports.

The total traffic handled at all the ports increased by 10% yearly to reach 450 million tons in 2010, while traffic handled at CPA ports increased by 14.5% yearly to reach 268.6 million tons in 2010.

The chart below outlines the geographies of the 17* CPAs and 1 Harbour Commission port and their tonnage traffic (in million tons) as reported in the annual Transportation in Canada 2011 report.

<table>
<thead>
<tr>
<th>West Coast (all in British Columbia)</th>
<th>Central (all in Ontario)</th>
<th>East Coast/Quebec/ maritime provinces</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nanaimo (1.3)</td>
<td>Hamilton (11.4)</td>
<td>Belledune, NB (2.1)</td>
</tr>
<tr>
<td>Port Alberni (1.0)</td>
<td>Oshawa (Harbour Commission) (0.283)</td>
<td>Halifax, NS (10.2)</td>
</tr>
<tr>
<td>Prince Rupert (15)</td>
<td>Thunder Bay (6.8)</td>
<td>Montreal, QC (24.8)</td>
</tr>
<tr>
<td>Metro Vancouver* (104.7)</td>
<td>Toronto (1.5)</td>
<td>Quebec City, QC (24.6)</td>
</tr>
<tr>
<td></td>
<td>Windsor (5.3)</td>
<td>Saguenay, QC (0.4)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Sept-Îles, QC (24.6)</td>
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<tr>
<td></td>
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<td>St. John, NB (30.6)</td>
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<tr>
<td></td>
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<td>St. John’s, NL (1.5)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Trois-Rivières, QC (2.9)</td>
</tr>
</tbody>
</table>

* On 1 January 2008, the Fraser River, North Fraser and Vancouver Port Authorities were merged into one port authority, the Vancouver Fraser Port Authority, or in its marketed name, Port Metro Vancouver.

Note: the Transportation in Canada 2011 annual report was published in June 2012.

5.1.2 Port facilities

The following services are available at most ports operated by CPAs:

- Stevedoring
- Storage
- Bunkering
- Tugboats
- Trucking
- Repairs and maintenance
- Cranes
- Divers
- Dirty ballast
- Petroleum products bunkering
• Fish off-loading operators
• Medical services
• Fresh water
• Ship chandler firms (supply provisioning)
• Transportation and rail connections

As many of these services are provided by contractors and not by the port, it is important to contact the port to verify whether all of the services are currently available. A listing of CPAs’ contact information can be found in the Association of Canadian Port Authorities (ACPA) Membership Directory.

In March 2013, the Port Authorities Operations Regulations was amended. The amendments will enable the Oshawa Port Authority to discharge its duty to maintain safe and orderly operation of the port. The amendment to the Regulations lists activities for the Oshawa Port Authority, giving details on whether an activity is prohibited or permitted, and, if permitted, determining how authorization is provided.

5.1.2.1 Additional information relating to Port Metro Vancouver

Port Metro Vancouver is responsible for the operation and development of the assets and jurisdictions of the combined Fraser River Port Authority, North Fraser Port Authority and Vancouver Port Authority.

Port Metro Vancouver is a financially self-sufficient corporation, established by the government in January 2008, pursuant to the Canada Marine Act, and accountable to the Federal Minister of Transport. It is governed by a board of directors that represents the government and industry, is able to make decisions on business plans and capital spending and is focused on the needs of port users.

Port Metro Vancouver is Canada’s largest port, trading 124 million tons of cargo worth CAD$172 billion in 2012, with more than 160 trading economies. It covers nearly 600km of coastline from Point Roberts at the US-Canada border, along the southern shore of Burrard Inlet, up Indian Arm and the north shore of Burrard Inlet, and from the mouth of the Fraser River, eastward to Fraser Valley, north along the Pitt River to Pitt Lake, including the north and middle arms of Fraser River.

The port is the most diversified in North America, with 28 deep-sea marine cargo terminals, 2 international cruise terminals and several domestic short-sea shipping terminals. It offers efficient access to rail, road and air connections. The port also offers integrated services for the automobile and coastal forest industries and serves as a hub for the Vancouver-Alaska cruise industry.

5.1.2.2 Additional information relating to the Port of Montréal

The Port of Montréal is an international port that is linked to more than 80 countries around the world. It handled approximately 28 million tons of highly diversified cargo in 2012. It is a member of a select club of ports that handle more than 1 million 20-foot equivalent units or containers (TEUs) in a year.

The port is located in the most industrialized region on the continent and serves approximately 100 million Canadian and American consumers. This has led to the establishment of manufacturing centers along its water, rail and road network. Approximately half of the port’s containerized cargo traffic is concentrated in the Canadian market, mainly to Quebec and Ontario. The other half is transported to or from the US markets, mainly the Midwest (Illinois, Michigan, Minnesota, Wisconsin and Ohio) and the Northeast (New England and New York State).

The Port of Montréal has the following facilities to handle various types of cargo:

• Four modern container terminals covering approximately 90 hectares
• Large, open areas for handling dry bulk, including a terminal at Contrecœur, approximately 40km downstream from Montréal
• Two multipurpose terminals
• Fifteen transit sheds for non-containerized general cargo and dry bulk
• A grain terminal with storage capacity of 262,000 tons
• Eleven berths for petroleum products and other liquid bulk
• A railway network with more than 100km of track serving almost every berth
• A passenger terminal for cruise ships
• Cranes with heavy-lift capacities
• Special ramps for roll-on, roll-off cargo

There is also on-site access to repair, bunkering, towing, mooring and other essential services.

5.1.3 Transportation close to major ports
Canada’s major ports are linked to the road and rail system, while some ports also provide access to major airports (e.g., Vancouver, Toronto, Montreal, Halifax, St. John’s).

5.2 Maritime education
Major maritime educational institutions in Canada include:
• British Columbia Institute of Technology (BCIT) – Pacific Marine Training Campus
• Camosun College (Victoria)
• The Canadian Coast Guard College (Nova Scotia)
• Georgian College, Owen Sound Campus (Ontario)
• L’institut Maritime du Québec
• The Marine Centre, Holland College, Prince Edward Island
• Marine Institute (a.k.a., Fisheries and Marine Institute of Memorial University of Newfoundland)
• Nova Scotia Community College

In June 2011, the Canadian Government transferred two marine training simulators to the Fisheries and Marine Institute of Memorial University of Newfoundland, and in October 2011 another two simulators were transferred to L’institut Maritime du Québec. Newfoundland and Québec also received federal funding worth CAD$1,233,253 and CAD$1,233,253, respectively, to modernize the simulators.

5.3 Safety and environmental issues
5.3.1 Implementation of the International Safety Management Code on board vessels
Canada was one of the member countries of the International Maritime Organization (IMO), which was instrumental in implementing requirements for safety management systems on all ships trading internationally. The systems were mandated for Canadian international shipping through the Safety Management Regulations, which introduced the International Safety Management (ISM) Code in 1998 and expanded the scope of its application in 2002. Transport Canada has reported some success in promoting the voluntary adoption of the ISM Code by domestic shipping companies. It has also developed guidance materials for small passenger vessels operating internationally, given that a full-blown ISM Code would not be feasible in such cases.

5.3.2 Implementation of Vessel Pollution and Dangerous Chemicals Regulations
In October 2013, the Canadian Government issued a protective direction, which requires any person who imports or offers to transport crude oil to conduct classification tests on the crude oil.

It includes the following mandates that say any person who imports or offers to transport crude oil must:
• Conduct classification testing of any crude oil being classified as UN 1267 or UN 1993 that has not undergone classification testing since 7 July 2013
• Make the test results available to Transport Canada upon request
• Update their safety data sheets and immediately provide them to Transport Canada’s Canadian Transport Emergency Centre

In April 2012, Transport Canada enacted Vessel Pollution and Dangerous Chemicals Regulations to eliminate the discharge of vessel-source pollutants into the marine environment and promote the safe operation of chemical tankers. These regulations will support the Canadian Government in meeting its international obligations in the area of marine environmental protection. The regulations repeal and replace the previous
5.3.3 Implementation of identification and tracking regulations
In November 2010, Transport Canada implemented the Long-Range Identification and Tracking of Vessels Regulations to further improve safety and security at sea. The new regulations are expected to help in tracking Canadian vessels that make international trips and monitor foreign vessels up to 1,000 nautical miles off Canada's coasts. These regulations apply to Canadian passenger vessels with more than 12 passengers and to Canadian international cargo vessels, including high-speed craft and tugs of more than 300 gross tonnage.

5.3.4 Implementation of fire and boat drills regulations
In May 2010, Transport Canada announced the implementation of Fire and Boat Drills Regulations to enhance passenger safety. These regulations mandate that an accurate count of persons on board a vessel should be available for search and rescue workers. They also require passengers and crew to know when to abandon a vessel and how to react safely and efficiently to an onboard emergency.

5.3.5 Implementation of domestic ferry security regulations
In December 2009, Transport Canada announced the implementation of its Domestic Ferries Security Regulations to increase the level of protection of 18 domestic ferry routes and 29 ferry facilities across the country. These new regulations establish a framework for detecting security threats and taking preventive measures.

5.3.6 Safety rules pertaining to manning
All vessels that require an inspection certificate, as identified in the Vessel Certificates Regulations, must have a Safe Manning Document (SMD). This mandates minimum safe crewing levels for the vessel and is valid for a maximum of five years after the day of its issue. Details about SMD can be found in the Marine Personnel Regulations.

5.3.7 Special regulations on safety and the environment
Annex VI of the regulations of the International Convention for the Prevention of Air Pollution from Ships, 1973 (MARPOL) includes IMO requirements for air emissions, covering topics such as ozone-depleting substances, nitrogen oxide emissions from new diesel engines and the sulfur content of fuel oil. These international regulations came into force in May 2005. Section 658 of Part XV of the CSA 2001 has the authority to implement MARPOL requirements.

The US and Canada recently applied to the IMO to become an emission-control area (ECA). The combined US and Canadian ECA will stretch 200 nautical miles around the coastline of both the countries. In October 2011, Canada signed a protocol at IMO to help ensure proper compensation for victims of marine pollution and penalization of polluters.

In October 2009, the Canadian Government ratified the Supplementary Fund Protocol of 2003 to the 1992 International Oil Pollution Compensation Fund and the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (Bunkers Convention), which came into force on 2 January 2010. These conventions significantly enhanced the existing liability and compensation regimes for pollution damage from ships.

In October 2011, the Navigation Safety Regulations under CSA, which implements provisions and standards for navigation equipment for the safety of life at sea and protection of the marine environment, have replaced certain sections on voyage data recorders (VDRs). VDRs are now required for all new passenger vessels of 500 gross tonnage or more and new cargo vessels of 3,000 gross tonnage or more that are not engaged solely on inland voyages.

In November 2011, Ballast Water Control and Management Regulations were updated to control invasive species and pathogens from entering waters under Canadian jurisdiction. These regulations have replaced Ballast Water Control and Management Regulations made under the previous CSA.
In October 2012, amendments were introduced to the Navigable Waters Protection Act, which allows for the building of bridges and other works that might interfere with navigation. The amendments would help reduce delays in seeking approval for construction of bridges and other works. In March 2013, the Canadian Government amended the Transportation of Dangerous Goods Regulations to provide greater clarifications on requirements for certain goods.

5.4 Key federal investments in the marine sector
In September 2013, the Canadian Government announced infrastructure investments worth CAD$106 million that are expected to strengthen the border, improve marine container inspection capacity, and improve efficiency at Port Metro Vancouver. The investment is expected to increase the country’s exports to new markets by moving goods, services and people in a more effective manner, strengthen trade ties with fast-growing Asia-Pacific markets and build on our competitive advantages. Earlier, in July 2013, the Canadian Government announced funding of CAD$225,000 for a short-sea shipping project in British Columbia, further strengthening Canada’s Asia-Pacific Gateway and Corridor Initiative. This project is expected to support Canada’s Asia-Pacific Gateway transportation network and strengthen its exports in fast-growing Asian markets.

In April 2013, the Canadian Government announced funding of CAD$660,000 for a new integrated port logistics system and the air gap system at the Port of Halifax. The federal government was expected to contribute up to CAD$330,000 under the Strategic Highway Infrastructure Program, while the Port of Halifax was expected to provide the remaining CAD$330,000.

In July 2012, the Canadian Government announced additional funding for the Boating Safety Class Contribution Program. The renewed program, now called the Boating Safety Contribution Program (BSCP), will receive up to CAD$500,000 in funding from the Canadian Government in fiscal year 2013-14, and up to CAD$975,000 annually starting with fiscal year 2014-15.

In March 2012, the Canadian Government announced its investment plans for modernizing the Port of Montreal and the St. Lawrence navigation system. Similar plans were announced earlier during the year for the Port of Saguenay and the Port of Sept-Îles.

In March 2011, the Canadian Government announced CAD$1.5 million worth of funding for construction of new transportation infrastructure at the Port of Belledune. This will support the construction of a new facility that will enable the layout and production of pre-assembled steel units for various projects.

In September 2010, the Canadian Government announced its plans of investing CAD$2.5 million in the Prince Rupert Port Authority’s Fairview Terminal project to provide shore power capacity to container ships through an electric cable management system. Prince Rupert will be the first Canadian port to offer shore power for container ships. Furthermore, the project is expected to reduce local greenhouse gas emissions by up to 4,000 tonnes and criteria air contaminants by 160 tonnes annually by shutting down the engines of container ships and connecting them to the port’s electrical grid while docked.

In July 2010, the Canadian Government invested CAD$521 million to revitalize Marine Atlantic Inc. This included the renewal of its fleet and shore facilities. The company plans to invest CAD$84 million annually over the next five years to upgrade terminal and port infrastructure, including the construction of a terminal building in North Sydney.

In June 2010, Canada Transport announced its plans to invest between CAD$8 million and CAD$10 million to rebuild berth No. 1 at the La Tabatière wharf. Further, the project will entail an environmental assessment under the Canadian Environmental Assessment Act.

5.5 Registration
5.5.1 Registration requirements
Registration provides a legal title and certain benefits, such as a unique name and an official number. Registration also allows the use of the vessel as security for a marine mortgage. Under the CSA 2001, all non-
pleasure craft (small commercial vessels) licensed by Transport Canada under the Small Commercial Vessel Licensing System are required to be registered with the department’s Small Vessel Register.

All pleasure vessels or commercial vessels weighing more than 15 gross tonnage must be registered. Furthermore, Part 2, Section 46 of the CSA 2001 states that a vessel must be registered if:

- It is not a pleasure craft.
- It is wholly owned by qualified persons.
- It is not registered, listed or otherwise recorded in a foreign state.

In March 2011, the Canadian Government announced that owners of human-powered vessels, such as canoes, kayaks and small sailing vessels, as well as of small vessels with motors less than 7.5kw (10hp) are not required to register their craft with Transport Canada.

In most cases, a Canadian must register the vessel. To be qualified, a person needs to meet one or both of the following criteria:

- A Canadian citizen or a permanent resident within the meaning of Subsection 2 (1) of the Immigration and Refugee Protection Act
- A corporation incorporated under the laws of Canada or a province

5.5.2 Ship registration procedures
Per the CSA 2001, Part 2, Section 51:

An application for registration, listing or recording of a vessel must be “made in the form and manner, include the information and be accompanied by the documents specified by the Chief Registrar.”

In addition to the specified information and documents, the Chief Registrar may require an applicant to provide evidence, including declarations, which the Chief Registrar considers necessary to establish that a vessel is required or entitled to be registered, or is entitled to be listed or recorded.

Once all of the requirements have been met, the vessel is registered and a certificate of registry is issued. This certificate must be on board at all times during the vessel’s operation for identification purposes. If the vessel is less than or equal to 15 gross tonnage, the owner can choose to register the vessel to obtain the benefits of registration, but this is not mandatory.

Registration forms are available at any Port of Registry office or from the Transport Canada website, at the following URL: www.tc.gc.ca/eng/marinesafety/oep-vesselreg-registration-menu-2311.htm.

Effective 1 April 2013, all regional offices located across Canada will be centralized to Transport Canada headquarters in Ottawa. The headquarters office will continue to provide functional direction, as well as deliver the national vessel registration program and process routine applications.

5.5.3 Parallel registration
A foreign-registered, bareboat-chartered vessel may apply to fly the Canadian flag while appearing on the register of a foreign country.

5.5.4 Requirements for officers and crew serving on vessels

Presentation of documents
The master of a Canadian vessel will need to make sure that each person employed on board presents all Canadian maritime documents required under Part 3 of the CSA 2001 for that particular position.

Certificates
Every person employed on board a Canadian vessel in a position where a certificate is required under Part 3 of the CSA 2001 will need to hold the certificate and comply with its terms and conditions.

Eligibility
Only a Canadian citizen or a permanent resident within the meaning of Subsection 2 (1) of the Immigration and Refugee Protection Act may hold a Certificate of Competency, with exceptions made for holders of
5.5.5 Special requirements and rules relating to registration

There are more requirements, forms and procedures related to ship registration. More information can be found in the Canada Shipping Act 2001 and on the Vessel Registration Office website (www.tc.gc.ca/eng/marinesafety/oep-vesselreg-registration-menu-2311.htm).

6. Consulted resources

**Human capital**


**Corporate structure**


**Grants and incentives**

- “Environmental programs,” Transport Canada website, http://www.tc.gc.ca/eng/programs/environment-


General information


“Registration of Non-pleasure Craft (Small Commercial Vessels) in the ‘Small Vessel Register...’,”


China

1. Tax

1.1 Tax facilities for shipping companies

Corporate income tax

Foreign shipping companies that operate in international traffic may be liable for corporate income tax (CIT) at 25% on net earnings sourced from China (the People's Republic of China; PRC), which is deemed to be 5% of the gross revenue derived from the carriage of passengers, cargo or mail from international traffic originating from China, resulting in an effective CIT rate of 1.25% (i.e., 5% × 25%). The taxable gross revenue includes ticket charges, overweight luggage charges, catering service charges, insurance, service fee, entertainment charges, base freight charges and various surcharges. Transportation charges paid to subcontracting transportation companies cannot be deducted from gross revenue. The entity may be exempt from CIT if the foreign shipping company is resident in a jurisdiction that has signed a double tax treaty or another international convention with mainland China.

Enterprises registered locally and engaged in shipping business are subject to CIT in China on their worldwide income. The statutory tax rate is 25%. The amended CIT law, effective 1 January 2008, has revised the previously geographic- and ownership-based preference system (for instance, a reduced tax rate or tax holidays were available to foreign-invested shipping businesses in terms similar to manufacturing enterprises) into an industry-based one. So far, no industry-based tax preferences have been announced for the shipping industry except under the regulations for Qianhai Shenzhen-Hong Kong Modern Service Industry Cooperation Zone in Shenzhen and Hengqing New Area in Zhuhai.

Qualified enterprises registered in Shenzhen-Hong Kong Modern Service Industry Cooperation Zone in Shenzhen, Hengqing New Area in Zhuhai and Pingtan Comprehensive Pilot Zone of Fujian Province Pingtan and engaged in qualified shipping business could enjoy a reduced CIT rate of 15%. The specific qualification criteria and the application procedures are yet to be issued by the relevant authorities.

Effective from 15 December 2008, income derived by shipping enterprises from Taiwan (hereinafter generally referred to as “TSEs”) from cross-strait direct marine navigation is exempt from CIT provided that the TSE obtains relevant permit from the Chinese Ministry of Transportation (MOT) and separately books the relevant revenue, costs and expenditure.

Value-added tax

Effective from 1 January 2012, Shanghai (municipal) was selected as the first city for the value-added tax (VAT) pilot program. As of 31 December 2012, Beijing (municipal), Anhui Province, Jiangsu Province, Fujian Province, Guangdong Province, Tianjin (municipal), Zhejiang Province and Hubei Province also started the VAT pilot program. On 1 August 2013, the VAT pilot was rolled out nationwide for transportation services (excluding railway transportation, which is only added to the VAT pilot scope effective from 1 January 2014) and transportation-related auxiliary services.

Under the VAT pilot program, provision of water transportation within mainland China should be chargeable to VAT. Whether a service is subject to VAT depends on whether the service provider or the recipient is located within mainland China. Payers are obliged to withhold VAT on payments to foreign enterprises for services subject to VAT.

VAT general taxpayers engaged in transportation activities and transportation-related auxiliary services are subject to a tax rate of 11% and 6%, respectively, with input VAT creditable against output VAT. Enterprises with annual taxable revenue below CNY5 million may elect to be VAT small-scale taxpayers (with exceptions). VAT small-scale taxpayers are subject to a collection rate of 3% on their taxable revenue with no input VAT credit allowed.

Chinese enterprises with general VAT payer status and qualified international transportation licenses may
enjoy 0% VAT rate on the provision of international transportation services.

Chinese enterprises without qualified international transportation licenses or without general VAT payer status could be eligible for VAT exemption on the provision of international transportation services.

Under the VAT pilot regulations, revenue derived by a TSE from the provision of cross-strait direct water transport is exempt from VAT.

Foreign enterprises or individuals who provide international traffic services to Chinese customers should be subject to VAT at the applicable tax rate with no input VAT credit allowed, unless exempted under the applicable treaty. The VAT should generally be withheld by the Chinese customers. Please see Section 1.4 below for the definition of international traffic services. According to the VAT pilot regulations, the applicable VAT rate is 11% for transportation services and 6% for freight agency services and shipping agency services.

Local levies

Starting 1 December 2010, foreign-invested enterprises, foreign enterprises and foreign individuals are liable to pay City Construction Tax (CCT) and Education Surcharges (ES), for which only domestic enterprises and Chinese nationals were liable in the past. CCT and ES are all taxed based on indirect taxes (including VAT, Business Tax (BT) and Consumption Tax (CT) actually paid. Another local levy, Local Education Surcharges (LES), is also imposed on all companies and individuals based on indirect taxes actually paid by them. The effective date of imposing LES depends on the regulations of the local governments.

The relevant CCT, ES and LES rates are listed below:

<table>
<thead>
<tr>
<th>Levy basis</th>
<th>Levy rate</th>
<th>Effective date</th>
</tr>
</thead>
<tbody>
<tr>
<td>CCT</td>
<td>1%, 5% or 7%</td>
<td>1 December 2010</td>
</tr>
<tr>
<td>ES</td>
<td>VAT, BT and CT paid</td>
<td>3% Same as above</td>
</tr>
<tr>
<td>LES</td>
<td></td>
<td>2% Depends on the requirement of the local government</td>
</tr>
</tbody>
</table>

1.2 Taxation of profit distribution

Dividends (distributed profits) repatriated to foreign investors are subject to a withholding tax of 10% at the time when the investee company makes the dividend declaration. However, the tax rate may be further reduced by treaty relief.

1.3 Tax rates for seafarers

China does not have specific tax rules for seafarers. In general, foreigners staying in China are treated as residents if their physical presence in China has lasted for more than one year, though in practice, they are normally taxed only on income from Chinese sources. Individual income tax applies to both Chinese citizens and foreigners. Employment income is taxed at progressive rates ranging from 3% to 45%, while investment income is taxed at a flat rate of 20%. The rates applicable to business income derived by individuals range from 5% to 35%.

1.4 Tax treaties and place of effective management

List of tax treaty jurisdictions:

Albania, Algeria, Armenia, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Bosnia and Herzegovina, Brazil, Brunei, Bulgaria, Canada, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Ethiopia, Finland, France, Georgia, Germany, Greece, Hong Kong, Hungary, Iceland, India, Indonesia, Iran, Ireland, Israel, Italy, Jamaica, Japan, Kazakhstan, Kuwait, Kyrgyzstan, Laos, Latvia, Lithuania, Luxembourg, Macau, Macedonia, Malaysia, Malta, Mauritius, Mexico, Moldova, Mongolia, Montenegro, Morocco, Nepal, Netherlands, New Zealand, Nigeria, Norway, Oman, Pakistan, Papua New Guinea, Philippines, Poland, Portugal, Qatar, Romania, Russia, Saudi Arabia, Serbia, Seychelles, Singapore, Slovak Republic, Slovenia, South Africa, South Korea (ROK), Spain,
China has entered into many bilateral agreements with respect to international shipping. More than 60 separate agreements deal with international shipping, and most of the double tax avoidance treaties contain a clause with respect to the taxation of international transportation. In some cases, the agreement contains a clause that income and profits from the operation of ships in international traffic are liable for indirect tax (i.e., BT or VAT) and income tax only in the jurisdictions in which the place of effective management of the business of the enterprise is located or the jurisdiction in which the enterprise operating the ships is resident (e.g., in the treaties with Demark and the United States, respectively). In other cases, a most-favored-nation treatment is granted (e.g., in the treaties with Indonesia and some Eastern European countries).

China defines “income derived from international transport” for purposes of Chinese tax treaties as “income from the carriage of passengers or cargo by ship or aircraft, including income from business operations closely related to or auxiliary to international transport.” Such auxiliary business operations include the following activities:

- Leasing a ship or aircraft on charter (fully equipped, manned and supplied)
- Selling passenger tickets on behalf of other transportation enterprises
- Operating a bus service connecting a town with its airport to the passengers
- Transporting goods by truck connecting a depot with a port or airport or providing transportation from a port or airport to a buyer or arranging direct delivery to buyers
- The leasing of containers by enterprises engaged in international transport by ship and aircraft provided that the leasing activity is ancillary to the international transport or incidental
- Operating a hotel business only for purposes of providing transit passengers with overnight accommodation

In addition to the above, income from international transport activities carried out by enterprises whose main business is not international transportation is also considered “income derived from international transport” for Chinese tax treaty purpose.

Approval should be obtained from Chinese tax authorities to enjoy preferential tax treatment under applicable treaties.

1.5 Residence

The CIT law stipulates that a company incorporated outside China but having effective management in China shall be considered a tax resident in China.

Article 4 of the CIT Law Implementation Rules defines effective management as the “overall management and control of the production, business, employees, finance and assets of a company in substance.” The management and control should be in substance rather than in form - mere rubber-stamping activities do not count.

The Chinese tax authority has yet to issue guidelines on the relevant criteria for recognizing foreign companies as resident companies under the effective management concept. Pending the issue of such further guidance, whether a foreign company is considered a tax resident of China is dependent on the facts and circumstances of each case.

1.6 Freight taxes

China levies a “vessel tonnage tariff” on any vessels that sail from overseas to Chinese ports.

According to the Provisional Regulations of the PRC on Vessel Tonnage Dues issued by the State Council, a tariff shall be levied on an incoming vessel from the date of its declaration of entry at a rate ranging from CNY1.5 per ton to CNY31.8 per ton according to the classification and total tonnage of the vessel and the time period of the vessel in the Chinese port. Moreover, the tonnage of a vessel that is registered...
in or belongs to a foreign country, which has entered into a treaty or agreement with the PRC for mutual preferential treatment of tonnages or fees levied on vessels, shall be levied at a preferential rate.

It is not necessary for vessels that have paid tonnage tariffs to pay Vessel and Vehicle Tax to the Chinese tax authorities for the period from 1 January 2012 to 31 December 2016.

1.7 Special vessel registration benefits for the shipowner
There are no special vessel registration benefits for the shipowner.

2. Human capital

2.1 Formalities for hiring personnel
Chinese shipowners and charterers must follow the requirements set forth in the Seafarer Regulations of the PRC in addition to complying with the Chinese labor laws for hiring seafarers. The regulations stipulate that “foreign seafarers” working on Chinese vessels must be in possession of work permits issued by relevant Chinese authorities, seafarer certificates issued by the MOT and identification documents issued by their home countries.

2.2 National labor law and labor contract law
The labor laws govern the labor relationship between employers and crew members within the boundaries of the PRC.

China requires agreements to be reached between employees and employers to establish labor relationships and specify the rights, interests and obligations of each party. Labor contracts shall be concluded in written form and contain the following clauses:

- Name, location and legal representative or the key responsible person of the employing unit
- Name, address and resident identity card number or number of other valid identity document of the employee
- Time limit of the labor contract
- Job specifications and place of work
- Working hours and rest days
- Remuneration
- Social security insurance
- Labor protection, labor conditions and protection against occupational harm

Apart from the mandatory clauses specified above, the parties can include in their labor contracts other contents agreed upon through consultation.

2.3 Collective labor agreements
The employees of an enterprise may, as one party, conclude a collective labor contract with the enterprise as another party on remunerations, working hours, rest and leave days, labor safety and hygiene, insurance, welfare treatment, and other matters.

The draft of the collective contract shall be submitted to the employees’ representative assembly or all employees for deliberation and adoption.

Collective contracts shall be concluded between the trade union on behalf of the employees and the employer. In an enterprise that has not yet set up a trade union, a union official shall guide representatives selected by the employees to conclude the contract with the employer.

Term of contract
The term of a labor contract may be fixed, open or assignment-specific.

An open labor contract shall be concluded between the employee and the employer under any of the
following circumstances:

a. The employee has worked for the employer for more than 10 consecutive years.
b. When the employer implements the labor contract system for the first time, the employee had worked for the employer for more than 10 consecutive years and has less than 10 years before reaching the statutory retirement age.
c. A labor contract with fixed term has already been concluded twice.

An open contract is deemed to have been awarded to an employee if no employment contract is concluded with him or her after working for the employer for one full year.

Minimum wage and other compulsory payments

The employer may fix the wage level and mode of payment at its own discretion and in accordance with the law, subject to meeting minimum wage standards fixed by local governments at the provincial level.

Leave entitlements

Employees are entitled to the following statutory holidays:

- New Year’s Day
- Spring Festival (i.e., Chinese New Year)
- International Labor Day
- National Day
- Other holidays stipulated by the State Council (these include Ching Ming Festival [i.e., tomb-sweeping day], Duanwu Festival [i.e., Dragon Boat Festival] and the Mid-Autumn Festival)

Besides the statutory holidays, eligible employees are also entitled to leave, such as annual leave, marriage leave, maternity leave, sick leave (medical treatment period), bereavement leave etc.

Working hours

Statutory working hours are 8 hours per day and not more than 44 hours per week. Employers must also ensure that employees have one day off per week. Departure from these standards requires approval from the Ministry of Labor.

The standards for overtime payment are:

- Normal day - 150%
- Rest day - 200%
- Statutory holiday - 300%

National and health insurance

Employers and employees must participate in the state social security system and pay social security contributions in accordance with the law to cover the employee’s entitlement to social benefits, including:

- Retirement
- Diseases or injuries
- Disability during work or contracting occupational diseases
- Unemployment
- Maternity

China implemented Interim Measures for Social Insurance System Coverage of Foreigners Working within the Territory of China, which came into effect on 15 October, 2011. According to the Interim Measures, foreign employees working in China must participate in the Chinese social security system with both employers and employees paying the social contributions as prescribed.

2.4 Treaties relating to social security contributions

China concluded a mutual agreement with Germany and South Korea (ROK) on social insurance, which came into effect on 4 April 2002 and 23 May 2002, respectively. According to the mutual agreements, qualifying German and Korean employees may participate in the Chinese social security schemes upon
application with the local competent authorities.

2.5 Manning advantages/disadvantages of flying the Chinese flag
The flying of the Chinese flag brings with it the advantages and disadvantages of Chinese law, particularly employment law.

3. Corporate structure

3.1 Most commonly used legal structures for shipping activities
According to the Catalogue for the Guidance of Foreign Investment issued by the State Development and Reform Commission, there are restrictions on foreign investors’ participation in direct investment in the shipping industry, as summarized below:

- Foreign investment in shipping agencies is allowed if the Chinese investors’ ownership is not less than 51%.
- Foreign investment in ocean shipping tally services is allowed in the form of equity joint ventures or contractual joint ventures only.
- Foreign investment in inland waterway transports or international transports of passengers or cargos by vessels is allowed if the Chinese investors’ ownership is not less than 51%.

Except for freight-forwarding agencies, the above restrictions effectively mean foreign investors in the shipping industry cannot operate as wholly owned companies in China.

According to the “General Plan for China (Shanghai) Free Trade Zone (SHFTZ)” published by the State Council in September 2013, the above foreign investment restrictions are relaxed in SHFTZ as follows:

- Foreign investors are allowed to hold more than 49% of the equity of the joint ventures with the Chinese partners to carry out international transports of passengers or cargos by vessels.
- Foreign investors can establish wholly owned subsidiaries for ship management business.

The standard income tax rate for foreign investment shipping companies is 25%. A reduced CIT rate of 15% is applied for qualified shipping companies in Qianhai (a district) of Shenzhen Municipality, Hengqing (a district) of Zhuhai City, Pingtan (District) of Fuzhou (City).

4. Grants and incentives

4.1 Investment incentives for shipping companies and the shipbuilding industry
In general, no special incentives are available to shipping companies and the shipbuilding industry, except qualified shipping companies incorporated in Shenzhen Qianhai and Fujian Pingtan could be eligible to a preferential CIT rate of 15%.

Locally registered enterprises engaged in the construction of harbor, wharf and other structures for navigation are entitled to, starting from the first revenue generating period, a tax holiday of three-year exemption from CIT followed by a three-year 50% reduction in the CIT rate. A taxpayer qualified for the above incentive should start the above tax holiday from year 2008, if it is still in an accumulated tax loss position by 31 December 2007.

4.2 Special incentives for environmental awareness
Chinese companies that purchase qualifying environment-protecting or water/energy-conserving equipment are eligible to enjoy a tax credit of 10% of the purchase price in the year of purchase. Excess tax credit can be carried forward for five years. However, a disposal or leasing out of the said equipment within five years will mean a clawback of the tax credit accordingly.

4.3 Advantages and disadvantages of flying the Chinese flag
In principle, there are no advantages or disadvantages connected with flying the Chinese flag.
Major changes in shipping subsidy legislation anticipated in the near future

No changes are anticipated in the near future.

5. General information

5.1 Infrastructure

5.1.1 Major ports

Major China ports' container throughput from January to November 2013

(TEU '000)

<table>
<thead>
<tr>
<th>Ranking</th>
<th>Port</th>
<th>January to November 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Shanghai</td>
<td>30,952</td>
</tr>
<tr>
<td>2</td>
<td>Shenzhen</td>
<td>21,304</td>
</tr>
<tr>
<td>3</td>
<td>Ningbo-Zhoushan</td>
<td>15,990</td>
</tr>
<tr>
<td>4</td>
<td>Qingdao</td>
<td>14,378</td>
</tr>
<tr>
<td>5</td>
<td>Guangzhou</td>
<td>13,909</td>
</tr>
<tr>
<td>6</td>
<td>Tianjin</td>
<td>11,968</td>
</tr>
<tr>
<td>7</td>
<td>Dalian</td>
<td>9,066</td>
</tr>
<tr>
<td>8</td>
<td>Xiamen</td>
<td>7,283</td>
</tr>
<tr>
<td>9</td>
<td>Lianyungang</td>
<td>5,022</td>
</tr>
<tr>
<td>10</td>
<td>Yingkou</td>
<td>4,973</td>
</tr>
</tbody>
</table>

Source: MOT

Major China ports' cargo throughput from January to November 2013

(TEU '000)

<table>
<thead>
<tr>
<th>Ranking</th>
<th>Port</th>
<th>January to November 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Ningbo-Zhoushan</td>
<td>749,270</td>
</tr>
<tr>
<td>2</td>
<td>Shanghai</td>
<td>626,060</td>
</tr>
<tr>
<td>3</td>
<td>Tianjin</td>
<td>461,660</td>
</tr>
<tr>
<td>4</td>
<td>Guangzhou</td>
<td>416,970</td>
</tr>
<tr>
<td>5</td>
<td>Qingdao</td>
<td>412,610</td>
</tr>
<tr>
<td>6</td>
<td>Tangshang</td>
<td>405,030</td>
</tr>
<tr>
<td>7</td>
<td>Dalian</td>
<td>377,360</td>
</tr>
<tr>
<td>8</td>
<td>Yingkou</td>
<td>302,640</td>
</tr>
<tr>
<td>9</td>
<td>Rizhao</td>
<td>288,790</td>
</tr>
<tr>
<td>10</td>
<td>Qinhuangdao</td>
<td>247,450</td>
</tr>
</tbody>
</table>

Source: MOT
The port of Shanghai is situated at the middle of the 18,000 km-long Chinese coastline, where the Yangtze River, known as “the Golden Waterway,” flows into the sea. It is the leading port in the T-shaped waterway network composed by the Yangtze River and the coastline, and is also China’s largest comprehensive port and one of the country’s most important gateways for foreign trade. It faces toward the northern and southern coastal seas of China and the oceans of the world, and is linked with the Yangtze River and the inland waterways of the Yangtze River Valley region, such as the Jiangsu, Zhejiang and Anhui provinces. Expressways and state-level highways connect the port to the national highway network and thus to all regions of the country. Thus the port enjoys an advantageous geographical location, favorable natural conditions, vast economically developed hinterlands, and complete inland distribution infrastructure and facilities.

5.1.2 Port facilities

The following support facilities are readily available:

- Maintenance and repair
- Docking
- Storage
- Cranes for every size of vessel

5.1.3 Airports close to the major ports

China has many international airports. The airports close to the major ports are:

- Shanghai
  - Hongqiao International Airport
  - Pudong International Airport
- Shenzhen
  - Shenzhen International Airport
- Guangzhou
  - Guangzhou Baiyun International Airport

Other international airports in China include:

- Beijing
  - Capital International Airport
- Fuzhou
  - Fuzhou Changle International Airport
- Hong Kong
  - Hong Kong International Airport
- Macau
  - Macau International Airport
- Nanjing
  - Nanjing Lukou International Airport
- Xiamen
  - Xiamen Gaoqi International Airport
- Zhuhai
  - Zhuhai Airport

5.1.4 Support services for the shipping industry

The following support services for the shipping industry are available:

- Banks with a shipping desk
- Consulting firms specializing in shipping
- Maritime law services
- Insurance brokers for the shipping industry

5.1.5 Maritime education

Two types of systems for Maritime Education and Training (MET) exist in China: Higher Maritime Education and Vocational Maritime Education. The first is at university level, a four-year course leading to a degree; the second is a vocational type of education at either colleges or training centers. Students educated and trained through either system can obtain the highest Certificate of Competence (COC) for officers, i.e., Master or Chief Engineer COC.

China is one of the major MET countries. According to the MOT and Gao Hongfeng, the vice-minister of MOT, there are 15 universities providing higher maritime education and more than 70 colleges and training centers providing vocational maritime education. The universities and colleges enroll more than 18,000 new students
The most famous higher-level institutions are:

- Dalian Maritime University (DMU)
- Jimei University (Maritime College)
- Ningbo University (Marine College)
- Shanghai Maritime University (SMU)
- Wuhan Polytechnic University (Marine and Inland Water College)

Among these five MET universities, DMU is the only key maritime institution under the MOT; the four others come within the responsibility of local governments.

In vocational maritime education, the vocational maritime institutions are divided into three levels: higher vocational colleges, intermediate vocational schools and maritime technical schools. The most famous vocational institutions are the Qingdao Ocean Shipping Mariners College and the Zhuhai Navigation School.

The Qingdao Ocean Shipping Mariners College is affiliated with and operated by China Ocean Shipping Companies (the COCSO group). This is one of the institutions for higher-level adult education.

The entrance to different levels of maritime institutions is based on the grades that students obtain in the National College Entrance Examination (NCEE). Students with higher grades are admitted to universities while others pursue MET at vocational institutions.

5.2 Safety and environmental issues

5.2.1 Implementation of the International Safety Management Code

The majority of the shipping companies have implemented the International Safety Management (ISM) Code on board their vessels. The ISM Code provides an international standard for the safe management and operation of ships and for pollution prevention. The purpose of ISM Code is:

- To ensure safety at sea
- To prevent human injury or loss of life
- To avoid damage to the environment and to the ship

SOLAS (the International Convention for the Safety of Life at Sea) adopted the ISM Code in 1994 and incorporated it into chapter IX. By 1998, much of the commercial shipping community was required to be in compliance with the ISM Code. By 2002, almost all of the international shipping community was required to comply with the ISM Code.

Such compliance requires that each ship class have a working safety management system (SMS). Each SMS consists of the following elements:

- Commitment from top management
- A top-tier policy manual
- A procedures manual that documents what is done on board the ship
- Procedures for conducting both internal and external audits to ensure the ship is doing what is documented in the Procedures Manual
- A designated person to serve as the link between the ships and shore staff
- A system for identifying where actual practices do not meet those that are documented and for implementing associated corrective action
- Regular management reviews

In China, the Maritime Safety Administration (MSA) of the PRC supervised the managerial process of ship-examining institutions, completed the certificate approval authorized to ship-examining institutions in marine areas, and maintained that surveyors must be certified and responsible for faults. Thirteen hundred international voyage ships owned by 170 companies have been brought into the management system of ISM regulations. The SMS has been conducted nationwide with some ship enterprises having already established the system.
5.2.2 Safety rules related to ISM
- Rules on Audit and Certificate of Shipping Company Safety Management System
- Guideline on the Audit of Company Safety Management System
- Guidelines on Port State Control for Compliance with ISM Code
- The Rules on the Auditor’s Qualification of Company SMS
- The Rules on Auditor Management of Company SMS

5.2.3 Special rules, regulations, laws and measures regarding the environment
- Environmental Protection Law of the PRC
- Law of the PRC on the Prevention and Control of Water Pollution
- The Law of the PRC on the Prevention and Control of Atmospheric Pollution
- The Law of Port of the PRC
- Environmental Impact Assessment Law of PRC
- Regulations on Safe Management of the Dangerous Chemicals of the PRC
- Regulations on Prevention of Pollution from Ships at Sea of the PRC
- Regulations on Prevention of Pollution from Ships’ Demolition of the PRC
- Regulations on Environmental Protection from Marine Petroleum Exploration and Exploitation of the PRC
- The Act of Safety Supervision of Ships Carrying Dangerous Goods of the PRC
- Rules on Dangerous Goods’ Declaration for the Ships Carrying Foreign Trade Cargo of the PRC
- The Act on the Management of Dangerous Goods in Ports of the PRC
- Rules on Investigation of Marine Pollution Accident from Ships
- Rules on Marine Pollution Accident Investigation Officers

5.2.4 Special rules, regulations, laws and measures regarding safety
- Maritime Traffic Safety Law of the PRC
- Marine Environment Protection Law of the PRC
- Port Law of the PRC
- Frontier Health and Quarantine Law of the PRC
- Administrative License Law of the PRC

5.3 Registration
5.3.1 Registration requirements
The following ships shall be registered in accordance with the provisions of Regulations of the PRC Governing the Registration of Ships (RROS):
- Ships owned by citizens of the PRC whose residences or principal places of business are located within the territory thereof
- Ships owned by enterprises with legal person status established under the laws of the PRC and whose principal places of business are located within the territory thereof (provided that foreign investment is involved, the proportion of registered capital contributed by Chinese investors shall not be less than 50%)
- Service ships of the government of the PRC and ships owned by institutions with legal person status
- Other ships whose registration is deemed necessary by the competent authority of harbor superintendence of the PRC. Military ships, fishery ships and sports craft shall be registered in compliance with the provisions of the relevant laws and regulations.

Sailing ships are allowed to fly the national flag of the PRC after being registered and granted nationality. No ship may fly the national flag of the PRC without being registered during navigation.
A ship shall not have dual nationality. A ship registered abroad shall not be granted Chinese nationality unless its former registration of nationality has already been suspended or deleted.
The acquisition, transference or extinction of the ownership of a ship shall be registered at the ship...
registration administration; no acquisition, transference or extinction of the ship's ownership shall be effective as against a third party unless registered. Where a ship is jointly owned by two or more legal persons or individuals, the joint ownership thereof shall be registered at the ship registration administration. The joint ownership of the ship shall not be effective against a third party unless registered.

The establishment, transference or extinction of ship mortgage or bareboat chartering shall be registered at the ship registration administration. No mortgage or bareboat chartering shall be effective as against a third party unless registered.

Ships of Chinese nationality shall be manned by Chinese citizens. If it is necessary to recruit foreign seafarers, their employment shall be approved by the competent authority of transport and communications under the State Council. Seafarers on board ships of Chinese nationality who are required to possess COCs shall hold the appropriate COCs issued by the PRC.

The harbor superintendence administration of the PRC is the competent authority in charge of registration of ships. The harbor superintendence administrations at various ports are the proper agencies conducting the registration of ships (hereinafter referred to as the ship registration administration). The scope of authority thereof shall be defined by the harbor superintendence administration of the PRC.

The port where a ship is registered shall be the port of registry of the ship. The owner of a ship may choose a port closer to his residence or his principal place of business as the port of registry, but he is not allowed to choose two or more ports as the port of registry.

Each ship shall have only one name. The name of a ship shall be checked and approved by the ship registration administration at its port of registry. A ship's name shall not be the same as any of those that have already been registered, neither in wording nor in pronunciation.

The ship registration administration shall establish a register of ships. The register of ships shall be accessible to those having an interest therein.

With respect to a state-owned ship operated by an enterprise owned by the whole people having a legal person status granted by the State, the provisions of RROS concerning the ship owner shall be applicable to that legal person.

5.3.2 Ship registration procedure

A shipowner applying for registration of the ownership of a ship shall present the ship registration administration at the port of registry with documents evidencing his legal status, and submit the originals and copies of the documents evidencing his ownership over the ship and the technical information thereof. For the registration of ownership of a ship purchased, the following documents shall be submitted:

- The seller's invoice, sales contract and delivery document
- A document issued by the ship registration authority at the original port of registry certifying the deletion of ownership
- Documents evidencing that the ship is not under mortgage or that the mortgagees agree to the transference of the mortgaged ship

For the registration of ownership of a newly built ship, the contract of ship construction and the delivery document shall be submitted. For the registration of ownership of a ship under construction, the contract of ship construction shall be submitted. For the registration of ownership of a ship built by oneself for one's own use, a document evidencing the procurement of ownership shall be submitted. For the registration of ownership of a ship procured through heritage, presentation, auction under legal process or court judgment, a document with appropriate legal effect evidencing the ship's ownership shall be submitted.

The ship registration administration, having examined and verified the application for registration of ownership, shall issue to the shipowner whose application meets the requirements of RROS the Certificate of Registration of Ship's Ownership within seven days after the date of receipt of the application, whereupon an official registration number shall be assigned to the registered ship and the following particulars shall be recorded in the Register of Ships:
• The ship's name and its call sign
• The port of registry, official registration number and identification mark of the ship
• The name and address of the shipowner and name of its legal representative
• Accruement
• The date on which the ship's ownership was registered
• The name of the shipbuilder, and time and place of building
• The value of the ship, material of ship's hull and ship's main technical data
• The original name and port of registry of the ship and the date of deletion or suspension of its original registration
• Information about joint ownership if the ship is owned by two or more owners
• The name and address of bareboat charterer or ship operator, and the name of its legal representative, if the shipowner is not the one who operates or actually controls the ship
• Information on the establishment of mortgage, if any

The ship registration administration shall inform the shipowner in writing of any noncompliance of his or her application with RROS within seven days after the date of receipt of the application.

5.3.3 Parallel registration
Where a ship is bareboat chartered overseas, the shipowner shall apply to the ship registration administration at the port of registry for registration of the bareboat charter by submitting the documents specified in Article 26 of RROS. After the application has been examined and verified to be in compliance with the requirements of these regulations, the ship registration administration shall suspend or delete the nationality of the ship in accordance with Article 42 of RROS and issue to the applicant the Certificate of Registration of Bareboat Charter in duplicate.

Where a ship is bareboat chartered from overseas, the charterer shall choose the port of registry for the ship according to Article 9 of RROS and apply, prior to the commencement of the charter, to the ship registration administration for registration of the bareboat charter by submitting the following documents:
• The original and a copy of the bareboat charter party
• The ship's valid technical certificates issued by an authorized organization for ship survey
• A certificate issued by the ship registration authority of the former port of registry to the effect that the former nationality of the ship has been suspended or deleted, or that the former nationality of the ship will be suspended or deleted immediately when the new registration is effected

In conclusion, there are no special rules regarding parallel registration compared with other countries.

5.3.4 Seaman registration
Follow Administrative Measures for the Registration of Seamen of the PRC.

5.3.5 Special requirements and rules relating to registration
The forms of the Register of Ships, the Certificate of Ship's Nationality, the Provisional Certificate of Ship's Nationality, the Certificate of Registration of Ship's Ownership, the Certificate of Registration of Ship's Mortgage, the Certificate of Registration of Bareboat Charter, the applications and other certificates shall be solely formulated by the Harbor Superintendence Administration of the PRC.

5.4 General comments
The MSA is a government agency that coordinates maritime search and rescue in the territorial waters of the PRC. The MSA is part of the MOT. The MSA's major functions include:
• Drafting and implementing guidance, policies, regulations and technological codes and standards in national water safety supervision, marine pollution prevention, facilities check, navigational aids and other relevant fields of transportation
• Comprehensive supervision of water safety and prevention of marine pollution, inspection of the ship's safety conditions and safety management system of water transport enterprises
6 Consulted Resources

- MOT
- Maritime Safety Administration of PRC
- Policy on the Reforms and Improvements of Maritime Education in China (Zhaolin Wu, Dalian Maritime University, 2000)
- 2008 China Maritime and Road Transportation Annual Report
- Regulations of the People's Republic of China Governing the Registration of Ships
- Factiva
Curaçao

1. Tax

1.1 Profit tax regimes
Curaçao has seven tax regimes for shipping companies:
1. Shipping companies taxed on the basis of tonnage
2. Shipping companies that are subject to the regular onshore profit tax regime
3. Onshore shipping companies that apply the so-called 80-20 regulation
4. Shipping companies with an offshore tax status
5. (Group) crewing companies with a cost-plus ruling
6. Transparent company – new opportunities for shipping industry to hold mobile assets
7. Rest category, e.g., shipping companies applying the export or the E-zone facility

1.1.1 Shipping companies taxed on the basis of tonnage
Introduction
An interesting aspect of Curaçao's tonnage tax facility is the very broad definition of qualifying ships. In principle, a Curaçaoan corporate taxpayer that holds “anything that floats or has floated” outside the territorial waters of Curaçao is eligible for application of the tonnage tax regime. Thus, specialized ships, such as survey, fishing, cable-laying and dredging ships, tugboats and (oil) rigs, all qualify for tonnage-based taxation in Curaçao. Furthermore, ships are admissible irrespective of the flag they fly.

Please note that currently there is a proposal to amend the current tonnage tax allowing yachts and ships that are under construction to also qualify for application of the tonnage tax regime.

Curaçao levies neither a capital tax on capital contributions nor a dividend withholding tax on dividend distributions.

Who can apply the tonnage tax regime?
All companies that derive profits from using ships in international waters can apply the Curaçaoan tonnage tax regime, provided that the place of effective management of the company is established in Curaçao.

The following shipping activities are admissible:
• The ownership or co-ownership of ships (including ships chartered out on a bareboat-charter basis)
• Bareboat chartering of ships
• Managing of ships on behalf of a third party
• Time or voyage chartering
• Activities related to the exploitation of ships

Calculation of the tonnage tax burden
The tonnage tax facility allows shipping companies to calculate their taxable profits on the basis of a specified fictional profit that depends on the net tonnage of the ship instead of the actual commercial profits. The annual fictional taxable profit per ship is calculated on the basis of the following sliding scale.

<table>
<thead>
<tr>
<th>Total net tonnage</th>
<th>Fixed taxable profit per net ton</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 10,000</td>
<td>ANG2 (USD3.56)</td>
</tr>
<tr>
<td>10,001-25,000</td>
<td>ANG1.35 (USD2.40)</td>
</tr>
<tr>
<td>Over 25,000</td>
<td>ANG0.6 (USD1.07)</td>
</tr>
</tbody>
</table>

If a company manages ships on behalf of third parties, the fixed taxable profit per net ton per ship should
amount to 10% of the amounts mentioned above. The resulting notional taxable profit should be taxed against the standard Curaçaonian profit tax rate of 27.5%, with a minimum tax liability of about USD562. If a management company applies the tonnage tax regime, the minimum tax liability should amount to about USD281.

Example:
A ship with a net tonnage of 15,000 owned or chartered by a company will be taxed ANG7,356.25 (= 27.5% \times [10,000 \times ANG2 + 5,000 \times ANG1.35]). A Curaçaonian management company of the same ship will be taxed ANG735.63.

1.1.2 Shipping companies that are subject to the regular onshore profit tax regime
Shipping activities that are performed through a regular onshore company are subject to the regular profit tax regime. The taxable income is subject to a profit tax rate of 27.5%. Under this tax regime, shipping companies can apply the following tax incentives:

- Accelerated depreciation; Investment Allowance; Survey provision and a provision for self-insurance; Tax loss carry-forward

**Accelerated depreciation**
Besides the deduction of regular depreciation expenses for tax purposes, a one-time accelerated depreciation can be applied for one-third of the acquisition price of the ship (or book value if the taxpayer chooses not to apply the accelerated depreciation in the year of acquisition). The accelerated depreciation is arbitrary and may be used at the convenience of the company.

**Investment allowance**
The investment allowance is an incentive that allows for a fictional tax deduction in addition to the (accelerated) depreciation. The investment allowance amounts to 8% of the investment and is applicable for a period of two succeeding years after acquisition or rebuilding of the ship.

**Deductible formation of provisions**
The survey provision is - under conditions - tax-deductible.

**Tax loss carry-forward**
Tax losses can be carried forward for 10 years.

1.1.3 Shipping companies that apply the so-called 80-20 regulation
Onshore shipping companies can elect to be taxed according to the 80-20 regulation. Under the 80-20 regulation, 80% of the income derived from outside Curaçao is taxed against a 2.75% tax rate, and the remaining 20% is taxed against the regular rate of 27.5%. This leads to an effective tax rate of 7.70% on income derived from outside Curaçao.

Please note that all other (non-shipping) profits realized in Curaçao will be taxed against the regular profit tax rate of 27.5%.

Companies that apply the 80-20 regulation can also apply the tax incentives for onshore companies as described above. However, in addition to the regular tax loss carry-forward of 10 years, tax losses for the first 6 fiscal years of companies applying the 80-20 regulation can be carried forward indefinitely.

1.1.4 Shipping companies with an offshore tax status
Up to and including the year 2001, Curaçao (then part of the Netherlands Antilles) had the so-called offshore tax regime. The regime was abolished in 2002. However, under the transitional rules of the new
Profit Tax Ordinance, qualifying offshore companies in existence as per 31 January 2001 can continue applying the offshore tax regime through the year 2019.

Offshore companies are not engaged in business or transactions with residents of Curaçao. These companies can obtain a tax ruling on the basis of which income is taxed at the profit tax rates of 2.4% to 3%, and capital gains on the shipping activities are tax-exempt.

### 1.1.5 (Group) crewing companies with a cost plus tax ruling

Next to the above-mentioned opportunities for shipping companies, facilities are available to perform (group) crewing activities. Based on a so-called cost-plus tax ruling - that could be obtained with the Curaçao Tax Authorities - the profit of a company is determined as a percentage of the (general) expenses of the company instead of the actual realized income. In practice, the profit is set at 5% to 10% of the operational costs. The fictional income should be taxed against the profit tax rate of 27.5%. The cost-plus tax ruling is applicable on support and auxiliary activities, such as administrative services, commercials and marketing services and re-invoicing. In addition, the auxiliary services must have limited or no risk.

**Example:**

The income of a (group) crewing company amounts to USD900,000. The general expenses of the company amount to USD100,000. If the company applies the cost-plus tax ruling, the taxable income of the company should be USD5,000 (5% × USD100,000). The profit tax liability should be USD1,375 (27.5% × USD5,000).

### 1.1.6 Transparent company

A transparent company can be attractive internationally to hold financial or mobile assets, such as ships, aircrafts and machinery without taxation of profit in Curaçao. For Curaçaoan tax purposes, the transparent company could also be used for group tax consolidation for (existing) companies as an alternative to the so-called fiscal unity.

A Curaçaoan transparent company is a Curaçaoan limited liability company that requests for Curaçaoan tax purposes to be treated as if it is a partnership, while maintaining its legal characteristics. As a consequence of applying for tax transparency, the company will be disregarded for Curaçaoan tax purposes, and all the income and assets are directly attributed to its partners (read: shareholders). The taxable basis for Curaçaoan tax purposes is therefore determined at the level of the partners, and in the absence of partners that are tax residents of Curaçao there should be a taxable basis in Curaçao if the activities of the transparent company constitute a permanent establishment in Curaçao.

### 1.1.7 Export and E-zone facilities

Besides the tax regimes that are applicable to the shipping companies as mentioned in the previous sections, there are two other tax facilities that could be applicable to shipping activities, namely the export facility and the E-zone facility.

**Export facility**

Companies that obtain 90% or more of their profits with foreign activities, such as export of goods, maintenance and repair of goods for companies located outside Curaçao, the maintenance and repair of machines and other equipment located outside Curaçao, trading and e-commerce, and other services aimed at abroad, could, under certain conditions, apply for the export facility. In this case, an effective profit tax rate of approximately 4% could be applicable to the profit of the company.

**E-zone facility**

E-commerce companies and trading companies with an e-strategy that locate their activities in Curaçao and provide services to companies or individuals located outside Curaçao, could, under certain conditions, apply for the E-zone facility. The profit tax rate of 2% should be applicable to the profits realized outside Curaçao.
1.2 Social security contributions and income/wage tax for seafarers
The social security contribution and income/wage tax consequences for seafarers depend on the place of residency of the seafarers. The place of residency is determined based on the underlying facts and circumstances. For example, the registering of a ship in Curaçao, i.e., a ship that has Curaçao as its homeport and that sails under the Curaçaoan flag, is relevant to determine the place of the residency of the seafarers of that ship.

- For the seafarers that are nonresidents of Curaçao, the following should apply: For nonresident seafarers who exercise shipping activities outside Curaçao, no income/wage tax and social contribution should be due in Curaçao.
- For the nonresident seafarers who exercise shipping activities within Curaçao, their income could, in principle, be subject to income/wage tax and social contribution in Curaçao, unless an exemption applies.

If the seafarers are residents of Curaçao and they exercise shipping activities in Curaçao, their income from the shipping activities (and their worldwide income from other taxable sources) could be subject to income/wage tax and social contributions in Curaçao.

Please note that as of 1 February 2013, a basic health insurance system was introduced in Curaçao. This insurance should be applicable – under certain conditions – for residents and also for nonresidents who exercise their employment in Curaçao and are subject to wage tax in Curaçao. Consequently, seafarers who perform shipping activities in Curaçao should in principle also be subject to the basic health insurance, unless an exemption applies.

2. Human capital

2.1 Formalities for hiring personnel
In principle, for ships flying the flag of the Dutch Kingdom, shipping labor law requires a Dutch captain. However, exemptions from the requirement to employ a Dutch captain are common practice. For other personnel, no nationality requirements apply. Each employee on a Curaçaoan ship requires a seafarer’s book and an endorsement of recognition that must be obtained from the authorities. In addition, a non-Dutch captain requires a dispensation.

2.2 Regulations on employing personnel
Under the Shipping Act, each ship flying the flag of the Dutch Kingdom needs to have a manning certificate (safe manning certificate) issued by the chief of the Navigation Inspection. This manning certificate specifies the minimum number of crew members and their duties on board the ship (besides the captain and the shipowner).

The manager of the ship has to file an application for a manning certificate with the chief of the Navigation Inspection for each ship. A crew policy for the specific ship has to be enclosed with the application. This crew policy is a proposal by the ship manager and consists of the desired minimum number of crew members (besides the captain) with their specific duties. If, in the opinion of the chief of the Navigation Inspection, the above-mentioned proposal does not fully meet the required conditions, the chief has the authority to form a crew on board the ship.

A ship has to be manned according to the manning certificate. Exemptions are granted under some conditions.

2.3 Collective labor agreements
There is no obligation to have a collective labor agreement.

2.4 Manning issues of registering a ship in Curaçao
As mentioned in section 1.2, the registering of a ship in Curaçao, i.e., a ship that has Curaçao as its homeport and that sails under the Curaçaoan flag, is relevant to determine the place of the residency of the seafarers of
that ship.

For determining the place of residency of the seafarers, a ship that has Curaçao as its homeport and the sails under the Curaçaoan flag is considered to be part of Curaçao.

3. Corporate structure

3.1 Legal structure for shipping activities
Most companies operate as a public limited liability company or Naamloze Vennootschap (NV). The liability of the shareholders of a NV is limited to their interest in the share capital of the NV.

3.2 Taxation of profit distribution
Profit distributions by Curaçaoan companies are not subject to withholding tax. Dividends received by companies in Curaçao from qualifying share interests are in principle 100% exempt from profit tax. Not only are dividends received by a resident company from a qualifying shareholding exempt from profit tax, but also capital gains on the disposal of a qualifying shareholding. However, on dividend income received from a low-taxed portfolio investment company, a reduced participation exemption rate of 63% applies.

4. Grants and incentives

There are no subsidies available.

5. General information

5.1 Infrastructure

5.1.1 Major ports
The major port in Curaçao is in Willemstad.

After Rotterdam, Willemstad ranks as the second largest port of the Dutch Kingdom. Moreover, Curaçao has three very deep ports where ships of any size and depth can moor.

5.1.2 Port facilities
The following facilities are available:

- Storage; Maintenance and repair; Docking (sheltered deep-sea bays); Cranes for every size of ship.

5.1.3 Airports close to the major ports
The international airport of Curaçao is located at a driving distance of less than 10 minutes from the seaports.

5.1.4 Support services for the shipping industry
The following support services for the shipping industry are readily available:

- Consulting firms specializing in shipping
- Maritime law services
- Insurance brokers for the shipping industry

The foreign classification bureau, Lloyd's Register, also has a representative in Curaçao.

Although Curaçaoan banks do not have specialized shipping desks, the Curaçaoan branches of well-established international banks are equipped to deal with shipping companies.

5.1.5 Maritime education
In Curaçao, the Dutch Caribbean Training Center offers maritime safety training and port and shipping
5.2 Safety and environmental issues

5.2.1 Implementation of the International Safety Management Code
All shipping companies have implemented the International Safety Management (ISM) Code on board their ships. A large number of shipping companies and ship management companies are also certified in accordance with International Organization for Standardization (ISO) 9000 standards.

5.2.2 International Ship and Port Security Code
The International Ship and Port Security (ISPS) Code, which contains measures adopted by the International Maritime Organization (IMO) relating to the security of ships and port facilities, is mandatory for all ships as of 1 July 2004. As of this date, every ship must have the International Ship Security Certificate (ISSC). A security certificate is valid for five years, and endorsement has to take place between the second and third year.

5.3 Registration

5.3.1 Registration requirements
Ships registered in Curaçao fly the Dutch flag (red, white and blue) but are subject to the jurisdiction of Curaçao. The Netherlands is an internationally well-respected seagoing nation regarded by the industry as having high safety standards.

Furthermore, the ship must have a gross tonnage (GT) of at least 20GT, and the ship must obtain Curaçaoan nationality.

To obtain Curaçaoan nationality, the ship must be owned by a person or limited liability company with the nationality of one of the European Union (EU) Member States or that of Curaçao. The owner of the ship must have a representative in Curaçao who is authorized to represent the ship, the crew and the cargo. The shares of a Curaçaoan limited liability company may be held by foreigners of any nationality provided that the acting managing director is of Dutch (or another EU) nationality.

5.3.2 Ship registration procedure
The registration of oceangoing ships requires the owner to present:

- A document evidencing ownership (for instance, a bill of sale)
- A declaration that the ship is a Curaçaoan ship (the nationality declaration)
- An international tonnage certificate
- A certificate of deletion from the former register, if any
- Other requirements, such as articles of association

If all the required documents are available and presented correctly by the shipowner, the registration in the Register of Shipowners can be completed within a few days.

5.3.3 Parallel registration
Curaçaoan law provides both for bareboat in and bareboat out registration.
Cyprus

1. Tax

1.1 Tax facilities for shipping companies

The tonnage tax regime of Cyprus is available to any owner, charterer or ship manager who owns, charters or manages a qualifying vessel in a qualifying shipping activity. The tonnage tax is calculated on the net tonnage of the vessel according to the range of bands and rates prescribed in the legislation.

A qualifying vessel is any seagoing vessel certified under applicable international rules and regulations and registered in the ship registry of any member of the International Maritime Organization and the International Labour Organization, which is recognized by Cyprus. Qualifying shipping activity is any commercial activity that constitutes maritime transport, crew management or technical management.

Shipowners

The owner of Cyprus-registered qualifying vessels automatically falls within the scope of the tonnage tax system. Cyprus tax-resident companies that own qualifying vessels registered in the European Union (EU) or European Economic Area (EEA) may opt to be taxed under the tonnage tax system. Cyprus tax-resident companies that own a fleet of both EU- and non-EU-registered vessels must comply with certain requirements to qualify for the option to be taxed under the tonnage tax system.

Charterers

Any legal person who charters a qualifying ship under bareboat, demise, time or voyage charter, and more specifically, whose main and essential activity is the operation of chartered vessels owned by third parties for the purpose of conducting maritime transport, is eligible to opt for the tonnage tax system, provided certain requirements are met.

Ship managers

A ship manager who provides crew and/or technical ship management services is eligible to opt for the tonnage tax system, provided it satisfies certain criteria.

Option to remain in the tonnage tax system

Any shipowner, charterer or ship manager opting for the tonnage tax system must remain in the system for 10 years.

Taxation

Shipowners, charterers and ship managers who come under the tonnage tax system are exempt from Cypriot (Corporate) Income Tax and other taxes on their profits from a qualified shipping activity (including interest earned on funds used as working capital), on dividends paid directly or indirectly out of such profits, and on gains from the sale of shares in a company that is a qualifying owner of a qualifying ship or from the sale of a qualifying ship.

<table>
<thead>
<tr>
<th>Tonnage tax rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>From 0 to 1,000 units of net tonnage, for every 100 units</td>
</tr>
<tr>
<td>For every additional 100 units of net tonnage from 1,001 to 10,000 units</td>
</tr>
<tr>
<td>For every additional 100 units of net tonnage from 10,001 to 25,000 units</td>
</tr>
<tr>
<td>For every additional 100 units of net tonnage from 25,001 to 40,000 units</td>
</tr>
<tr>
<td>For every additional 100 units of net tonnage in excess of 40,000 units</td>
</tr>
</tbody>
</table>

The rates of tonnage tax for ship managers are 25% of the above rates.
1.2 **Tax facilities for seafarers**
Wages of seafarers are exempt from tax in Cyprus.

1.3 **Tax treaties and place of effective management**
Cyprus has tax treaties with the following countries:
Armenia, Austria, Belarus, Belgium, Bulgaria, Canada, China, Czech Republic, Denmark, Egypt, Estonia, Finland, France, Germany, Hungary, India, Ireland, Italy, Kuwait, Lebanon, Malta, Mauritius, Moldova, Montenegro*, Norway, Poland, Qatar, Romania, Russian Federation, San Marino, Serbia*, Seychelles, Singapore, Slovak Republic**, Slovenia, South Africa, Sweden, Syria, Thailand, Ukraine, United Kingdom, United States.

* The old treaty between Cyprus and Yugoslavia applies.
** The old treaty between Cyprus and the Czechoslovak Socialist Republic applies.

A number of tax treaties provide for the place of effective management of the shipping company to benefit under the treaty.

*Cyprus has also signed a number of bilateral Agreements on Merchant Shipping.*

1.4 **Freight taxes**
Cyprus does not levy any freight taxes.

1.5 **Special vessel registration tax benefits for the shipowner**
There are no tax registration benefits.

1.6 **Changes to tax law anticipated in the near future**
The tonnage tax system of Cyprus has been significantly amended in 2010. No major changes are expected in legislation in the near future.

1.7 **Yacht scheme**
In an effort to encourage the use of Cyprus as a host jurisdiction for yachts for private use, the government has introduced a “yacht leasing regime.”
The main characteristics are:
- The combined effective value-added tax (VAT) and income tax rate is approximately 4.8%.
- The lessor must be a Cypriot-registered company and lessee may be any individual or legal person regardless of his or her residence.
- VAT and income tax advanced rulings are required.

2. **Human capital**

2.1 **Formalities for hiring personnel**
All employees must hold a valid and recognized certificate of competence for the post they hold on board.

2.2 **National labor law**
The manning of Cypriot ships is regulated by law and regulations enacted in Cyprus. Cyprus has also adopted many of the International Maritime Labour Conventions (including Convention No. 147). Cyprus will soon proceed with the ratification of the Convention. Collective labor union agreements may apply as well.
The master of a Cypriot ship is required to enter into an employment agreement with the shipowner, and every seafarer on board must enter into an agreement with the master. Such agreements may make reference to the Cyprus Collective Agreement.

2.3 **Collective labor agreements**
There is no obligation to apply any collective labor agreement. However, the shipowners’ associations have
concluded collective labor agreements with the Cyprus Workers’ Confederation, which is affiliated with the International Transport Workers’ Federation (ITF).

2.4 **Treaties relating to social security contributions**
Cyprus has concluded bilateral agreements with Austria, Australia, Bulgaria, Canada, Czech Republic, Egypt, Greece, the Netherlands, Quebec, Romania, Serbia, Slovakia, Switzerland, Syria and the United Kingdom. The bilateral agreements concluded with the EU member states have been replaced by Regulation 883/2004 for the coordination of social security systems.

2.5 **Manning issues with flying the Cypriot flag**
As Cypriot seafarers are not available in large numbers to man vessels, the authorities allow vessels flying the Cyprus flag to be manned by seafarers from many other countries who hold a competence certificate recognized by Cyprus.

3. **Corporate structure**

3.1 **Most commonly used legal structure for shipping activities**
The most commonly used structure for shipping activities is a limited liability company.

3.2 **Taxation of profit distribution**
There is no taxation of profit distribution to the shareholders.

4. **Grants and incentives**

4.1 **Specific and/or general subsidies available to shipping companies**
Cyprus does not have any subsidies for shipping companies.

4.2 **Investment incentives for shipping companies and the shipbuilding industry**
There are no investment incentives other than tax incentives.

4.3 **Special incentives for environmental awareness**
There are no special incentives for environmental awareness.

4.4 **Issues with flying the Cypriot flag**
There are no issues regarding subsidies and grants connected with flying the Cypriot flag.

4.5 **Major changes in shipping subsidy legislation anticipated in the near future**
No major changes are expected in the legislation regarding subsidies for shipping in the near future.

5. **General information**

5.1 **Infrastructure**

5.1.1 **Major ports**
The major ports are:
- Larnaca
- Limassol

5.1.2 **Port facilities**
The following facilities are available:
5.1.3 Airports close to the major ports
Larnaca International Airport is located about 6km from Larnaca port and about 45km from Limassol port. Paphos International Airport is located about 60km from Limassol port.

5.1.4 Support services for the shipping industry
The following support services for the shipping industry are readily available:
- Banks with a shipping desk
- Consulting firms specializing in shipping
- Maritime law services
- Insurance brokers for the shipping industry
- Ship management companies

5.1.5 Maritime education
Maritime education is provided by the Hanseatic Marine School (Limassol) and the Cyprus Technical University (Limassol).

5.2 Safety and environmental issues

5.2.1 Implementation of the International Safety Management Code on board vessels
All shipping companies have implemented the International Safety Management (ISM) Code on board their vessels. A large number of shipping companies and all ship management companies also have International Organization for Standardization (ISO) 9000 certification.

5.2.2 Safety rules regarding manning
Cyprus does not have a lengthy and comprehensive body of safety regulations regarding manning.

5.2.3 Special regulations on safety and the environment
Cyprus is party to all international conventions on safety and the environment. The Cyprus Government strongly supports the Cyprus Marine Environment Protection Association (CYMEPA), which actively promotes clean seas.

5.3 Registration

5.3.1 Registration requirements
Vessels of any size and type may be registered in the Cyprus Register of Ships or the Special Book of Parallel Registration as long as they comply with the provisions contained in the merchant shipping legislation and the circulars of Department of Merchant Shipping:

A vessel may be registered under the Cypriot flag if:
- More than 50% of the shares of the ship are owned by (i) Cypriot citizens or (ii) citizens of other EU/EEA Member States (who have appointed an authorized representative in Cyprus).

Or
- The shares of the ship are 100% owned by (i) a company incorporated in Cyprus or (ii) a company incorporated in another EU or EEA Member State (which has appointed an authorized representative in Cyprus or the management of the ship is entrusted to a Cypriot or EU/EEA ship management company having its place of business in Cyprus) or (iii) by a company established outside Cyprus or the EU/EEA controlled by citizens of Cyprus or citizens of EU/EEA Member States (which have appointed an authorized representative in Cyprus or the management of the ship is entrusted to a Cypriot or EU ship management company having its place of business in Cyprus).

5.3.2 Ship registration procedure
The vessel can have a provisional registration followed by a permanent registration. To effect the provisional registration, certain information and documentation must be provided, including details of the ship and the
classification society, as well as documentation concerning the incorporation of the company, its directors and shareholders. The maximum period for provisional registration is nine months with the possibility of a three-month extension. At the time of provisional registration, the vessel must be at a port so that it can be surveyed and certified on behalf of the Cyprus Government. The provisional registration can be effected at Limassol or at any diplomatic mission or consular post of Cyprus.

Permanent registration can be effected by providing certain certificates concerning the vessel and paying the appropriate fees.

5.3.3 Parallel registration
Parallel registration (bareboat) is allowed under Cypriot law, provided that the other country allows parallel registration. Certain requirements must be fulfilled, and specified documentation must be provided.

5.3.4 Requirements for the officers and crew serving on vessels
Safe manning requirements for vessels depend on the gross tonnage of the vessel. Officers and crew must hold a certificate of competence for the post they hold, which may be issued by one of the countries recognized by Cyprus.

5.3.5 International conventions
Cyprus is a contracting party to all International Conventions set up by the International Maritime Organization and a number of International Maritime Labor Conventions.

5.3.6 Mortgages
Mortgages on vessels under the Cypriot flag must be registered with the Registrar of Cyprus Ships, and in the case of a vessel belonging to a Cypriot company, must also be registered with the Registrar of Companies. Fees for the registration of a mortgage are €3.4 cents on every ton up to 10,000 gross tonnage and at the rate of €1.7 cents on every ton in excess of 10,000 gross tonnage.
Denmark

1. Tax

1.1 Tax facilities for shipping companies

Companies operating as shipping companies are, basically, taxed according to the general rules as they apply to Danish companies. Under certain circumstances, shipping companies can elect taxation under the special tonnage tax regime.

1.1.1 Ordinary corporate income tax

As a rule, a company registered in Denmark is liable for tax on its worldwide income. However, income from a foreign permanent establishment and foreign real property is exempt from Danish tax liability, unless the company has elected international joint taxation. In that case, income from all foreign-affiliated companies is included in the Danish joint taxation, which comprises all subsidiaries, permanent establishments and foreign real property owned by the Danish company and, if relevant, a foreign parent company and other foreign-affiliated companies. Joint taxation of all Danish-affiliated companies, permanent establishments in Denmark and Danish real property is compulsory (territorial joint taxation).

Foreign companies whose place of effective management is situated in Denmark will be considered liable for tax in Denmark.

A company taxed according to the general rules must state taxable income based on the profits and losses of the company.

Furthermore, companies can depreciate their assets for tax purposes. Operating equipment and ships are depreciated according to the reducing balance method. The current depreciation rate for operating equipment is 25% maximum. For ships, it is 17% maximum (2014-15), but the rate will be reduced to 15% in 2016. However, for ships with a gross tonnage of at least 20 tons, which are used for commercial transportation of cargo or passengers, the depreciation rate is 12%. Buildings can be depreciated using the straight-line method by 4% of the acquisition cost. Office premises are, however, not deductible unless used in conjunction with premises eligible for depreciation.

The taxable income is taxed at a rate of 24.5%.

1.1.2 Tonnage taxation

Conditions

A company operating as a shipping company can - as an alternative to the above ordinary corporate income taxation - choose to be taxed under the Danish tonnage tax regime. The choice to do so, or vice versa, is binding for a 10-year period. After this period of time, a new decision can be made for another 10-year period.

If the tonnage tax system is opted for, the tonnage tax rules automatically apply to all ships and other assets connected with, or conducive to, the shipping activity of the company. The choice regarding tonnage taxation applies to all affiliated companies meeting the requirements. The auditor must make a statement to this effect in the tax return.

It is a requirement for tonnage taxation that the ships have a gross tonnage of at least 20 gross register tons (GRT) and that they are strategically and commercially operated from Denmark.

Flag requirement

Denmark has implemented the European Union (EU) or European Economic Area (EEA) flag requirements. Under these rules, it is a condition for tonnage taxation that the shipping company retain or increase the percentage of the gross tonnage (only vessels owned by the shipping company) registered in an EU or EEA flag.

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1 The corporate income tax rate will gradually be lowered from 24.5% in the 2014 income year to 22% in the 2016 income year.
country (average valuation over the income year).

However, this flagging condition does not apply if the percentage of the owned gross tonnage registered in an EU or EEA country of all shipping companies that qualify for taxation under the Danish tonnage tax system has not declined (average valuation over the income year). Furthermore, the flagging condition does not apply if the percentage of the owned gross tonnage that qualifies for taxation under the Danish tonnage tax regime registered in an EU or EEA country amounts to at least 60% (average valuation over the income year) of the total gross tonnage of the shipping company in question.

For affiliated shipping companies, the flagging condition applies to all of the group companies as a whole.

If the above flag requirement is not met, the income from the exceeding owned gross tonnage will be taxed under normal corporate income tax rules.

**Taxation**

Income from commercial transportation of passengers and goods is eligible for tonnage taxation. Activities of an auxiliary nature may also be subject to tonnage tax. The European Commission has decided to allow Denmark to apply the tonnage tax regime for seagoing ships to cable-laying and dredging companies.

The taxable income under the tonnage tax regime is not computed based on the profits and losses of the company. Instead, the taxable income is determined for each vessel at the following basic amount per 100 net tons per day, irrespective of whether the vessel is in traffic or not:

<table>
<thead>
<tr>
<th>Total net tonnage</th>
<th>Income per day per 100 tons in DKK (approximates in €)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 1,000</td>
<td>DKK9.14 (€1.2)</td>
</tr>
<tr>
<td>1,001-10,000</td>
<td>DKK6.56 (€0.9)</td>
</tr>
<tr>
<td>10,001-25,000</td>
<td>DKK3.92 (€0.5)</td>
</tr>
<tr>
<td>Above 25,000</td>
<td>DKK2.58 (€0.4)</td>
</tr>
</tbody>
</table>

 *(Rates applicable in 2014)*

It is not possible to deduct expenses or depreciate (for tax purposes) ships and operating equipment subject to tonnage taxation.

Capital gains realized at the disposal of vessels under tonnage tax are exempt from tax, provided that the vessel is included under tonnage tax on 1 January 2007 or later.

_A credit is available for foreign freight tax under certain conditions._

Ships owned by the shipping company, but chartered on a time-charter basis, can only be included in the tonnage taxation scheme if the lessee utilizes the ship for a qualified purpose, i.e., a shipping purpose qualified under the tonnage taxation system.

Ships owned by the shipping company but chartered on a bareboat charter basis can only be included if the reason for leasing the vessel is temporary excess capacity and if the vessel is leased for a maximum three-year period. The auditor must make a statement to this effect in the tax return.

Net financial income is taxed under the ordinary tax rules. Net financial expenses are deductible under the ordinary tax rules but subject to restrictions on tax deductibility.

**Restrictions on chartered vessels**

Vessels hired on a bareboat charter are regarded as own ships for tonnage tax purposes. This also applies to vessels hired on a time charter provided that the charter is concluded for a period of at least one year and not more than seven years, and the lessee is granted a call option to acquire the vessel at the fair market value at the time of the call option.
Moreover, if the gross tonnage available from hired vessels not qualifying as owned ships exceeds the gross tonnage from owned ships by four times, the excess tonnage is taxed under ordinary corporate tax law. The plan is to increase the threshold to 10 times, subject to European Commission approval.

*Entering the tonnage tax regime*

When switching from ordinary taxation to tonnage taxation, the taxable balance on tonnage activities must be calculated. This tax base is added to certain balances (the transitional balances). Subsequent acquisitions of ships, among other things, concerning tonnage activity are added to other balances (settlement balances). Both the transitional balances and the settlement balances are reduced by 12% per year, without, however, any amounts being deductible for tax purposes (the reduction percentage equals the maximum depreciation rate if the tonnage taxation is opted out of). On the sale of a ship, the sales price is deducted from the balance to which the vessel relates. Negative balances are, in principle, subject to tax, but can be settled by new acquisitions or a positive balance on the other balance.

*Shipping management companies*

Shipping management companies may choose to benefit from the Danish tonnage tax regime. They are defined as companies that solely conduct technical and/or crew management regarding ships. Both Danish shipping management companies and shipping management companies resident in other EU Member States with a permanent establishment in Denmark may qualify for inclusion in the Danish tonnage tax regime. It is a condition of qualification that the shipping management company of the shipowner has undertaken complete responsibility regarding the operations of the vessel and all liabilities according to the International Safety Management (ISM) Code. Furthermore, the general conditions (the EU or EEA registration requirement, minimum size of vessels, strategic and commercial management from within an EU Member State) that must be satisfied by shipping companies in order to qualify for Danish tonnage tax also apply to shipping management companies.

Tonnage income and ordinary income, if any, make up the total taxable income of the company, which is taxed at the standard corporate tax rate of 24.5%.

1.2 Tax facilities for seafarers

1.2.1 Resident seafarers

Resident seafarers who are employed on board Danish vessels are, in principle, taxed as Danish residents. However, seafarers on board Danish and foreign vessels outside inbound traffic are entitled to a special annual deduction of DKK56,900 (approximately €7,600).

Additionally, resident seafarers who are employed on board Danish vessels registered in the Danish International Shipping Registry (Dansk International Skibsregister [DIS]) are exempt from Danish tax on income earned on board. Consequently, if seafarers only have income earned on board a vessel registered in the DIS, they are fully exempt from Danish income tax. In addition to the tax exemption, the seafarers receive a cash allowance as compensation for the ordinary tax deductions, for example, for interest expenses.

1.2.2 Nonresident seafarers

Nonresident seafarers working on board Danish vessels outside inbound traffic are taxed at a flat rate of 35.6%, and certain social contributions are included. No deductions are allowed.

Nonresident seafarers who are employed on board vessels registered in the DIS are fully exempt from Danish tax.

1.3 Tax treaties and place of effective management

Denmark has concluded more than 80 tax treaties. The majority of these are based on the OECD model treaty for the avoidance of double taxation.

Given that Article 8 of the OECD model treaty states that profits of a shipping company are taxable only in the state in which its place of effective management is situated, the place of effective management of a shipping company is crucial.
Furthermore, Denmark has concluded double tax treaties, which are limited to profits derived from the operation of ships or aircraft in international traffic.

1.4 Freight taxes
There are no freight taxes in Denmark.

1.5 Special vessel registration benefits for the shipowner
Apart from §1.2.1 concerning the DIS and the tax exemption for crew members, registration of a vessel in Denmark will not entail any special corporate tax benefits for the shipowner.

1.6 Major tax law changes anticipated in 2013
No major change in Danish tax law in relation to shipping companies is anticipated in 2014.

1.7 Indirect tax
The supply and the leasing of seagoing vessels – not leisure boats – with a gross register tonnage of five tons or more are zero-rated for the purposes of value-added tax (VAT). Repair and maintenance services to these vessels and the goods used for the repairs and maintenance are also exempt from VAT.
Furthermore, the supply of goods (e.g., necessary equipment to be used on board) and services to outbound seagoing vessels are, in most cases, zero-rated. Services related to the cargo transported by these outbound seagoing vessels (e.g., loading and unloading) are also zero-rated in most cases.

Zero rating also applies to the transport of goods to or from the EU.
Transport within the EU supplied to a business established in a Member State other than the supplier is subject to reverse charge.
VAT exemption applies to passenger transport carried out with seagoing vessels. However, for inbound ferry services, only the passenger transport itself is exempt from VAT. The accompanying means of transport is considered transport of goods subject to VAT.

1.7.1 Recovery of Danish VAT incurred on costs
In principle, foreign businesses can recover Danish VAT incurred on costs, but only to the extent that VAT can be deducted by businesses registered for VAT in Denmark.

2. Human capital

2.1 Formalities and regulations for employing personnel
The formalities and regulations that have to be met when applying for a job on board the vessel depend on the nature of the job. In general, the following documents are required:

- A medical certificate
- A discharge book
- A contract of employment with a shipping company
- A contract of employment with a vessel

Certificates of competence
As a main rule, seafarers must have a certificate of competence issued by the Danish Maritime Authority, which provides holders opportunities for performing different jobs on board vessels, depending on their qualifications.
Foreign seafarers wishing to apply for a Danish flag state endorsement (recognition certificate) will have to contact a Danish shipping company or its representative in their own country.
An application to the Danish Maritime Authority for a recognition certificate will need to be endorsed by such a company indicating a promise of engagement on board the company's vessel.
When contacting the Danish shipping company or its representative, seafarers will need to present their certificates of competence in the original form and proof of identity (passport or seafarer’s discharge book), along with proof of completed maritime education and training and seagoing service.

2.2 Collective labor law
Collective agreements between ship-owner organizations and trade unions exist. The agreements cover such areas as days off, working hours, employment and termination, sick leave and maternity leave, and strike, lockout and blockade.

2.3 Treaties regarding social security contributions
According to EU Regulation 883/2004, the general rule is that a seafarer working aboard a vessel flying the flag of an EU country should be insured in that country. Additionally, Denmark has entered into bilateral social security agreements with countries outside the EU, and most of these agreements include clauses on seafarers.

2.4 Manning issues with flying the Danish flag
Denmark has strict safety requirements for crewing. Additionally, as mentioned under section 1.2 above, vessels flying the Danish flag may have the possibility of being registered with the DIS, which implies lower salary costs due to the special tax rules for the seafarers on board these vessels.

3. Corporate structure

3.1 Most commonly used legal structures for shipping activities
The most commonly used legal structures for shipping companies are the public limited liability company (Aktieselskab [A/S]) or the private limited liability company (Anpartsselskab [ApS]). Limited liability companies are subject to corporate income tax at a rate of 24.5%.

Limited liability companies engaged in shipping activities may apply for taxation according to the tonnage tax regime. (See section 1.1.2 above.)

Partnerships and limited liability partnerships (pools) are also common legal structures for shipping activities. Such partnerships are transparent for Danish tax purposes. Instead, the partners are taxed proportionally.

3.2 Taxation of profit distribution
As a starting point, dividends are subject to withholding tax at a rate of 27%. However, this rate may be reduced under domestic law and – for dividends paid to nonresidents – according to tax treaties.

As a starting point, no withholding tax is imposed on dividends paid to foreign companies if either of the following requirements is satisfied:

- The shares in the Danish company qualify as subsidiary shares (i.e., company resident in EU/EEA or double tax treaty country owning directly at least 10% of the share capital of the Danish company): no withholding tax is imposed if the withholding tax is reduced according to the EU Parent-Subsidiary Directive (90/435/EEC) or a double tax treaty.
- When the shares in the Danish company do not qualify as subsidiary shares: no withholding tax is imposed if the foreign company is resident in the EU/EEA and the shares qualify as group shares (i.e., direct or indirect control of more than 50% of the voting rights or control by other means) and provided that the withholding tax should have been reduced if the shares had fulfilled the conditions for being subsidiary shares.

However, dividend distributions carried out on or after 1 January 2013 will be subject to withholding tax if the dividend is distributed from a Danish subsidiary to a foreign company and the distribution is deemed a re-distribution of dividends, which the Danish company has itself received from a more than 10%-owned company in another foreign jurisdiction and the Danish company cannot be considered the beneficial owner of the dividend received.
4. Grants and incentives

4.1 Investment incentives for shipping companies and the shipbuilding industry
No tax incentives are available.

5. General information

5.1 Infrastructure

5.1.1 Major ports
The major ports are:
- Aarhus
- Copenhagen
- Esbjerg
- Fredericia
- Kalundborg

5.1.2 Port facilities
Most support facilities are available at these ports.

5.1.3 Airports close to the major ports
Airports are located close to the major ports.

5.1.4 Support services for the shipping industry
All supporting facilities for the shipping industry are readily available in Denmark (e.g., banks with a shipping desk, consulting firms specializing in shipping, maritime law services).

5.1.5 Maritime education
The major maritime educational institutions are:
- Marstal Navigationsskole
- Maritime Training and Education Centre (MARTEC)
- Svendborg International Maritime Academy (SIMAC)

5.2 Safety and environmental issues

5.2.1 Implementation of the ISM Code
The ISM Code has been implemented for ships of 500 GRT or more.

5.2.2 Safety rules regarding manning
The safety rules regarding manning are strict.

5.3 Registration

5.3.1 Registration requirements
Two registration regimes exist for ships in Denmark.

Danish Ordinary Register of Shipping
Passenger ships in domestic shipping, fishing vessels and leisure boats of 20 GRT or more are registered with the Danish Ordinary Register of Shipping. The shipowner must be a Danish citizen or an EU or EEA citizen.

Danish International Register of Shipping (DIS)
Ships of 20 GRT or more may register with the DIS. However, the ships cannot be warships, fishing vessels, boulder dredgers or leisure boats. Ships registered with the DIS cannot transport passengers between Danish ports.
The following are eligible for registration with the DIS:

- Danish citizens, Danish partnerships and Danish companies
- EU or EEA citizens, EU or EEA partnerships, and EU or EEA companies
- Foreign companies if:
  - Danish citizens or companies - pursuant to the merchant shipping act (søloven) - have a direct or indirect capital share in the foreign company of at least 20%.
  - Danish citizens or companies have - through their direct or indirect capital share in the foreign company - a significant influence through voting rights or the like.
  - The foreign company is engaged in shipping as a major activity.

### Registration fees

<table>
<thead>
<tr>
<th>Service</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Builder's certificate</td>
<td>No fees</td>
</tr>
<tr>
<td>Bill of sale</td>
<td>1% of the purchase price</td>
</tr>
<tr>
<td>Bareboat charter</td>
<td>No fees</td>
</tr>
<tr>
<td>Mortgage</td>
<td>1% of the amount secured</td>
</tr>
</tbody>
</table>

**Annual fee**
The fee is calculated on the basis of the ship's GRT.

- GT 20–500: DKK1,600
- GT above 500: DKK2,400

**Other fees**

- Certificate of Nationality: no fee
- Registration and deletion certificate, official transcripts: DKK175 each

Ships registered with the DIS are entitled to fly the Danish flag and shall be subject to Danish law.

See also section 1.2 for favorable tax treatment of seafarers employed on board vessels registered in DIS.

### 5.4 Links to relevant websites

- http://www.dma.dk (Danish Maritime Authority)
- http://www.shipowners.dk (Danish Shipowners’ Association)
Dominican Republic

1. Tax

1.1 Tax facilities for shipping companies

Corporate income tax

The tax rate is 28%\(^1\) on net income generated from a Dominican Republic (DR) source.

For foreign transportation entities carrying out services from the DR (i.e., shipping or aircraft), corporate income tax is determined based on presumed income. The Dominican Tax Code (DTC) establishes that DR-sourced income obtained by foreign transportation companies on operations carried out from the DR to other countries is equivalent to 10% of the total gross income received from fares for passengers and cargo.

Deductible expenses

As a general rule, deductible expenses from the gross taxable income are allowed when incurred with the sole purpose of maintaining and obtaining such income.

Withholding taxes

All payments made abroad on income from DR sources are subject to a withholding tax at the corporate income tax rate of 28% (for 2014).

Remarks:

- Withholdings in the DR are based on the gross amount of payments made abroad.
- When the beneficiary is a Canadian entity, the withholding tax is reduced to 18% (see section 1.3).

Interest payments from loans contracted with nonresident individuals or entities are subject to a 10% withholding tax instead of 28%.

In accordance with the DTC, presumptions are made regarding the net income of certain entities (e.g., shipping companies), when net income cannot be determined. For foreign transportation entities whose operations are carried out from the DR to other countries, 10% of the total gross income received from tickets and cargo fares is presumed as its net income from a DR source; it is therefore subject to a 28% withholding tax, which is the equivalent of a 2.8% gross income tax.

Value-added tax

The applicable tax rate on the transfer of industrialized goods and services (ITBIS for the Spanish acronym) is 18%. Pursuant to the DTC, the ITBIS applies to:

- The transfer of industrialized goods
- The importation of industrialized goods
- The rendering of services

In general, air and maritime transportation services for individuals and merchandise within the DR territory are subject to ITBIS. In addition, air or maritime transportation services for individuals from the DR to abroad or vice versa, are subject to ITBIS if the tickets are acquired in the DR or if the tickets are acquired abroad and the service initiates in the DR.

Notwithstanding the above, pursuant to Section 14 of the ITBIS Regulation (Decree 293-11), ground transportation services for individuals and cargo within the DR territory and freight, air or maritime transportation of goods from the DR to abroad are ITBIS-exempt.

Excise tax

Shipping services are exempt from excise tax.

1.2 Tax facilities for seafarers

\(^1\) The tax rate is 28% for 2014. For 2015 and beyond the tax rate is 27%.
According to Section 287 of the DTC, the wages paid to seafarers are deductible for income tax purposes as long as they are necessary for keeping or maintaining the income generated. There are no other tax facilities for seafarers in the DR.

1.3 Tax treaties and place of effective management
On 6 August 1976, the DR and Canada signed a tax treaty to avoid double taxation and prevent tax evasion with respect to taxes on income and capital. Currently, this is the only tax treaty in force.

A second tax treaty has been agreed between the DR and Spain. However, this treaty has not entered into force as it has not been ratified by the National Congress.

According to Articles X, XI and XIII of the tax treaty between the DR and Canada, the applicable tax rate on dividends, interests and capital gains is reduced from 28% to 18%. Article VIII of the treaty establishes the following regarding the tax treatment applicable to shipping and air transport:

> The treaty notes that “Profits derived by an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.”

> Further, the treaty notes that “Profits from sources within a Contracting State derived by an enterprise of the other Contracting State from the operation of ships or aircraft in international traffic may be taxed in the first mentioned State.” However, this charged tax should not exceed the lesser of:

  - Four percent of the gross income derived from sources in that state
  - The lowest rate of DR tax imposed on such profits derived by an enterprise of a third state

On the other hand, once effective, the tax treaty with Spain would establish, in accordance with Article VIII of the DR-Spain treaty, that the charged tax should not exceed 2.5% of the gross income obtained from sources in the state being charged - the lowest rate levied by a treaty with a third-party state. Additionally, the previously mentioned rules also apply to income derived from participation in a pool, joint business or international operating agency.

The place of effective management regarding taxation of shipping companies is not the main issue in any of the above mentioned tax treaties.

1.4 Freight taxes
There is no special disposition regarding freight taxes in the DR. However, the cost of freight (as well as the cost of insurance) is added to the taxable base to determine the customs tax on imported goods.

1.5 Special vessel registration benefits for the shipowner
Currently, there are no special tax benefits for shipowners. Prior to the enactment of the DTC, there was a law that regulated certain tax benefits (e.g., exemptions, specially admitted deductions). The DTC has overruled said law and has not established any other benefits for shipowners in the DR.

1.6 Major changes to tax law anticipated in the near future
No major tax legislation changes regarding shipping are anticipated in the near future. However, the tax treaty signed with Spain may enter into force. The National Congress is also evaluating a bill regarding the General Custom Regulation, which will provide a more detailed regulation regarding shipping transportation.

2. Human capital

2.1 Formalities and regulations for employing personnel
Taxes on individuals
Local tax legislation establishes two different methods for paying individual taxes on income received from a DR source:

> An annual individual income tax return (Form IR-1) due 31 March

Or...
• Payroll withholding income tax from monthly salary and any other cash compensation, payable to the local Internal Revenue Service within 10 days following the end of the month through the Social Security System website

As established in Section 296 of the DTC, DR-resident employees are taxed at annual tax rates that are adjusted by taking into account the accumulative inflation rate of the previous year. However, according to Section 296 (II) of the DTC, these rates should not be adjusted by inflation for fiscal years 2014 and 2015.

For tax purposes, those individuals who remain in the country for more than 182 days during the fiscal period, continuously or not, are considered Dominican residents (Section 12 of the DTC).

Wages received by foreign employees for their work in the DR are subject to income tax from day one, regardless of where the employer is located or if the employees receive their salaries abroad.

Registration formalities

Entities established in the DR should register and formalize all labor contracts for foreign employees in writing with the Ministry of Labor, accompanied by a copy of the employee’s work visa, as established in Resolution 25/2001 issued by the Ministry of Labor.

The registration process should take place within three days from the date of the signature. The employer must provide the following employee information to the Ministry of Labor: salary, name, nationality, gender, occupation and identity number.

This information should be filed through cost-free forms provided by the Ministry of Labor.

Foreign personnel

According to Section 135 of the Dominican Labor Code (DLC), at least 80% of the employees of an entity rendering services in the DR, including branches of foreign entities, should be Dominican nationals. However, according to Section 138 of the DLC, this provision does not apply to:

- Positions with executive or managerial duties
- Technical positions, if the Ministry of Labor preapproves such designation
- Positions in a small family business
- Foreigners married to Dominican nationals with more than three years of uninterrupted continuous residence in the DR and more than two years of marriage
- Foreign employees with Dominican children and more than five years of uninterrupted continuous residence in the DR

Christmas bonus

In addition to the ordinary salary, entities should grant an extra salary at the end of the year, which is commonly known as the Christmas bonus. Employees who have not worked the entire year are also entitled to the Christmas bonus in proportion to the time they have been working with the entity.

Participation on profits

According to Section 223 of the DLC, it is mandatory for a legal entity in the DR to grant a profit participation equivalent to 10% of its annual net profits to all of its permanent employees.

Employees with less than 3 years of service should receive no more than the equivalent of 45 days of salary, and those employees with more than 3 years of service should not receive more than the equivalent of 60 days of salary.

The following entities are exempt from this profit participation requirement:

- Agricultural, agro-industrial, industrial and mining entities during the first three years of operation, if not previously agreed with the employees
- Agricultural entities whose capital does not exceed DOP$1 million
- Free trade zone beneficiaries

Technical education tax
A payroll-based contribution is imposed on employees and employers toward the financing of a program for the technical instruction and training of workers. The contribution is 1% of total monthly payroll for employers and 0.5% on bonuses received for employees.

Severance payment

Severance payment, due in the case of termination of the labor contract, varies depending on the duration of the employment contract as shown below (DLC Section 80). When applicable, any sums owed by the employer must be paid within 10 days of the termination of the contract (DLC Section 86). Noncompliance entails a penalty of one day of salary for every day of delay (DLC Section 86).

<table>
<thead>
<tr>
<th>Time employed</th>
<th>Severance payments</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 to 6 months</td>
<td>6 days of salary</td>
</tr>
<tr>
<td>6 to 12 months</td>
<td>13 days of salary</td>
</tr>
<tr>
<td>1 to 5 years</td>
<td>21 days per year</td>
</tr>
<tr>
<td>Over 5 years</td>
<td>23 days of salary per year</td>
</tr>
</tbody>
</table>

2.2 National labor law

According to Principle IV of the DLC, laws concerning work are based on a territorial principle, and such laws apply to Dominican nationals and foreigners, except for some exceptions admitted in international treaties; therefore, its regulations apply to permanent establishments of foreign entities as long as a labor relationship takes place in Dominican territory.

According to Section 288 of the DLC, labor regulations will apply to crew members when the work being provided (object of the labor contract) is provided on board travel or commercial ships registered with the port authorities.

2.3 Collective labor law

Contract term

The labor contract between employer and crew members can be for a fixed term, indefinite term or based on the number of trips.

Whether the term agreed by the parties involved is limited or unlimited, the contract must establish where the employee’s last destination must be.

If the labor contract was agreed based on the number of trips, then the employer is obliged to return the employee to the port of the place of residence. Additionally, such a labor contract cannot be terminated during the trip (when the vessel is traveling), unless the vessel is registered as Dominican and in the middle of a trip, it changes its nationality.

Minimum wage

Local legislation does not establish a special minimum wage for the shipping industry, so the standard minimum wage applies. However, the DLC clearly establishes that this wage (whatever amount is determined by the corresponding authorities) can be requested to be paid in the currency of the port where the ship will arrive.

According to the National Wage Committee, the current minimum wage for workers ranges from DOP$6,880 to DOP$11,292 monthly (average of US$211).

Non-labor days

The captain of the ship determines which days will be considered free of work for each crew member, and the captain may deny free days if the crew member’s service is needed for the proper working of the vessel.

Rules regarding working hours
The rules regarding working hours will differ according to the working position held by the employee:

- An officer or a junior staff member employed by an international coaster in the deck, engine and communications areas must not exceed:
  - Twenty-four hours for each period of two days while the ship is at sea
  - Eight hours per day while the ship is in port

- Officers and members employed on board ships in the deck, machinery and communications areas should not exceed eight hours per day while at sea.

- The catering department (of a passenger vessel) must not exceed:
  - Ten hours during a period of 14 hours when the ship is at sea and in the days of sailing and arrival and when the vessel is in port, with passengers are on board
  - Eight hours per day when the vessel is in port and passengers are not on board

- The working day of the catering department of a ship shall not exceed:
  - Nine hours during a period of 13 hours while the ship is at sea and in the days of arrival and sailing
  - Eight hours during a period of 12 hours when the ship is in port

- If the captain of the vessel requires members of its crew to work on the weekly day off, as provided in Section 306 of the DLC, working hours should not exceed:
  - Time required for the execution of the work for checking or cleaning, with a maximum of two hours
  - Five hours in the case of persons employed in the kitchen or the dining rooms of a passenger vessel

Overtime will be paid according to each hour or fraction incurred in addition to ordinary work. The overtime incurred should not exceed a total of 68 hours per week including overtime and will always be paid a minimum of 135% of what the regular hour for the corresponding employee ordinarily costs.

According to Maritime Labor Regulation, the following circumstances are not considered overtime:

- Work that the captain deems necessary or urgent for the safety of the ship, cargo or the persons on board
- Work required by the captain to aid other ships or others in danger
- Work simulation for fire, rescue and similar drills
- Work required for customs formalities, quarantine or other formalities of a sanitary nature
- Extra time required for the normal relieving of the guards

**National health insurance and social security**

**Local personnel**

All Dominican citizens and legal residents have the right to be a part of the social security system. Law 87-01 regulates and develops the rights and duties of citizens and the state regarding funds for protection against the following risks:

- Old age
- Physical impairment
- Illness
- Motherhood
- Childhood
- Labor risk

The table below establishes the percentages that must be contributed by the employer and the employee on a monthly basis.

<table>
<thead>
<tr>
<th>Since August 2008</th>
<th>Employer</th>
<th>Employee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pension</td>
<td>7.10%</td>
<td>2.87%</td>
</tr>
<tr>
<td>Health</td>
<td>7.09%</td>
<td>3.04%</td>
</tr>
</tbody>
</table>

This table also applies to foreign employees.
**Foreign employees**

According to Section 5 of Law 87-01, foreign employees working in foreign companies established in the DR may be excluded from the social security system if they are already covered by their home country's social security system. Therefore, foreign companies should have the documentation that properly demonstrates that such employees are covered by their home country's social security system.

Employees should be registered with the Social Security Treasury, as established in Law 87-01. The filing of the report establishing the withholding and the income tax should be made on a monthly basis through the Social Security Treasury’s website.

**Labor risks**

Labor risks are part of the services covered by the social security system. The Labor Risk Administrator is required to cover damages caused during labor hours, on the way to work and/or due to illness related to labor functions.

The employer must comply with the following obligations:

- Register its workers
- Notify the Labor Risk Administrator about the employees’ salaries and their modifications
- Remit the contributions to the Labor Risk Administrator

If in violation of the obligations noted above, an employer is liable for all harm caused to the employee, as well as for other actions that could be presented against the employer.

As established in Section 7 of Law 87-01, the Labor Risk Administrator determines the tariffs and assigns each employer the amount of its contribution according to the risk level of the company, which ranges from 1% to 1.6% of salary per employee.

**2.4 Treaties regarding social security contributions**

Currently, there is only one agreement regarding social security regulations with Spain.

**2.5 Manning advantages/disadvantages of flying the Dominican flag**

The law does not establish any advantages or disadvantages of flying the Dominican flag. The Dominican flag should be raised by the time of arrival at port and maintained until its departure. The flag should not bear its coat of arms.

**3. Corporate structure**

**3.1 Most commonly used legal structure(s) for shipping activities**

The most common legal structure for shipping activities is the limited liability company. Refer to section 1.1 for the average tax rate paid by shipping companies using this structure.

**3.2 Taxation of profit distribution**

Cash-paid dividends or profits remitted by a local branch to its headquarters abroad incur a withholding tax of 10%, in accordance with DTC Section 308.

Law 16-95 allows the foreign investor, without previous authorization from the Central Bank, to remit abroad all capital invested and dividends obtained, after fulfilling the corresponding tax obligations.

**4. Grants and incentives**

**4.1 Specific and/or general subsidies available to shipping companies**

In the DR, there are no general subsidies available to shipping companies. However, according to Law 158-01, certain tax incentives are available for shipping companies related to the tourism business in...
4.2 Investment incentives for shipping companies and the shipbuilding industry
Other than the incentives of Law 158-01, currently there are no investment incentives in the DR for shipping companies.

4.3 Special incentives for environmental awareness
According to Law 64-00, which regulates the use and protection of the environment and natural resources, investments made to protect the environment and the sustainable use of the country's natural resources are eligible for incentives. These incentives may vary depending on the circumstances, but in general they consist of partial or total exemptions on certain taxes, such as import duties and value-added tax, as well as shorter periods of depreciation for income tax deduction purposes.

4.4 Advantages and disadvantages of flying the Dominican flag
Flying the Dominican flag is a mandatory activity that must be done when a foreign vessel enters Dominican territory, but the law gives no advantages or disadvantages for raising the Dominican flag.

4.5 Major changes in shipping subsidy legislation anticipated in the near future
There are no current bills or upcoming laws regarding subsides for shipping companies in the near future.

5. General information

5.1 Infrastructure

5.1.1 Major ports

<table>
<thead>
<tr>
<th>Name of port</th>
<th>Location of airport</th>
<th>Name of airport</th>
</tr>
</thead>
<tbody>
<tr>
<td>Port Arroyo Barril</td>
<td>Samaná</td>
<td>Juan Bosch International Airport (AZS) or “El Catey”</td>
</tr>
<tr>
<td>Port of Azua</td>
<td>Azua</td>
<td>N/A</td>
</tr>
<tr>
<td>Port of Barahona</td>
<td>Barahona</td>
<td>Maria Montez International Airport (BRX)</td>
</tr>
<tr>
<td>Port of Boca Chica</td>
<td>Boca Chica</td>
<td>N/A</td>
</tr>
<tr>
<td>Port of Cabo Rojo</td>
<td>Pedernales</td>
<td>N/A</td>
</tr>
<tr>
<td>Port of Haina Oriental</td>
<td>Haina</td>
<td>N/A</td>
</tr>
<tr>
<td>Port of La Romana</td>
<td>La Romana</td>
<td>La Romana International Airport (LRM)</td>
</tr>
<tr>
<td>Port of Manzanillo</td>
<td>Monte Cristi</td>
<td>N/A</td>
</tr>
<tr>
<td>Port Multimodal Caucedo</td>
<td>Santo Domingo</td>
<td>Las Americas International Airport (SDQ)</td>
</tr>
<tr>
<td>Port of Puerto Plata</td>
<td>Puerto Plata</td>
<td>N/A</td>
</tr>
<tr>
<td>Port of San Pedro de Macorís</td>
<td>San Pedro de Macorís</td>
<td>N/A</td>
</tr>
<tr>
<td>Port of Santo Domingo</td>
<td>Santo Domingo</td>
<td>Las Americas International Airport (SDQ)</td>
</tr>
</tbody>
</table>
Details of ports

Arroyo Barril
Dock length: 229.5 meters
Dock depth: 36 feet

Azua
Dock length: 185 meters
Dock depth: 9.14 meters
Dock width: 38 meters

Barahona
Dock length:
• 216 meters
• 137 meters
• 160 meters
• 146 meters
Dock depth: 10.8 meters

Boca Chica
Dock length: 615 meters
Dock depth: 7.62 meters

Cabo Rojo
Dock length: 100 meters

Haïna
Dock length: 3,044 meters
Dock depth: 28–35 feet
Maneuvering circle: 300 meters

La Romana
Dock length: 615 meters
Dock depth: 7.97 meters

Manzanillo
Dock length: 227 meters
Dock depth: 48 feet

Multimodal Caucedo
Deck length: 622 meters
Containers area: 50 acres
Containers capacity: around 40,000 TEUs (for refrigerated containers, 336 meters)

Puerto Plata
Dock length: 410 meters
Dock depth 9.16 meters
Maneuvering circle: 400 meters

San Pedro de Macorís
Dock lengths:
5.1.2 Port facilities
- Maintenance and repair facilities
- Docking facilities
- Storage facilities
- Cranes for every size of vessel

5.1.3 Airport(s) close to the major port(s)
Refer to section 5.1.1.

5.1.4 Support services for the shipping industry
- Consulting firms specialized in shipping
- Maritime law services
- Insurance brokers for the shipping industry

5.1.5 Maritime education
The Dominican Republic Navy is the only institution that provides maritime education for military purposes.

5.2 Safety and environmental issues

5.2.1 Implementation of the International Safety Management Code
There is no special regulation that allows for the implementation of the International Safety Management (ISM) Code. However, most shipping companies in the DR have commercial relations with the US; therefore, the implementation of safety measures in vessels are looked at more rigorously.

5.2.2 Safety rules regarding manning
In theory, the safety rules are moderately strict, as law and regulations provide general safety measures that vessels and maritime transportation devices should follow. However, corresponding authorities often do not enforce these regulations with appropriate attention, making safety measures in practice less strict than they should be.

5.2.3 Special regulations on safety and the environment
The following are special regulations for safety:
- Code for the Protection of Vessels and Port Installation (PBIP)
- Business Anti-Smuggling Coalition (BASC)
- Container Security Initiative (CSI)
- Maritime Transportation Security Act (MTSA - 2002)
Although most of these regulations are international regulations or, in general, regulations from other jurisdictions, they are applicable in the DR because most vessels seek to comply with US safety requirements.

5.3 Registration

5.3.1 Registration requirements
There are no special registration requirements in the DR for flying the country's flag.

5.3.2 Ship registration procedure
Vessels arriving to the DR should be announced by their freight forwarder, who is in charge of organizing a vessel's arrival and departure.

The freight forwarder must inform the port authorities about the incoming vessel (i.e., time of arrival, date of departure, general information about the vessel).

Subsequently, at the vessel's arrival, the responsible individual will have to file a registration form with the port authorities stating the following information:

- Name and identification (ID) of the vessel's captain
- Name and ID of each crew member
- Detailed information about the goods being transported, including a description of the weight, nature and quantity, as well as certain information necessary to comply with the country's anti-money-laundering rules
- Place of departure of the vessel
- Further destination after the DR
- Name of the owner of the vessel
- Name of the freight forwarder

According to international regulations, the DR is not allowed to issue any kind of local license for ships. In order to issue any kind of registry, countries must comply with certain international requirements, which the DR has not fulfilled.

5.3.3 Parallel registration
There are no regulations that provide for the possibility of parallel registration.

5.3.4 Requirements for officers and crew serving on vessels
According to local legislation, officers and crew serving on vessels, when registering the ship for its arrival, will be required to provide information and documentation (i.e., marine ID or equivalent) without prejudice to the nationality of the crew member. The marine ID is considered by local legislation and authorities to be the ID that proves that the mariner's technical abilities and knowledge have been approved by the mariner's local government.

5.3.5 International conventions regarding registration
The DR has signed several international conventions regarding maritime regulation, such as the Convention on Facilitation of International Maritime Traffic (FAL 65), the International Convention for the Safety of Life at Sea (SOLAS) and the Operative Network of Regional Co-operation on Maritime Matters in Central America and the Dominican Republic (ROCRAM-CA). The DR is also a member of the International Maritime Organization (IMO). However, the DR has yet to enact local regulations for the correct applications of the international regulations.

The DR has also agreed to a series of bilateral agreements, including the Central America Free Trade Agreement (CAFTA) signed with the US and the Caribbean Forum (CARIFORUM) signed with the European Union.

5.3.6 Special requirements and rules relating to registration
Law 603-77 regulates mortgages on any type of ship or vessel. Ship mortgages need to be registered with the port authorities (i.e., the Ministry of State of Industry and Commerce and the General Directorate of Commercial Marine).

In general, the law states:

- A ship mortgage will always be conventional or accorded between the parties.
- The contract that supports the mortgage will need to include:
- Name, surname, profession and residence of the debtor
- Quantity of the credit that constitutes the mortgage (including interests and taxes)
- Date when payment is due and details of the interests that might apply to the credit
- Details of the ship (i.e., name, distinctive characteristics, complete description, number and date of inscription)
- Value or appreciation of the ship at the time of the mortgage
Estonia

1. Tax

1.1 Tax facilities for shipping companies
There are no specific tax facilities for shipping companies in Estonia. However, resident companies and permanent establishments of nonresident companies in Estonia are not subject to corporate income tax (CIT) on undistributed profit, because only distributed profit (usually in the form of a dividend) is subject to CIT. The expenses that are not deductible in a traditional system (e.g., fringe benefits, gifts, donations, representation expenses, expenses and payments not related to business) are taxable in Estonia as profit distribution. CIT at the rate of 21% from the gross amount (i.e., the net amount multiplied by 21/79) is applied to the aforementioned payments and to profit distribution.

Free catering provided by the employer, which, as a rule, is subject to tax as a fringe benefit, is exempt from fringe benefit tax if the daily cost of meals does not exceed €6 per ship crew member.

1.2 Tax facilities for seafarers
There are no special tax facilities for seafarers. Nonresident natural persons from the European Economic Area (EEA) who receive more than 75% of their annual taxable income from Estonia and resident natural persons can deduct from their taxable income a basic annual tax exemption of €1,728, and also housing loan interest, donations and contributions to pension funds, among other costs within specified limits.

The flat income tax rate for natural persons in 2014 is 21%, but as of 2015, it will be 20%.

1.3 Tax treaties and place of effective management
Estonia has effective double taxation avoidance agreements regarding income and capital taxes with 56 countries (the list continues to expand):

Albania, Armenia, Austria, Azerbaijan, Bahrain, Belarus, Belgium, Bulgaria, Canada, China, Croatia, Czech, Republic, Cyprus, Denmark, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, India, Ireland, Isle of Man, Israel, Italy, Jersey, Kazakhstan, Korea (ROK), Latvia, Lithuania, Luxembourg, Macedonia, Malta, Mexico, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Serbia, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Thailand, Turkey, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom, United States of America, Uzbekistan.

According to the Estonian Income Tax Act, resident companies are companies registered (effectively the same as incorporated) in Estonia. The business entities of Estonia are regulated by the Estonian Commercial Code. European public limited liability companies and cooperative societies that have their registered office in Estonia are deemed to be taxable Estonian residents.

Estonia's tax treaties are based on the Organisation for Economic Cooperation and Development (OECD) model tax convention; as such, exclusive taxing rights are conferred on the state of registration (even if the place of effective management is not the state where the enterprise operating the ships is located).

1.4 Freight taxes
Estonia does not levy freight taxes.

1.5 Special vessel registration benefits for the shipowner
There are no special tax benefits other than the general non-taxation of retained profits of resident legal persons and permanent establishments of nonresidents (see section 1.1).

1.6 Major changes to tax law anticipated in the near future
Corporate and personal income tax rates will be decreased to 20% in 2015.
2. Human capital

2.1 Formalities and regulations for employing personnel
The acts that regulate employment relationships (primarily the Employment Contracts Act), together with the specifications provided for in the Seafarers Act, apply to employing personnel working on ships. The Seafarers Act shall be applied as first priority, and in the matters not regulated by either Employment Contracts Act or the Seafarers Act, other regulative acts shall be applied.

The Seafarers Act provides specifications relating to employment relationships of persons working on ships registered in the Estonian Ship Register or the register of bareboat chartered ships.

The parties to a seafarer's contract of employment are a crew member and a shipowner or another employer.

A seafarer's contract of employment is an agreement between a shipowner or another employer and a crew member under which the crew member undertakes to work in the interests of the shipowner in subordination to the management and supervision of the shipowner, and the shipowner undertakes to remunerate the crew member for such work and to provide such working conditions as are prescribed by law, other legislation, the seafarer's contract of employment or collective agreement and by agreement between the parties.

If a crew member has to commence employment on a ship that is not located in the place where the seafarer's contract of employment is entered into, the shipowner shall, at the shipowner's expense, make travel arrangements for the crew member to reach the location of the ship and provide the crew member with food and accommodation during the journey.

The costs of returning a crew member sent to a health care institution due to illness or injury to the ship together with the expenses for food and accommodation during his or her return journey shall also be borne by the shipowner.

Special regulations have also been provided for requirements of accommodating, catering and counting the working and rest time of the ship's crew.

2.2 National labor law
The Seafarers Act, jointly with the Employment Contracts Act, shall apply to employing personnel working on ships. In addition, if the ship's crew is assigned under collective agreement, the Collective Agreements Act shall also apply.

As the terms and conditions of a seafarer's contract of employment have been intricately described in the Seafarers Act, the Employment Contracts Act shall apply only in circumstances not described therein.

The Private International Law Act also applies in cases where a legal relationship is connected with the law of more than one state. The main principles for the choice of applicable law are:
• Employment contracts shall be governed by the law of the state agreed upon by the parties however, the choice of law must not have the result of depriving the employee of the protection afforded to the employee by the mandatory rules of the law of the state that would be applicable in case of the absence of a choice of law.
• In the absence of a choice of law, an employment contract shall be governed by the law of the state, where:
  • The employee habitually carries out the work in the performance of the contract, even if the employee is temporarily employed in another state
  • The place of business through which the employee was engaged is situated, if the employee does not habitually carry out its work in any one state

If it becomes evident from all the circumstances that the employment contract is more closely connected with another state, then the law of such other state applies.

2.3 Collective labor law
The Collective Agreements Act is in place to determine the legal basis for entry into and performance
of collective agreements. A collective agreement is a voluntary agreement between employees, or a union or federation of employees, and an employer or an association or federation of employers, as well as state agencies or local governments, which regulates labor relations between employers and employees, concluded for the term of one year, unless the parties agree otherwise.

With a collective agreement, the parties may agree to the conditions of working, rest time, occupational health and safety, suspension, amendment and termination of an employment contract, and the rules for calculating the continuous length of employment with the same employer, as well as the conditions and procedure for layoff of employees and guarantees in the event of layoff.

A collective agreement entered into by the parties may also determine the minimum wage and the procedure for amending it based on rises in the cost of living, additional employment guarantees and additional measures providing assurance regarding occupational health and safety.

2.4 Treaties regarding social security contributions
As Estonia is a European Union (EU) Member State, the provisions of the Council Regulation (EC) No. 883/2004 of 29 April 2004, on the application of social security schemes to employed persons, self-employed persons and members of their families moving within the community should be followed.

Estonia has also entered into an agreement on social security (a totalization agreement) with Ukraine (since 1 June 2002) and Canada (since 1 November 2006).

2.5 Manning issues with flying the Estonian flag
There are no manning issues with regard to flying the Estonian flag.

3. Corporate structure

3.1 Most commonly used legal structures for shipping activities
The most commonly used legal structures for the operation of shipping activities are the public limited liability company and the private limited liability company. In particular cases, a partnership is used. In some cases, nonresident companies prefer to set up a branch as well.

In all of the legal structures mentioned above, the taxation follows the same provisions (i.e., a 21% income tax on gross amount shall be levied on profit distribution (see subsections 1.1 and 3.2)).

3.2 Taxation of profit distribution
Resident companies and permanent establishments of nonresident companies in Estonia are not subject to CIT when the profit is earned, but when the profit is distributed (usually in the form of a dividend).

However, the expenses that are not deductible in a traditional system (e.g., fringe benefits, gifts, donations, representation expenses, expenses and payments not related to business) are taxable in Estonia. Resident companies and permanent establishments of nonresident companies have to pay CIT on profit distributions (i.e., dividends).

CIT at the rate of 21/79 is applied on the net amount of such payments (i.e., 21% on the gross amount). Consequently, a company’s tax liability arises when it makes distributions, not when the profits are earned. The transfer of profit from a permanent establishment to its head office or to other nonresidents is also treated as a taxable distribution.

4. Grants and incentives

4.1 Specific and/or general subsidies available to shipping companies
There are no general subsidies for shipping companies. Subsidies may be available in cases where a shipping
company provides transportation services as the result of winning a public procurement.

4.2 **Investment incentives for shipping companies and the shipbuilding industry**
There are no specific investment incentives for shipping companies or for the shipbuilding industry. An indirect incentive is derived from the specific nature of the Estonian taxation policy (as specified in 1.1).

4.3 **Special incentives for environmental awareness**
There are no special incentives specific to the shipping industry; however, there is an incentive called the Environmental Deed and environmentally-friendly company of the year award that was introduced by the Ministry of the Environment. This award not only addresses shipping companies, but also commends outstanding performances connected with environmental protection, and is intended to identify organizations that have been most concerned with environmental issues.

4.4 **Issues with flying the Estonian flag**
There are no issues regarding subsidies and grants when flying the Estonian flag.

Vessels shall fly under the Estonian flag if owned by:
- Estonian citizens resident in Estonia
- General and limited partnerships that are located in Estonia and in which Estonian partners have a majority of votes
- Other legal persons in private law who are located in Estonia and in the management boards or equivalent bodies of which Estonian citizens form the majority

Vessels with the right to fly under the Estonian flag:
- Seagoing vessels owned by Estonian citizens
- Seagoing vessels in common ownership may fly the national flag of the Republic of Estonia if the larger share of the seagoing vessel is co-owned by Estonians
- A seagoing vessel that is the object of shared succession may fly the national flag of the Republic of Estonia if the larger share of the succession is owned by Estonian citizens or Estonian legal persons who have inherited the seagoing vessel in common

*The captain of a seagoing vessel for which a paper of nationality has been issued must be an Estonian citizen.*

4.5 **Major changes in shipping subsidy legislation anticipated in the near future**
No major changes are expected.

5. **General information**

5.1 **Infrastructure**

5.1.1 **Major ports**

Estonia is geographically in a favored location open to the Baltic Sea, enabling close access to Germany, Scandinavian countries and the Russian Federation, which is an international transit hub. A number of major Estonian harbors are navigable year round and easily approachable with depths of up to 18 meters, enabling them to receive all vessels that are able to pass the Danish Straits.

Some of the major ports are:
- Port of Tallinn - consists of five harbors, two larger and three smaller ones - Old City, Muuga, Paldiski South, Paljassaare and Saaremaa. Additional information: http://www.portoftallinn.com
- Bekker Port - a privately-owned port operating on the Kopli Peninsula, Tallinn. Information on the port's infrastructure, transportation connections and traffic statistics is available at the following website: http://www.tallinnbekkerport.com/?lang=eng
- Paldiski Northern Port - a privately-owned port that specializes in handling general cargo, dry bulk, rolling cargo and containers. The port is situated 50km west of Tallinn. Additional information: www.
Port of Paldiski.ee
- Port of Sillamäe – a privately-owned port that is the most eastern deepwater port in Estonia and in the EU, situated 25km from the EU-Russian border. Additional information: http://www.silport.ee
- Saarte Liinid – maintains and develops harbors in Western Estonia and on the Estonian islands to ensure navigation between them. Additional information: http://www.saarteliinid.ee/eng
- TransCom – a privately-owned holding company operating the Pärnu seaport and Tartu river port. Additional information: http://www.transcom.ee/index_eng.html

5.1.2 Port facilities
Among others, the following support facilities are available in these ports:
- Maintenance and repair
- Docking
- Freight forwarding
- Towing
- Waste handling
- Storage and terminals (e.g., liquid bulk cargo, oversized cargo, roll-on, roll-off)
- Cranes for every size of vessel
- Business incubation services at ports

There are a number of industrial parks at ports with all necessary connections up to plot borders (water, sewerage, gas, power and telecommunications). In addition, there are three Free Zone Areas in Estonian ports: Muuga, Paldiski Northern and Sillamäe Harbors.

5.1.3 Airports close to the major ports
There is only one true international airport in Estonia: Tallinn Airport. The Port of Tallinn is the closest port (10km) to Tallinn Airport.

5.1.4 Railway network
The total length of railway lines in Estonia is 1,200 km. All bigger towns and centers are united through the railway network, which covers the whole mainland part of Estonia. This creates good prerequisites for the development of both passenger and freight transport on railway.

One of the shortest transit corridors uniting the Russian Federation and the Commonwealth of Independent States (CIS) countries and Europe passes through Estonia. Together with ports, the railway comprises an important infrastructure for the Estonian economy.

The main part of the goods volume transported on the railway is transit goods that are transported from Russia to western countries.

The majority of transit cargo is handled by railways that use the same 1520mm gauge standard as the Russian Federation and CIS countries, as well as Finland. A number of large ports are integrated into the railway network, offering quick and cost-efficient cargo transport opportunities across regions with the same gauge standard.

5.1.5 Support services for the shipping industry
Among others, the following supporting facilities for the shipping industry are easily available:
- Maritime law services
- Insurance brokers for the shipping industry
- Cargo handling services
- Bunkering services
- Stevedore services
- Chandler services
5.1.6 Maritime education
The main maritime educational institutions in Estonia are the:
- Estonian Maritime Academy: http://www.emara.ee/?id=831
- Nautical College of Estonian Maritime Academy: http://www.merekool.ee/

5.2 Safety and environmental issues

5.2.1 Implementation of the International Safety Management Code
The implementation of the International Safety Management (ISM) Code aboard vessels depends on the vessel’s displacement tonnage. Wherever implementation of the ISM Code is required, the companies concerned comply. As of 1 July 1996, the regulation is mandatory for seagoing passenger roll-on, roll-off (Ro-Ro) ferries operating a regular service to or from a port of an EU Member State. On 11 January 2006, the Agreement Concerning Specific Stability Requirements for Ro-Ro Passenger Ships Undertaking Regular Scheduled International Voyages Between or to or From Designated Ports in North West Europe and the Baltic Sea, 1996 entered into force in Estonia.

5.2.2 Safety rules regarding manning
All manning processes are regulated by law (including the Seafarers Act). Shipping companies should abide by these rules.

5.2.3 Special regulations on safety and the environment
All requirements regarding safety and the environment are stated in the Maritime Safety Act, which regulates the seaworthiness of ships, recreational craft and other water craft and their navigability in navigable inland waters, the safety of ships (including safety rules) and ensuring the safety of vessel traffic on waterways.

5.3 Registration

5.3.1 Registration requirements
All requirements for ship registration are stated in the Law of Ship Flag and Registers of Ships Act. The use of unregistered ships for merchant shipping is prohibited.

The following vessels must be registered in the Estonian Ship Register:
- A seagoing vessel at least 12 meters in length flying the Estonian flag
- An inland vessel at least 12 meters in length whose owner is a natural person and whose place of residence is Estonia or a legal person located in Estonia
- Sailing yachts and launches that are a minimum of 24 meters in length

There is voluntary registration for ships that fly the Estonian flag whose overall length does not exceed 12 meters (less than 24 meters in the case of sailing yachts and launches), non-propelled floating vessels situated in Estonia (e.g., floating crane, floating dock), and ships built in Estonia that are permanently marked with a name or number and keel in which it has been laid.

Registering a ship in the Estonian Ship Register gives the shipowner the possibility of establishing a mortgage on such registered ship as security for a claim, or usufruct. In addition, value-added tax (VAT) incentives apply to a registered ship.

5.3.2 Ship registration procedure
In order to register a seagoing or inland vessel (and in accordance with the Law of Ship Flag and Registers of Ships Act), required documents should be submitted to the Estonian Ship Register’s registration department. Notary and state fees have to be paid for the registration.

The Estonian Ship Register holds the data related to marine and inland vessels (including fishing vessels) and the non-propelled floating vessels and vessels under construction. In addition to the vessel’s technical data, the Ship Register stores data about the vessel’s owners, ship mortgages, usufructs and prohibition notations and other restrictions regarding the vessels. The data in the Ship Register have legal force. Any transaction made with a registered vessel enters into force only after the transaction has been entered into the Ship
Register.

Other vessels flying the Estonian flag (e.g., chartered ships without a crew, small ships, ships that perform state administrative duties) are registered by the Maritime Administration. Unlike the Ship Register, the registers of the Maritime Administration have no legal effect; they are simply technical databases.

5.3.3 Parallel registration
In Estonia, parallel registration is available for seagoing vessels that, pursuant to the Law of Ship Flag and Registers of Ships Act, may fly the national flag of the Republic of Estonia and shall be entered in the register of bareboat chartered ships. Such parallel registration is available under international agreement or, for seagoing vessels at least 12 meters in length, on the basis of a provisional certificate of nationality issued by the Maritime Board at the request of the charterer if:

- The charterer of the ship belongs to an Estonian citizen or an entity located in Estonia whose management boards or equivalent bodies comprise a majority of Estonian citizens (for general and limited partnerships: those in which Estonian partners have a majority of votes).
- The ship has been bareboat chartered for use in the charterer’s own name.
- The ship-owner consents to the exchange of flags.
- The law that had applied with regard to the ship does not prohibit flying the national flag of the Republic of Estonia.

5.3.4 Requirements for officers and crew serving on vessels
There are special requirements (e.g., related to catering, clothes, accommodation, safety) for officers and crew serving on vessels. The requirements are stipulated with different regulations in accordance with the Seafarers Act.

5.3.5 International maritime conventions with which Estonia has acceded
United Nations Conventions:
- The International Convention on Arrest of Ships, 1999
- The International Convention on Maritime Liens and Mortgages, 1993
IMO Conventions:
- The International Maritime Organization (IMO) Convention
- The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA)
- Other conventions
International Labour Organization (ILO) Convention:
- Merchant Shipping (Minimum Standards) Convention, 1976

5.4 General comments
Additional information on Estonian logistics and the shipping industry can be found at the following websites:
- Association of Port Operators: www.apo.ee
- Estonian Maritime Administration: www.vta.ee
- Estonian Ports Association: www.estonianports.com
- Estonian Logistics and Transit Association: www.transit.ee/_eng
1. Tax

1.1 Tax facilities for shipping companies

Finland enacted new tonnage tax legislation as of 1 March 2012.

In general, shipping companies are subject to taxation under the normal corporate income tax regime. The corporate income tax rate in Finland is 20% (beginning 1 January 2014).

A shipping company established in Finland operating international transport of goods or passengers, however, may elect, instead of normal corporate income taxation (based on actual profits), a tax on the income calculated on the basis of the total net tonnage of the company’s fleet. Such income is taxable at the regular, flat corporate income tax rate of 20%. In addition to companies resident in Finland, the regime applies to Finnish permanent establishments of international shipping companies that are resident in another European Union (EU) Member State.

To qualify for the tonnage tax regime, the shipping company’s actual place of management must be in Finland, the company has to transport to or from Finland and be tax liable in Finland, have at least 60% of its fleets net capacity registered in the EU Member States and the company has to own at least 20% of the fleet it uses for international shipping.

Furthermore, vessels held and chartered out on a bareboat- or time-charter basis qualify for the regime, if the charter period is less than three years, the shipping company has a temporary overcapacity and the capacity of the vessels chartered out does not exceed 20% of the net capacity of the company’s fleet.

Shipping companies have to apply for the tonnage tax regime by 31 December 2014 or within three months from the establishment of a new corporation. If a company decides to opt for the tonnage tax regime, it commits itself to the regime for a period of 10 years, which is called a tonnage tax period. The tonnage tax period can be renewed.

The income subject to tonnage tax is calculated as follows:

<table>
<thead>
<tr>
<th>Tonnage</th>
<th>Taxable income per day per 100 tons (€)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0–1,000</td>
<td>0.9</td>
</tr>
<tr>
<td>1,001–10,000</td>
<td>0.7</td>
</tr>
<tr>
<td>10,001–25,000</td>
<td>0.5</td>
</tr>
<tr>
<td>Above 25,000</td>
<td>0.2</td>
</tr>
</tbody>
</table>

The computed income based on the total net tonnage of the fleet is subject to the normal corporate income tax rate of 20%. Also, the days during which the vessels are not in transit are subject to tax.

Any costs or expenses (e.g., depreciations) incurred in connection with the generation of income subject to tonnage tax are not deductible for the tonnage taxation. The tonnage tax regime only applies to income derived from international transportation of goods and passengers and activities directly relating thereto; any other income of the shipping company, derived, for example, from sales of goods not to be consumed on board, is subject to the normal corporate income tax regime (profit is taxed at 20% flat tax rate). Thus, in many cases, a shipping company may have both income subject to tonnage tax and income subject to normal corporate income tax.

Shipping companies opting for the tonnage tax regime gain a possibility for tax relief regarding their latent tax. One ninth of the total latent tax is deducted every year the company is taxed under the tonnage regime, starting from the second tonnage tax regime year. However, the relief cannot exceed the yearly maximum amount of state aid available per each taxpayer, considering all aid received by the taxpayer in question. The
maximum amount of relief is confirmed yearly by the tax authorities. Profit distribution by a limited liability shipping company is taxed similarly to profit distribution by a normal limited liability company. See further information on taxation of profit distribution in section 3.2.

According to the tonnage tax law, any tax levied by a foreign state is not credited against tonnage taxation in Finland.

The sanctions for failure to comply with the tonnage tax regime are rather strict, as there is a possibility of retroactively levying income tax if the shipping company does not fulfill the requirements set for the tonnage tax regime status. If the taxpayer does not meet the requirements, it is possible that income tax will be levied retroactively on the total income of the tonnage tax period. However, a certain time period is reserved for the taxpayer to fix the nonconformance. Additionally, there is a possibility of a punitive tax increase in certain cases. In cases where the tonnage tax status is revoked, the taxpayer cannot reapply for the tonnage tax status regime during the next 10 years.

Under the regime, the shipping company can deduct a repurchase reserve from its taxable income if it has or can reliably show that it intends to purchase a vessel to be used in activities falling under the tonnage tax regime during the next three years from the disposition.

1.2 Tax facilities for seafarers
Seafarers are allowed to deduct a so-called seafarers’ earnings allowance from their taxable seafarers' income.

Seafarers receiving seafarers' income as determined in the Finnish Income Tax Act are allowed to deduct 18% of their earnings earned on a Finnish or foreign ship in computing their national income taxation. However, the seafarers' earnings allowance in national income taxation is €6,650 at maximum. National income tax is imposed according to progressive tax rates.

Seafarers are also allowed an earnings allowance in municipal taxation. Seafarers receiving seafarers’ income as determined in the Finnish Income Tax Act are allowed to deduct 30% of their income earned on a Finnish or foreign ship in computing municipal taxation. However, the earnings allowance in municipal taxation is €11,350 at maximum and is increased by €170 per month when the ship is located outside Finland's borders and the seafarer is on board. Municipal tax is imposed according to the flat tax rates.

1.3 Tax treaties and place of effective management
Finland has concluded double taxation agreements with respect to income and capital taxes with more than 60 countries. Thus, there is an extensive network of tax treaties that in many cases effectively reduces the rates enacted in domestic legislation.

According to the domestic Finnish tax rules, a corporate body (e.g., a limited company) is deemed to be domiciled in Finland if it is registered (incorporated) in Finland or otherwise established under Finnish law. A corporate body is not deemed to be domiciled in Finland based on the fact that it has a place of management in Finland. If a corporate body is tax resident in Finland, it is, according to domestic Finnish legislation, liable to taxation on its worldwide income.

Finland’s tax treaties are mostly based on the Organisation for Economic Co-operation and Development (OECD) model tax convention. According to the OECD model tax convention on income and on capital, Article 8, the place of effective management of a shipping company is crucial: the profits of a shipping company shall be taxable only in the state in which the place of effective management of the company is situated. Finland’s tax treaties are, generally, based on the model tax convention and thus, in most of the applicable treaties, Article 8 is as mentioned. The interpretation of the relevant articles is usually based on the commentaries on the model tax convention and customary application of the treaties.

1.4 Freight taxes
Finland does not levy any freight taxes. Finland has concluded treaties with other countries that grant relief from these taxes.
1.5 Special vessel registration tax benefits for the shipowner
The mere registration of the vessel is not enough. The owner of the vessel or the company carrying on shipping activities has to be a Finnish company (a subsidiary of the foreign investor). See also section 1.1 above.

2. Human capital

2.1 Formalities for hiring personnel
All crew members must have:
- A relevant Finnish certificate or an endorsement from the Finnish Maritime Administration for their respective positions
- A medical certificate
- A relevant Standards of Training, Certification & Watchkeeping (STCW) 95 basic training certificate
Public mustering must be carried out for all crew members by the Finnish Maritime Administration.

2.2 National labor law
National labor law does not apply to crew members. Finland has three separate laws that regulate the working conditions of crew members:
- The Seamen's Act (1978/423)
- The 1976/296 Act relating to hours of work on board ships
- The Seamen's Annual Leave Act (1984/433)

2.3 Collective labor agreements
The Finish Financial Supervisory Authority has entered into collective labor agreements with:
- The Finnish Engineers' Association
- The Finnish Seamen's Union
- The Finnish Ships' Officers' Union
These agreements together with the laws listed in section 2.2 above cover wages and other working conditions, such as hours of work and hours of rest, duration of service vacation, repatriation, sickness/disability and death benefits.

2.4 Treaties relating to social security contributions
All seafarers and employers are required to contribute to the social security system and to the Seafarers’ Pension Fund. EU Directive 1408/71 on social security is in force in Finland.

2.5 Manning issues with flying the Finnish flag
The Finnish manning costs are above the European average.

3. Corporate structure

3.1 Most commonly used legal structures for shipping activities
The most common legal structure for shipping companies is a public or private limited liability company. Limited liability companies are subject to corporate income tax at the 24.5% rate. See also section 1.1 above.

3.2 Taxation of profit distribution
Under the Finnish corporate tax regime, dividend income received by a Finnish-resident entity is, in general, tax exempt in Finland if certain requirements are met. In the new tonnage tax regime, dividend distribution is taxed similarly to the manner of normal limited liability companies.
According to domestic law, dividends paid to foreign shareholders would generally be subject to a withholding tax. However no withholding tax is due in Finland on dividends paid to a qualified parent company located in an EU Member State. In addition, tax treaties usually effectively reduce the rate of the withholding tax or eliminate the withholding tax on dividends.

Finnish partnerships are not regarded as separate taxable entities. The taxation of a partnership is imposed at the partner level. However, the taxable income of a partnership is determined at the partnership level. In general, regarding partnerships, no withholding tax is due based on profit distribution. A Finnish-resident non-corporate partner’s share of a Finnish partnership's income may be considered partly capital income and partly earned income. However, if the partner is an entity, the partner’s share, if taxable in Finland, is taxed at the corporate tax rate of 20%. This applies to both Finnish and foreign partners that are entities. Advance taxes may be levied at the partner level.

4. Grants and incentives

4.1 Specific and/or general subsidies available to shipping companies
Under the Finnish second register, Finnish shipowners, or under certain conditions, Finnish shipping companies, enjoy a reimbursement of all social security costs and seafarers’ income taxes for cargo vessels. Until 2009, a broadly similar system was applicable to passenger ships as well.

4.2 Investment incentives for shipping companies and the shipbuilding industry
No investment incentives are available.

4.3 Special incentives for environmental awareness
No special incentives are available.

4.4 Issues with flying the Finnish flag
There are no specific issues.

4.5 Major changes in shipping subsidy legislation anticipated in the near future
No major changes are expected.

5. General information

5.1 Infrastructure

5.1.1 Major ports
The major ports in Finland are:

- HaminaKotka
- Hanko
- Helsinki
- Kemi
- Kokkola
- Naantali
- Oulu
- Pori
- Raahe
- Rauma
- Sköldviken
- Turku
5.1.2 Port facilities
The following facilities are available:
- Maintenance and repair
- Docking
- Storage
- Cranes for every size of vessel

5.1.3 Airports close to the major ports
The following airports are close to the major ports:
- Helsinki-Vantaa, close to Helsinki and Sköldvik
- Pori, close to Pori and Rauma
- Turku, close to Turku and Naantali

5.1.4 Support services for the shipping industry
The following support services for the shipping industry are readily available:
- Banks with a shipping desk
- Consulting firms specializing in shipping
- Maritime law services
- Insurance brokers for the shipping industry

5.1.5 Maritime education
The major maritime educational institutions are:
- Åland Polytechnic/Maritime Studies (Mariehamn)
- Ålands Sjömansskola/Maritime Studies (Mariehamn)
- Kotka Vocational Institute/Maritime Studies
- Kymenlaakso Polytechnic/Maritime Studies (Kotka)
- Rauma Vocational Institute/Maritime Studies, Satakunta Polytechnic/Maritime Studies (Kankaanpaa)
- Sydväst Polytechnic/Maritime Studies (Raseborg)
- University of Turku/Center for Maritime Studies
- Meiturvakeskus (The Maritime Safety Training Center)

5.2 Safety and environmental issues
5.2.1 Implementation of the International Safety Management Code on board vessels
All Finnish vessels and owners, including inland/domestic traffic, are certified (Safety Management Systems and International Safety Management Code certificate).

5.2.2 Safety rules regarding manning
Finnish safety rules may be characterized as strict to medium.

5.2.3 Special regulations on safety and the environment
The Stockholm Agreement concerning bow doors on passenger ferries applies.

5.3 Registration
5.3.1 Parallel registration
There is no possibility for parallel registration, e.g., bareboat charter. However, companies in EU Member States are allowed to register ships under the Finnish flag without transferring the ownership of the vessel to Finland.

5.3.2 Requirements for the officers and crew serving on vessels
The qualifications of officers and crew have to comply with STCW 95.
5.3.3 International conventions regarding registration
No international conventions are applicable.

5.3.4 Special requirements/rules relating to registration
There are special surveys of Finnish- and Swedish-flagged passenger vessels sailing between ports in Sweden and Finland according to a bilateral agreement.
France

1. Tax

1.1 Tax facilities for ship charterers

_Tonnage tax regime_

As with many other European countries, France implemented a tonnage tax regime, which started 1 January 2003, under which a shipping company can compute its French corporate income tax (CIT) at the rate of 33.33% based on a notional profit, depending on the net tonnage of the ship operated.

This regime is optional, and a shipping company needs to expressly elect for this regime for a 10-year period. Each year, the shipping company must enclose with its tax return the mandatory Form 2076, which is specific to the tonnage tax regime. Furthermore, the choice to do so is binding for a 10-year period, and at the end of that period, the tonnage tax election can be expressly renewed for another 10 years.

Under the tonnage tax regime, the taxable notional profit is determined on the basis of the net tonnage of the vessels operated (rather than on the actual profit derived from its shipping activity) as well as on the number of operating days during the fiscal year.

Article 209-0 B of the French Tax Code (FTC) compiles the requirements to qualify for the tonnage tax regime, which are as follows:

- This regime is applicable to companies that are liable to French CIT.
- Turnover arises from at least 75% of the operation of qualified commercial ships.
- The ship must be seagoing, weigh at least 50 gross tons and be used for the carriage of passengers, transportation of goods, towage, salvage, or other marine assistance or transport in connection with other services of a kind necessarily provided at sea.
- The ship must be strategically and commercially managed in France. Ships flying the French flag are deemed to be strategically and commercially managed in France.
- The shipping company commits to maintain its ships under the European Union (EU) flag during the abovementioned 10-year election period.

The ships eligible for the tonnage tax are:

- Ships owned by the operating company, including those chartered out (excluding the bareboat chartered out to third parties or to related parties within the meaning of Article 39-12 of the FTC that did not elect for the tonnage tax regime)
- Ships full-time chartered in (including those that are partially time chartered) and bareboat chartered in by the operating company

Only the profits derived from the operation of those qualifying ships will be eligible for the tonnage tax system. Profits from the operation of other ships will not be covered by the tonnage tax notional profits.

The daily notional profit from the qualifying shipping activities is computed by reference to the net tonnage (NT) of each of the eligible ships operated according to the following table:

<table>
<thead>
<tr>
<th>Total NT</th>
<th>Fixed profit per day per 100 NT (€)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 1,000</td>
<td>0.93</td>
</tr>
<tr>
<td>1,001–10,000</td>
<td>0.71</td>
</tr>
<tr>
<td>10,001–25,000</td>
<td>0.47</td>
</tr>
<tr>
<td>Over 25,000</td>
<td>0.24</td>
</tr>
</tbody>
</table>

1 Note that the European Commission (EC) opened an in-depth investigation to determine whether the tonnage tax regime applied in the case of time-chartered ships flying under a non-EU flag is compatible with EU state aid rules. Indeed, further to the 2005 Amending Finance Bill, the minimum ship time-chartered flying under the EU flag condition for tonnage tax purposes has been deleted, while the 2004 European Community guidelines do not move in this direction.
The daily notional profit is then multiplied by the number of days the ship is operated by the company during the year. A similar computation is done for each ship operated. The notional profit of all ships operated is then aggregated to obtain the company’s tonnage tax profit for a given financial year.

The company tonnage tax is grossed up by the following add-backs:

- Waiver of debt, grants and gifts made in favor of the company within the tonnage tax regime by a related company that has not elected this regime
- Income from flow-through entities and other tax-transparent entities, except for joint ownership of vessels under the tonnage tax regime
- Gain arising from the disposal of eligible ships and/or assets used in the operation of such ships but only as far as the gain is related to the time when the ship/asset was used outside the tonnage tax regime
- Gains generated from the step-up of eligible ships and fixed assets used in the operation of the ships
- Gains on capital contributions related to depreciable assets with respect to merger, spin-off or partial business transfer gains that benefit from the favorable merger tax regime
- Interest calculated on the basis of the portion of shareholders’ equity that exceeds twice the amount of the debts of the company increased by (i) the lease payments remaining due at the end of the financial year and (ii) the residual purchase price of the assets leased

The final profit is subject to the standard CIT at a 33.33% rate. In addition, should the CIT due exceed €763,000, a social security surtax of 3.3%\(^2\) is levied on the CIT itself, raising the full tax rate to a maximum of 34.43%.

Further, a 10.7%\(^3\) surcharge (assessed on the CIT due) also applies to enterprises with a turnover exceeding €250m for their fiscal years ending from 31 December 2011 to 30 December 2015.

Based on the above, the maximum effective CIT rate is currently 38% in France.

**Specific exemption for foreign companies (Article 246 of the FTC)**

As an exception to the principle of territoriality, income arising from a foreign shipping company that performs its activities in France is exempt from French taxation, as long as a similar exemption for French corporations is granted by the considered foreign country (refer to section 1.3).

**Territorial economic contribution (Articles 1447-0, 1586 of the FTC, and Article 317 E of Appendix II to the FTC)**

The French Financial Bill for 2010 replaced the business tax in force until 31 December 2009 with the Territorial Economic Contribution (TEC), which is made up of two distinct taxes: the Business Contribution on the Added Value (BVAC) and the Business Contribution on Property (BCP). The TEC is applicable as of 1 January 2010.

Regarding the first tax, shipping companies, which carry out their activity both in France and abroad, are liable to BVAC merely on the portion of the added value arising from operations performed within the French territory. When both loading and unloading occur on French territory, the operations are deemed to be performed within French territory. The share of taxable added value for BVAC computation purposes derived from the French shipping activity is proportional to the ratio resulting from the profits derived from the French shipping activity compared to the total amount of profits. In any case, when the shipping carried on by the company is mainly originating from or destined for France, this taxable part cannot be less than 10% of the total amount of profits realized by the shipowner in relation with its shipping activity.

Regarding the second tax (i.e., BCP), this tax is computed upon the rental value of the goods that are subject to the property tax.

**Competitiveness and Employment Tax Credit (French administrative guideline BOI-BIC-RICI-10-150-10)**

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2 The social security surtax of 3.3% is assessed on the portion of the corporate tax due exceeding €763,000 before offsetting the tax credits granted under tax treaties.

3 According to Article 16 of the 2014 Finance Bill, which became effective on 31 December 2013, the surcharge has been increased by 5.7% to 10.7% for fiscal years ending after 31 December 2013.
Shipping companies liable to the French CIT and under the tonnage tax regime are eligible for the Competitiveness and Employment Tax Credit, corresponding to the compensation received by their employees allocated to the activities subject to the French CIT according to the standard rules.

**Value-added tax (Article 262 II of the FTC)**

Supply, repairs, alteration, maintenance, chartering and leasing of seagoing vessels are zero-rated for value-added tax (VAT) purposes, but the vessels have the right of recovery of input VAT should these services be supplied to:

- Commercial seagoing vessels (including leisure boats but only those that are simultaneously commercially registered, commercially operated and manned with a professional crew)
- Vessels used for deep-sea industrial activities
- Vessels used for professional fishing
- Vessels used for assistance and rescue at sea

Companies that are involved in operations of construction, transformation or repair as subcontractors are zero-rated in the same way as the project manager.

The VAT exemption also applies to the aforementioned operations relating to goods aimed to be incorporated in these vessels or used at sea.

Services related to the freight of these vessels (such as loading and unloading) are also zero-rated in most cases. The supply of goods for the fueling and provisioning of warships is likewise zero-rated. The French VAT exemption is, in principle, not applicable to vessels used on international rivers and channels.

In addition, eligible companies need to provide some supporting documentation to have the benefit of the VAT exemption.

When boats or equipment stop being used by shipping lines or professional fishermen or stop being exclusively allocated to seagoing use, the VAT becomes due and is to be paid to the customs authorities.

The international transport of passengers (i.e., traveling to and/or from a foreign country) carried out with seagoing vessels is, in principle, zero-rated, including for the portion of the journey taking place in France.

**Customs**

Customs duties are suspended with respect to goods intended for incorporation in vessels for the purpose of their construction, repair or maintenance and with respect to goods intended for fitting to or equipping such vessels.

On 21 January 2009, the EC adopted an action plan with a view to establishing a European maritime transport area without borders between the EU Member States. In order to reduce costs and delays and increase the competitiveness of maritime transport, this action plan aims at simplifying customs formalities, port reporting formalities and administrative procedures.

### 1.2 Tax facilities for shipowners

**Depreciation and tax losses (Article 39 C of the FTC)**

From 1998 until 2005, France had an efficient tax lease scheme to facilitate French ship purchases. This scheme granted tax relief from 20% to 25% of the investment; it was ruled as state aid by the EC and was therefore repealed. Since then, a new tax lease regime has been enacted that allows shipowners to optimize their asset financing. It applies to leasing agreements entered into as of 1 January 2007. The new regime has been extended to all EU-flagged ships. This regime allows a financial lessor to gain the benefits of ownership through a front loading of capital allowances while the lessee gains the rewards of ownership of that asset. The purpose of such a scheme is to grant tax relief by reducing the amount of the rental for the lessee, namely the charterer. The tax benefit of this regime ranks between 15% and 19% of the investment.

Note that as per Article 39 C of the FTC, in the case where a French tax-transparent entity rents out a ship that is part of its assets, depreciation deduction for tax purposes is capped to three times the amount of rental income derived from the renting out of the ship during the first 36 months of the lease.
Accelerated depreciation (Article 22 of Appendix 2 to the FTC)

Seagoing vessels may be depreciated over eight years, using an annual depreciation rate of 28.125% for the first five years and 33.33% for the remaining three years (depreciations deductible within the same limits as those described in the above paragraph). As a general rule, the depreciation cannot benefit secondhand goods. However, the French tax authority allows depreciation upon secondhand shipping vessels provided that the length of life retained is eight years for shipping vessels and six years for fishing boats. As a result, a shipping vessel can be depreciated by each of its successive owners (French administrative guidelines BOI-BIC-AMT-20-40-60-10).

The shipping companies can begin depreciation from the end of the fiscal year before the shipping vessel was delivered, provided that the vessel was dry-docked before that date.

In order to support the French economy, depreciation rates were increased for investments made from 4 December 2008 to 31 December 2009. Consequently, seagoing vessels acquired during that period can be depreciated at an annual rate of 34.37% during the first six years and 50% for the following two years.

Proportional capital gains exemption upon disposal of ships (Article 209 V of the FTC)

Capital gains and losses arising from the disposal of qualifying ships are reduced in proportion to the period of ownership during which the ship has been operated under the tonnage tax regime over the total period of ownership.

In other words, Article 209 V of the FTC leads to a full CIT exemption of the capital gain corresponding to the period of time during which the tonnage tax regime applied.

Territorial economic contribution

Shipowners are subject to TEC under the same conditions as shipping companies (refer to section 1.1). In the case at hand, given the most commonly used legal structure described under section 3.1, shipowners should be subject to BVAC upon rental income deriving from the lease agreement entered into with the shipping company.

For BCP, the same rules as those described under section 1.1 will apply to shipowners. We would point out that insofar as ships should not be subject to property tax, no BCP should be due upon ownership of vessels.

VAT (Article 262 II of the FTC)

Refer to section 1.1.

1.3 Tax treaties and place of effective management

France has the broadest tax treaty network in the world (more than 120 treaties). Almost all of them include a specific provision for shipping companies drafted in terms similar to Article 8 of the Organisation for Economic Co-operation and Development (OECD) model tax convention concerning the taxation of profits from the operation of ships in international traffic and provide that the taxing right shall be left to the contracting state in which the place of effective management of the shipping company is situated.

France has a tax treaty with: Albania, Algeria, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Belarus**, Belgium, Benin, Bolivia, Bosnia and Herzegovina*, Botswana, Brazil, Bulgaria, Burkina-Faso, Cameroon, Canada, Central African Republic, Chile, China, Congo (Republic of), Croatia, Cyprus, Czech Republic, Denmark****, Ecuador, Egypt, Estonia, Ethiopia, Finland, French Oceania, Gabon, Georgia, Germany, Ghana, Greece, Guinea, Hong Kong, Hungary, Iceland, India, Indonesia, Iran, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan**, Latvia, Lebanon, Libya, Lithuania, Luxembourg, Macedonia, Madagascar, Malawi, Malaysia, Mali, Malta, Mauritania, Mauritius, Mayotte, Mexico, Moldova**, Monaco, Mongolia, Montenegro*, Morocco, Namibia, Netherlands, Norway, New Caledonia, New Zealand, Niger, Nigeria, Oman, Pakistan, Panama***, Philippines, Poland, Portugal, Qatar, Quebec, Romania, Russian Federation, Saint Martin, Saint Pierre and Miquelon, Saudi Arabia, Senegal, Serbia*, Singapore, Slovak Republic, Slovenia, South Africa, South Korea (ROK), Spain, Sri Lanka, Sweden, Switzerland, Syria, Tajikistan**, Thailand, Taiwan, Togo, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan**, Ukraine, United Arab Emirates, United Kingdom, United States of
America, Uzbekistan, Venezuela, Vietnam, Zambia and Zimbabwe.

* The tax treaty with the former Yugoslavia remains applicable to Bosnia-Herzegovina, Kosovo, Montenegro and Serbia.

** The tax treaty with the former USSR remains applicable to Belarus, Kyrgyzstan, Moldova, Tajikistan and Turkmenistan.

*** This treaty entered into force on 1 February 2012.

**** The Double Tax Treaty entered into between France and Denmark has been terminated as of 1 January 2009. However, the exchange of notes between France and Denmark dated 28 January 1930 still remains in force, so that profits derived by a French company (or a Danish company) from its shipping activities in Denmark (or in France) remain tax exempt in Denmark (or in France).

Negotiation started in June 2011 between France and Peru for the conclusion of a double tax agreement.

Specific shipping income agreement

Besides these treaties, France has specific agreements on shipping income with Jersey, Venezuela and the Isle of Man (not in force yet).

1.4 Freight taxes

There are no freight taxes in France.

1.5 Special vessel registration benefits for the shipowner

Shipowners registering vessels in a French register may benefit from specific exemption from social contributions. French-flagged ships used to be eligible for a fiscal aid scheme for ship purchase (French tax lease). However, the former legislation has been repealed, and the new tax lease regulation theoretically applies to all EU-flagged ships. Registration is usually not a requirement for other income tax facilities.

1.6 Authorized economic operator

In response to increased threats to the supply chain and ever-growing trade volumes, worldwide customs authorities have embarked on a new risk-based approach to customs supervision and inspection. International and EU regulations are being introduced to this effect.

Those companies, especially shipping companies, that meet the requirements will be recognized as trusted parties in the supply chain and can be given access to “green lane” status and ongoing customs simplification procedures as authorized economic operators (AEOs).

An application should be filed with the customs authorities, and they will check whether the applicant is compliant with the AEO requirements. Preparation for the customs authorities’ audit is, therefore, highly recommended.

Reliable and compliant traders will benefit from simplifications in the customs procedures and from facilitation with regard to customs controls relating to safety and security. Secure AEOs may be informed that their consignment has been selected for controls and will get priority treatment for controls. They will also be allowed to submit less data for the pre-arrival/departure declaration and will also be subject to fewer controls, as they would be considered secure partners by customs, and their compliance and reliability would have been thoroughly checked when the AEO certificate was given.

Parties that do not comply with these new regulations carry the risk that their goods will be delayed in the supply chain. Companies that cannot show compliance may also see their business opportunities curtailed.

2. Human capital

2.1 Formalities and regulations for employing personnel

As of 9 April 2008, the captain and his or her substitute do not need to be French nationals; they can be EU citizens, European Economic Area (EEA) nationals or Swiss citizens, subject to professional skills and
sufficient knowledge of the French language and law (Article L 5522-1 of the French Code for Transport Activities [FCTA]).

For vessels registered in the French International Register (RIF), 25% of the crew members must be EU or EEA nationals. For vessels that benefit from the fiscal aid scheme for ship purchase (French tax lease), this proportion is increased to 35% for the duration of the aid scheme (Article L 5612-3 of the FCTA).

Crew members must have a written contract of employment with the shipowner or ship manager (Article L 5542-1 of the FCTA). The employment agreement should state the duty of the seafarers, their wages, the working hours and so on. The law of 3 May 2005, creating the RIF, stipulates that seafarers can be placed at the disposal of the shipowner by an authorized maritime manning agency. In such cases, a written contract of employment must exist between the seafarer and the manning agency and a written agreement between the latter and the shipowner (Article L 5611-1 of the FCTA). When the agency is established in a country where the International Labour Organization (ILO) 179 Convention on recruitment and placement of seafarers is not in force, the shipowner should make sure that the manning agency complies with the requirements of this convention.

2.2 National labor law

France ratified in 2006 the ILO’s Maritime Labour Convention, which provides a comprehensive set of basic maritime labor principles and rights. This convention came into force in France on 22 August 2013.

French labor law generally applies to French-flagged vessels (Article L 5541-1 of the FCTA). For vessels registered in the RIF, seafarers residing in France, regardless of their citizenship, are subject to French laws. Seafarers residing outside France are subject to the provisions of their employment agreement and the minimum requirements set by the law creating the RIF. However, hiring, working, salary and living conditions on a vessel registered in the RIF cannot be less favorable than the ones resulting from the ILO conventions ratified by France.

2.3 Collective bargaining agreements

Several collective bargaining agreements (CBAs) apply to seafarers, e.g., the CBA for officers of 30 September 1948 and the CBA for ratings of 30 November 1950. Collective bargaining agreements include various provisions concerning discrimination, working hours, minimum wages, paid vacation, free days and termination allowances.

2.4 Social security

Principle
Seafarers are affiliated with the social security scheme of the country of the vessel flag of the ship they are sailing aboard.

In France, seafarers are affiliated with a dedicated social security system (ENIM - Etablissement National des Invalides de la Marine), which mainly covers sickness, maternity, retirement, work accident, providence and family allowances.

French social security contributions for seafarers are assessed at a fixed amount that is generally lower than the actual wages.

Shipowners are partly exempted from employers’ social security contributions for crew members on board vessels flying the French flag assigned to maritime transportation activities subject to international competition or registered under the RIF.

Exceptions
Some exceptions to this principle can apply under the provisions of both EU regulation no 883/2010 (EEA/Switzerland), applicable totalization agreements France has concluded with other countries, and for seafarers sailing aboard vessels registered under the RIF or in French Overseas Territories.

EEA/Switzerland:
- Permanent and mandatory affiliation in the country of the EEA/Switzerland operator in case the seafarers are residents of this country
- Temporary and exceptional affiliation (24-month maximum but renewable under certain conditions) in the country of the EEA/Switzerland operator in case the seafarers are residents of another country (including France under certain conditions)
- In the case of substantial activity in two or more EEA/Switzerland states, the seafarers are affiliated:
  - In their country of residency provided they perform substantial activity in this country
  - If not in their country of residency, then in the country of the operator
  - In their country of residency if their employers are from multiple EEA/Switzerland states

Other countries:
- Temporary and exceptional affiliation (variable duration) in the country of the operator (including French residents under certain conditions) in the case of a totalization agreements as follows: Algeria, Andorra, Argentina, Benin, Bosnia and Herzegovina, Cameroon, Canada, Cape Verde, Chile, Congo (Republic of), French Polynesia, Gabon, Guernsey, Iceland, India, Israel, Ivory Coast, Japan, Jersey, Kosovo, Liechtenstein, Macedonia, Madagascar, Mali, Mauritania, Monaco, Montenegro, Morocco, New Caledonia, Niger, Philippines, Quebec, San Marino, Senegal, Serbia, South Korea (ROK), St. Pierre and Miquelon, Togo, Tunisia, Turkey and the United States of America.

Refer to the applicable totalization agreement to ensure it contains specific provisions applicable to seafarers

Nelles registered under the RIF:
- EEA/Switzerland social security scheme when both the operator and the seafarers are residents of this country
- Affiliation to any country chosen by agreement between employer and employees, provided the seafarers are not residents of EEA, Switzerland and countries with which France has entered into totalization agreements
- Upon request, non-French coverage for seafarers who had been sailing prior to 31 March 1999 on board foreign-flagged vessels registered under the RIF may be maintained

Nelles registered in the French Overseas Territories:
- Affiliation to the applicable local schemes (except French Southern and Antarctic Lands - TAAF)

2.5 Personal income tax exemptions for seafarers (Article 81 A I, 81 A II and 155B of the FTC)

Seafarers who have their fiscal residence in France and who sail on board vessels registered under the RIF (Article 81 A I) receive full tax exemption on the portion of wages corresponding to their non-French activity, provided they spend at least 183 days outside France (weekends, days off and holidays attributable to foreign activity are taken into account even if spent in France) over any consecutive 12-month period.

Seafarers who have their fiscal residence in France and who sail on board vessels not registered under the RIF (Article 81 A I) receive full tax exemption on the portion of wages corresponding to their non-French activity, provided they spend at least 183 days outside France (weekends, days off and holidays attributable to foreign activity are taken into account even if spent in France) over any consecutive 12 month period and establish paying non-French income tax equal to at least two-thirds of the equivalent French tax.

In the event those requirements are not fulfilled, the seafarers who have their fiscal residence in France can benefit from the provisions of Article 81 A II of the FTC that exempts supplemental amounts, contractual bonuses or per-diem earned for foreign duty. These exemptions are limited to a maximum of 40% to 60% of the remuneration corresponding to their non-French activity.

However, the above-listed compensation exempted from French income tax is taken into account to determine the effective rate of taxation applicable to remaining taxable income.

Another five-year-length specific exemption (listed under Article 155B of the French tax code) on supplemental earnings and compensation corresponding to the non-French activity code may benefit
seafarers who establish residency in France and justify:

- Not having been French tax residents in the five years preceding their arrival in France
- Reporting professional earnings at least equal to the applicable “reference salary”

They also benefit from a 50% tax exemption with respect to their foreign source dividends, interest and capital gains for a period of five years.

3. Corporate structure

3.1 Most commonly used legal structures for shipping activities

In the case where a ship is financed by a single operator (other than a shipping company), the most commonly used legal structure when acquiring the ship is the limited liability company entering into a financial lease agreement with the shipping company (i.e., the charterer). This structure could allow, in some circumstances, a significant reduction in the effective tax rate of the shipowner associated with its rental income.

In the above scenario, the single operator shall strongly consider the application of Article 39 C of the FTC (refer to section 1.2), the French parent-subsidiary regime (refer to section 3.2) and the French tax capital gain regime applicable to shareholding disposal.

On the other hand, in the case where a ship is financed by several operators including, inter alia, the charterer carrying out the shipping activities under the tonnage tax regime (refer to section 1.1), tax-transparent structures (e.g., partnerships, limited partnerships) are often preferred to limited liability companies to further reduce the charterer's effective tax rate (in addition to tax effects reached under the aforementioned developments for shipowners).

For shipping companies on a stand-alone basis, the most commonly used legal structure is the limited liability company, which is subject to CIT at a rate of 38% maximum. However, in the case where they are engaged in qualifying shipping activities, shipping companies may elect taxation according to the tonnage tax regime (refer to section 1.1). In this context, at the time of designing the current tonnage tax regime, the French tax administration has estimated that the tax benefit associated with the special regime should approximately correspond to half of the standard CIT.

3.2 Taxation of profit distribution

Under the French parent-subsidiary regime, dividends received by French companies or French branches of non-resident companies are exempt from CIT, except for a 5% share of expenses, which is computed on the gross dividend income (net dividend income and foreign tax credits) and added back to the recipient's taxable income.

The participation exemption regime applies if the recipient holds 5% or more of the share capital (voting and financial rights) of the distributing company for at least two years.

In general, a 30% withholding tax is imposed on dividends paid to nonresidents. It is increased to 55% for dividends paid to a resident of a noncooperative state or territory. This withholding tax may be reduced or eliminated by tax treaties.

In addition, under the EU Parent-Subsidiary Directive (90/435/EEC), dividends distributed by French subsidiaries to EU parent companies are exempt from withholding tax, if, among other conditions, the recipient holds 10% or more of the shares of the subsidiary for at least two years.

4. Grants and incentives

4.1 Specific and/or general subsidies available to shipping companies

National aids
Aid to haulage companies for feasibility studies for the shift to combined railroad or road-river transportation

These studies, aimed at informing conveyors on the importance of using combined transport, should deal with the commercial aspects (e.g., market study), organizational aspects (e.g., a search for partners to ensure an entire chain of transport) and financial aspects (e.g., investments, effect on accounting). The studies should include an estimated level of reduction of the CO2 emissions that would result from the passage to combined transport (for example, road to short sea shipping [SSS]).

This aid is also open to consortia of haulage companies and/or to chargers to facilitate cooperation between firms for the concerted development of combined transport around axes or of geographical areas.

Target: haulage companies, consortia of transport and chargers, chambers of commerce

Co-funding rate: 50%

Maximum level: €75,000

Aid for the launching of new SSS lines

For each launch of a new project of connection between a French port and a port of another EU Member State, a publication in the Official Journal of the European Communities specifies the objective of the project and the ceiling of the aid considered. A call for proposals will be launched periodically (at the beginning of each calendar year, for example) in the form of an opinion published in the journal, specifying the details of the aid to be granted, the procedure to be followed and the selection criteria for the candidates.

Maximum duration: three years

Co-funding rates: 30% of the operating costs of the service and 10% of the investments

European aid for modal shift from road to SSS

Marco Polo is an EC program providing aid to enterprises shifting freight off the road to SSS, rail, inland waterways or a combination of these modes. The grant is provided for transport services (core infrastructure, research and study projects are not eligible under Marco Polo). The EC launches yearly calls for submission of projects.

Marco Polo targets five types of eligible actions:

1. Modal shift actions: these are actions to start up new freight service by rail, inland waterways, SSS or a combination of these modes. Existing services, which are significantly enhanced, are also eligible.
   Maximum duration: 36 months, with a maximum of 35% of eligible costs and a maximum of €1 per shift of 500 tonne-kilometer (tkm). Minimum grant: €500,000 (250 million tkm).

2. Catalyst actions: these are innovative actions causing a real breakthrough and offering solutions for structural market barriers.
   Maximum duration: 60 months, with a maximum of 35% of eligible costs. Minimum grant: €2 million.

3. Common learning actions: the purpose of these actions is to improve cooperation, share know-how and provide mutual training.
   Maximum duration: 24 months, with a maximum of 50% of eligible costs. Minimum grant: €250,000.

4. Motorways of the seas actions: these are innovative actions under which frequent, large volume intermodal services are developed, based on SSS.
   Maximum duration: 60 months, with a maximum of 35% of eligible costs and a maximum of €1 per shift of 500 tkm. Minimum grant: €2.5 million (1.25 billion tkm).

5. Traffic avoidance actions: this innovative type of action increases efficiency in international freight transport through modifications in production and distribution. At least a 10% traffic avoidance of the freight volume is achieved.
   Maximum duration: 60 months, with a maximum of 35% of eligible costs and a maximum of €1 per 500 tkm avoided (or 25 vehicle km). Minimum grant: €1 million (500 million tkm or 25 million vehicle km).

Under certain conditions, the EC also funds ancillary infrastructure works, which are necessary to achieve the goals of the respective action (except for modal shift actions).
Companies from the following countries are eligible for funding: 27 EU Member States, European Free Trade Association (EFTA) and EEA states after conclusion of a specific agreement with the EC, and candidate and “close third” countries after signing a memorandum of understanding with the EC.

4.2. Investment incentives for shipping companies and the shipbuilding industry
Certain operations corresponding to a first application of new technologies, new processes or innovating systems could be supported in order to cover a part of the risks and often a part of the investments. The aid rate has a maximum of 50%.

4.3. Major changes in shipping subsidy legislation anticipated in the near future
If there are any changes, they will be in accordance with EU legislation and will not contravene EC guidelines on state aid.

5. General information

5.1. Infrastructure

5.1.1 Major ports
The major ports are:
- Bordeaux (sixth French commercial port in total tonnage)
- Dunkerque (third French commercial port in total tonnage)
- La Rochelle (seventh French commercial port in total tonnage)
- Le Havre (second French commercial port in total tonnage)
- Marseille (first French commercial port in total tonnage)
- Nantes Saint-Nazaire (fourth French commercial port in total tonnage)
- Rouen (fifth French commercial port in total tonnage)

5.1.2 Port facilities
The following support facilities are available:
- Maintenance and repair
- Docking
- Storage
- Cranes for every size of vessel

5.1.3 Airports close to the major ports
Airports close to the major ports are:
- Calais Airport (Dunkerque)
- Île de Ré Airport (La Rochelle)
- Le Havre Octeville Airport (Le Havre)
- Marseille Provence Airport (Marseille)
- Mérignac Airport (Bordeaux)
- Point-à-Pitre Airport (Point-à-Pitre, Jarry)
- Vallée de Seine Airport (Rouen)

5.1.4 Support services for the shipping industry
The following support services are readily available:
- Banks with a shipping desk
- Consulting firms specializing in shipping
- Maritime law services
- Insurance brokers for the shipping industry
5.1.5. Maritime education

Maritime education and training institutions for the merchant marine are the following:

- **ENMM Le Havre** (for first-class, dual-purpose officers - up to the master and chief engineer unlimited certificate): enmmlh@equipement.gouv.fr or www.hydro-lehavre.fr
- **ENMM Marseille** (also for first-class, dual-purpose officers - up to the master and chief engineer unlimited certificate): ennm-marseille@equipement.gouv.fr or hydro-marseille.com
- **ENMM Saint-Malo** (for deck or engine officers, up to unlimited certificates): enmm-st-malo@developpement-durable.gouv.fr or www.hydrosaintmalo.fr
- **ENMM Nantes** (also for deck or engine officers, up to unlimited certificates): enmm-nantes@equipement.gouv.fr or hydro-nantes.org

Maritime education and training colleges for ratings are the following:

- Bastia - lyceemaritimebastia.fr
- Boulogne - lyceemaritime-boulogne.com
- Cherbourg - lma-cherbourg.fr
- Ciboure - lycee-maritime-ciboure.fr
- Concarneau - cefcm.fr
- Etel - lpma-etel.fr
- Fécamp - lycee-anita-conti-bruz.ac-rennes.fr
- La Rochelle - lycee-maritime-larochelle.com
- Le Guilvinec - lycee-maritime-guilvinec.com
- Lorient - cefcm.fr
- Nantes - lycee-maritime-nantes.fr
- Saint-Malo - lycee-maritime-saint-malo.fr
- Sète - lyceedelamer.fr

5.2. Registration

France has several shipping registers: the standard French Shipping Register, the RIF, the French Austral and Antarctic Territories (TAAF or Kerguelen) Register, the French Polynesian Register, the New Caledonian Register and the Wallis and Futuna Register.

In order to be registered in a French register, at least 50% of a vessel must be owned by a company established in France or in one of the EU Member States or one of the EEA Member States. Other vessels must be managed and controlled from a permanent establishment located in France. Similarly, foreign vessels bareboat chartered must be managed and controlled from a French permanent establishment during the bareboat charter period (Article 219 2 A and B of the French Customs Code).

The RIF is the most attractive French register. The RIF was implemented in 2005 to replace the TAAF for the French merchant fleet and to compete with the international shipping registers set up by the other EU Member States. Unlike the TAAF, the RIF is an EU registry. Ships registered in the RIF are subject to safety and security, certification and training, health and safety at work, and environmental protection rules applicable as per French law, European regulations and French international commitments.

The vessels that may be registered in the RIF are (Article L5611-2 of the FCTA):

- Vessels employed in deep-sea trades or international cabotage
- Commercially operated leisure vessels over 24 meters in overall length, manned with a professional crew

The registration is simplified by the implementation of a unique entry point (Guichet Unique) in Marseille, which handles all questions from shipowners of vessels registered in the RIF. For further information, contact:

Guichet unique du Registre International Français (RIF)

5 place de la Joliette
13002 Marseille
France
04 26 84 57 62 ou 63
rif@equipement.gouv.fr
www.rif.mer.equipement.gouv.fr
1. Tax

1.1 Tax facilities for shipping companies

The taxable income of a shipping company can be determined either according to regular taxation rules or, at the company’s option, under the tonnage tax regime. The tonnage tax regime is the preferred taxation scheme. It can be elected by shipping companies of any legal form, for example, corporations or partnerships, and is also available for individual investors.

Regime applicable if a shipping company has not opted for tonnage tax

Shipping companies not opting for the tonnage tax regime are subject to regular taxation. The capitalized acquisition cost, less anticipated scrap value, can be depreciated in general on a standard straight-line basis over 12 years. Accelerated depreciation, which was available for vessels acquired before 1 January 2008, has been abolished and reintroduced for vessels acquired after 31 December 2008 and before 1 January 2011. In the acquisition of used vessels, a shorter depreciation period may apply. On the other hand, certain vessels, like liquid natural gas (LNG) tankers or cruising vessels, can have a longer expected life.

Regime applicable if a shipping company has opted for tonnage tax

Since 1999, shipping companies have had the opportunity to choose a special tax regime instead of being taxed in accordance with the German standard tax rules. Companies with income generated from the operation of merchant ships in international traffic may, upon irrevocable application, opt for the tonnage tax regime. Under the tonnage tax regime, the taxable profit is determined on the basis of the net tonnage of the ship and the number of operating days during the fiscal year. This tonnage tax profit is subject to federal income tax or corporate income tax and to municipal trade tax. In addition, the solidarity surcharge on income tax or corporate tax, respectively, applies.

Section 5a of the German Income Tax Act lists four basic requirements to qualify for the tonnage tax regime:

- Business with a place of management in Germany
- Operation of merchant ships in international traffic, registered in a German ship register
- Ship management has to be carried out in Germany
- Irrevocable application

Companies who opt for the tonnage tax regime must have their place of effective management in Germany. According to the German tax authorities, this is the place where the important, shipping-related management decisions (charter and freighting of the vessel, negotiation of bunker and oil contracts, manning and so on) are made.

The commercial and technical management of the vessel has to be carried out entirely in Germany. However, the tax authorities do accept recruitment of ranks outside Germany. It is necessary that the essential operations of ship management be almost exclusively performed in Germany.

Merchant ships are considered to be operating in international traffic if the following conditions are satisfied:

- The vessel must be registered in the German Shipping Register for most of the shipping company’s financial year. However, it is not explicitly required that vessels fly the German flag or a European Union (EU) flag. Under special circumstances, vessels chartered in are exempt from this registration requirement.
- The tonnage tax regime applies regardless of the ownership of the vessel. The shipping company can perform its shipping activities with its own or with chartered vessels. However, for chartered vessels, additional conditions have to be met. The German tax authorities prescribe that a company earning shipping income with chartered vessels can only opt for the tonnage tax regime if the shipping company also operates a vessel owned by the shipping company. If the chartered vessels of the operating company are not registered in Germany, the tonnage tax regime only applies if the gross tonnage of the chartered
ships does not exceed the gross tonnage of the vessels owned by the shipping company by 300%.
• The vessel has to be operated in international traffic for most of the shipping company's financial year. International traffic consists of transportation of passengers or goods between domestic and foreign ports, between foreign ports or between a foreign port and the high sea. According to the Hamburg tax authorities, this criterion is also met if the ship is laid up for more than a half year and could directly have been operated. However, since this is only an unofficial statement of the tax authorities, a binding ruling is recommended.
• The shipping company has to submit an official application in order to opt for the tonnage tax regime. Companies who have ordered their ships after 31 December 2005 can only opt for tonnage tax at the beginning of the vessel's deployment. If the application is not made at this point in time, the application is only possible again after a 10-year period. Once approved, the application will bind the shipping company for a period of 10 years.

The annual taxable profit for each ship is deemed to be equal to the following flat rates for every 100 net tons per day of operation:

<table>
<thead>
<tr>
<th>Total net tonnage</th>
<th>Fixed profit per day per 100 net tons (€)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 1,000</td>
<td>0.92</td>
</tr>
<tr>
<td>1,001–10,000</td>
<td>0.69</td>
</tr>
<tr>
<td>10,001–25,000</td>
<td>0.46</td>
</tr>
<tr>
<td>Over 25,000</td>
<td>0.23</td>
</tr>
</tbody>
</table>

According to the German tax authorities, the days of “warm” layups of vessels are also seen as operating days since the ship could have been directly used in international traffic.

Opting for the tonnage tax regime can lead to an effective tax rate of approximately 1% to 5% of the net income of profitable ships. However, it has also to be paid in loss-making years, so that in current market environment shipowners operate many vessels under the standard tax regime.

The option to move to the tonnage tax regime has to be declared in the first year of operation for the first newly acquired vessel and applies to the entire business. In case a company opts for the tonnage tax at a later time, 10 years after the first option would have been possible, the difference between assessed book value and fair market value of all assets of the shipping company will be assessed as positive or negative hidden revenue. When switching back to the regular taxation system after 10 years or later, the difference amount is regarded as income in the subsequent 5 financial years of the shipping company. If the switch-back to regular taxation happens, the mentioned difference is generally subject to tax in the year of disposal. For shipping companies who have applied from the beginning of the vessel's deployment, no difference amount will be assessed.

Ship management companies participating in partnerships operating one or more of their own vessels under German tonnage tax can benefit to a certain extent concerning their service income. However, this benefit is limited to the amount of 4% of the gross cargo rate. Exceeding fees are taxed according to the standard regime.

Tax rates

The tonnage tax profit as well as the standard tax profit is subject to tax at the following rates:
• Corporate income tax: 15% plus 5.5% solidarity surcharge on the corporate tax amount or
• Income tax: up to 45% plus 5.5% solidarity surcharge on the income tax amount
• Municipal trade tax: varying between 9.6% and 18.2%.

Value-added tax

Income from the charter or lease of seagoing ships is exempt for value-added tax (VAT) purposes, as is the supply of services and goods to such vessels. The tax exemption is only applicable if the beneficiary is an
operator of a seagoing ship. Therefore, sales to agents or shipbrokers on an upstream trade level are subject to VAT and are not tax-exempt. Exceeding fees are taxed according to the standard regime.

1.2 Tax facilities for seafarers
The following instrument is indirectly in favor of the seafarers: A shipping company may keep 40% of the regular payroll tax from the seafarers wage payment to its own benefit if the following conditions are satisfied:

- The seafarers must have worked for more than 183 consecutive days on ships owned or chartered by the employer.
- The ship has to be registered in the German Shipping Register and fly the German flag.
- The ship is in operation for transporting goods or passengers between or to foreign ports or from a foreign port to the main sea.

1.3 Tax treaties and place of effective management
Germany has concluded more than 90 treaties that are predominantly based on the Organisation for Economic Co-operation and Development (OECD) model tax convention. The German double-tax treaties allocate the right to tax shipping income either to the state of effective management or to the state of residence of the shipping company.

Germany has a tax treaty with the following countries:

Algeria, Albania, Argentina, Armenia, Australia, Austria, Azerbaijan, Bangladesh, Belarus, Belgium, Bolivia, Bosnia-Herzegovina, Bulgaria, Canada, China, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, Estonia, Finland, France, Georgia, Ghana, Greece, Hungary, Iceland, India, Indonesia, Iran, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jersey, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Latvia, Liberia, Liechtenstein, Lithuania, Luxembourg, Macedonia, Malaysia, Malta, Mauritius, Mexico, Moldova, Mongolia, Montenegro, Morocco, Namibia, Netherlands, New Zealand, Norway, Pakistan, Philippines, Poland, Portugal, Romania, Russian Federation, Serbia, Singapore, Slovak Republic, Slovenia, South Africa, South Korea ROK, Spain, Sri Lanka, Sweden, Switzerland, Syria, Tajikistan, Thailand, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom, United States, Vietnam, Uruguay, Uzbekistan, Venezuela, Zambia, Zimbabwe.

Besides these treaties, Germany has specific agreements on shipping income with Brazil, Chile, China, Colombia, Hong Kong, Isle of Man and Venezuela. The agreement with the former Yugoslavia remains applicable to all states that were geographically included in Yugoslavia until said states sign a new agreement on shipping income.

1.4 Freight taxes
The following rule applies to non-resident shipping companies: In case of accessing German harbors, 5% of the freight costs are deemed to be taxable income and are subject either to German income tax in the case of individuals or partnerships or are subject to German corporate tax in the case of corporations. Furthermore, freight tax also applies to German branches of foreign shipping companies. This rule does not apply if a mutual tax treaty has been concluded or in case of reciprocity in connection with the stipulation of innocuousness (i.e., a tax exemption from freight tax) by the German ministry of transport.

1.5 Special vessel registration tax benefits for the shipowner
To benefit from the tonnage tax regime, the vessel has to be registered in the German Shipping Register. For the wage tax benefit, the vessel has to be registered in the German Shipping Register and has to fly the German flag.

2. Human capital
In Germany a so-called "Maritimes Bündnis" (maritime alliance) has been established, consisting of the
German government, coastal counties of Germany and unions, aiming at facilitating employment and education on German vessels, plus countering the trend of German ship-owners to fly foreign (“cheap”) flags.

On 1 August 2013 the German Maritime Labour Code (Seerarbeitsgesetz) came into force, implementing the 2006 Consolidated Maritime Labour Convention of the International Labour Organization (MLC), which sets forth numerous minimum standards for working and remuneration conditions.

The new law is tailored to apply to all employees working on board a vessel, including the captain and employees not working for the shipowner. It covers the following issues: general provisions, minimum requirements for work by crew members on ships, conditions of employment, vocational training on board, accommodation and recreational facilities, food and catering, safety and health protection at work, medical care and social care, order on board and right of complaint, certificates and responsibility of the flag state, requirements of ships flying a foreign flag and the responsibility of the port State, enforcement of working and living conditions, and provisions on penalties and fines (as well as final and transitional provisions).

As a consequence the new Maritime Labor Code, the former German Seafarer’s Act (Seemannsgesetz) expired. On the one hand, some of the provisions and regulations of the Seafarer’s Act can still be found in the Maritime Labour Code. Compared to other countries, Germany always held a high standard on regulations and provisions concerning the seafarer’s rights. On the other hand, you will find some innovations, e.g., the provisions concerning vacation entitlement and termination of the employment relationship changed.

The past system of flag state and port state controls is extended to the control of crew members’ working and living conditions. Ship-owners have to make sure that ships of 500 gross tons (GT) and over that are engaged in international voyages can prove by a Maritime Labour Certificate (Seearbeitszeugnis) and a Declaration of Maritime Labour Compliance (Seearbeits-Konformitätserklärung) that they comply with the MLC requirements. Those documents are given by the Seamen’s Accident Prevention and Insurance Association (see Berufsgenossenschaft). Vessels from states that have not yet ratified the MLC are required to provide similar minimum standards for working and living conditions on board, as well as states that have already ratified it.

2.1 Applicability of national labor law

As a general rule, German labor law applies mandatorily to vessels flying the German flag. However, in extraordinary cases, German law may also apply to ships flying a different flag. The general rules of Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) have to be considered (Articles 8 and 9). Also, if the vessel flies the German flag but is registered in the German International Shipping Register, German labor law does not per se and only because of the German flag apply to foreign crew members with residence outside Germany.

2.2 Formalities and regulations on hiring and employing personnel

For vessels flying the German flag, the National Regulation for Safe Manning (Schiffsbesetzungsverordnung) is applicable. With regard to this regulation, the captain of a ship that is registered in the German Shipping Register and flies the German flag must be a European Union citizen and hold a valid German certificate of his qualification to command a ship or an equivalent recognized foreign certificate. The minimum number of German/EU national and qualified officers, mechanics and crew members that must be employed on board the vessel depends on the gross tonnage and ranges from one officer to one officer, one mechanic and one additional crew member (respectively two for larger vessels).

Specific obligations apply to the required qualifications and the hiring process of crew members, who need, for instance, a qualified doctor’s certificate on their health conditions.

The ship manager has to apply for a Manning certificate. This certificate is issued by the Seamen’s Accident Prevention and Insurance Association. At present, crewmen must register at the local “Seemannsamt” before
signing on a vessel for a journey.

2.3 Collective labor agreements
The collective labor agreements (MTV-See and HTV-See) between the relevant union, the United Services Union (ver.di, an independent, individual trade union) and the German Shipowners’ Association (VDR) were updated with effect from 11 July 2007 and in 2011 (increase of the standard wages and benefits for all registers per 3.2%, with effect as of 1 January 2012 HTV-See). Some shipping companies have negotiated special conditions. Those agreements are also applicable if the seafarer’s employment contract refers to them.

On vessels flying the German flag, two separate committees representing the employees can exist: the Ship’s Committee (Bordvertretung) and the Fleet Works Council (Seebetriebsrat) (see sections 114, 115 and 116 of the German Works Constitution Act [Betriebsverfassungsgesetz]). As a rule, the Fleet Works Council is the superordinate body with regard to the Ship’s Committee. It represents all crew members of a shipping fleet (a shipping fleet within the meaning of the German Works Constitution Act shall be deemed to comprise all of the ships operated by a shipping company). The general rules of the German Works Constitution Act are applicable.

2.4 Treaties relating to social security contributions
Vessels that fly the German flag build the domestic place of employment for the crew members (see section 10 of the German Social Security Code IV [Sozialgesetzbuch IV]). That means that the German regulations are applicable (principle of territoriality). This basic rule counts for all crew members of all nationalities. It doesn’t matter if German labor law is applicable or not (see above under 2.1) - the regulations concerning social security apply anyhow.

The Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (this Regulation generally replaced Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the European Community) applies for seafarers from EU Member States and the European Economic Area (EEA). An activity as an employed or self-employed person normally pursued on board of a vessel at sea flying the flag of a Member State shall be deemed to be an activity pursued in the said Member State. However, a person employed on board a vessel flying the flag of a Member State and remunerated for such activity by an undertaking or a person whose registered office or place of business is in another EU Member State shall be subject to the legislation of the latter Member State if he or she resides in that Member State (Article 11 Subsection 4 of Regulation (EC) No 883/2004).

Basically, neither this EC regulation nor German social security regulations apply for vessels flying any other flag (no local or EC Member State place of employment). However, there might be exemptions because of existing totalization agreements regarding social security. Therefore, it is necessary to check if such agreements do exist. Germany has concluded bilateral treaties on social security with the following countries: Australia, Bosnia-Herzegovina, Brazil, Canada, Chile, China, Croatia, Israel, Japan, Kosovo, Macedonia, Montenegro, Morocco, Serbia, Korea (ROK), Tunisia, Turkey, and the United States of America.

In addition to these entire possible constellations, it is important to keep the rules concerning delegations in mind. With regard to Germany, these rules also apply for seafarers. They could be of importance in case that the employer is German.

2.5 Manning issues with flying the German flag
German ship owners can apply to fly certain foreign flags even if a vessel is registered in Germany. The permit to fly a foreign flag is generally granted for two years. Extension is usually granted. As a rule, German ship-owners only fly the German flag if and when the associated tax benefits exceed the additional costs. The additional costs are largely related to crewing issues, particularly to social security contributions issues. Also, when flying the German flag, non-EC crew members in principle need a working permit (at present, the German government investigates whether this requirement should be abolished to render flying the German
flag more attractive). As mentioned above, flying a different flag may in general, but not in exceptional circumstances, hinder the application of German labor law.

Permission for flagging a ship out is only granted if the applicant commits to provide training positions on the ship or if an amount is paid to a foundation to promote vocational training in the shipping industry. The amount payable depends on the size of the ship and ranges from €2,000 (500 gross tonnage or less) up to €16,169 (more than 80,000 gross tonnage). In addition, significant higher fees for the relevant shipping authorities (Bundesamt für Seeschifffahrt und Hydrographie) will be triggered.

3. Corporate Structure

4. Grants and incentives

4.1 Regional state aid for investments

According to the European Commission’s Regional Aid Guidelines (RAGs)\(^1\) for the period 2014-20 the shipbuilding industry is eligible for regional state aid.

Under the RAGs, the maximum possible funding is dependent on the region where the investment takes place and the size of the applicant. The maximum permissible aid intensities for Germany according the RAGs range from 10% to 15% of the capital expenditure. SMEs (SMEs are small- and medium-sized enterprises according to the definition of the European Commission)\(^2\) may receive an additional top-up of up to 15%.

According to the RAGs, funding is available for investments in the extension of the capacity of an existing establishment (SMEs only) or the setting-up of a new establishment and investments in favor of new economic activities (all enterprises).

The RAGs serve as framework legislation which requires implementation on a national level. Due to delays concerning the adoption of the RAGs on the EU level, Germany has not yet implemented the guidelines into national law. Implementing legislation is expected to be adopted in the second quarter 2014.

4.2 Shipbuilding and innovation

Based on the new EU framework on state aid to shipbuilding that came into effect on 1 January 2012, the Federal Office of Economics and Export Control has set up a national program that supports the use of innovative products and techniques in industrial shipbuilding in German shipyards.

The maximum aid intensity is 20% of the eligible costs, provided that the aid relates to the industrial application of innovative products and processes, that is to say, technologically new or substantially improved products and processes when compared to the state of the art existing in the shipbuilding industry within the EU, which carry a risk of technological or industrial failure. In case of significant improvements in the field of environmental protection, the maximum aid intensity is 30% of eligible costs.

The deadline for submitting funding application is 16 June 2014.

4.3 Incentives for employment

It is in the interest of the EU to ensure its competitiveness in the maritime sector as well as to protect and support the employment of European seafarers. Germany supports the EU Community’s maritime interest by providing funds for the reduction of non-wage labor costs. International shipping companies whose vessels are registered under the flag of Germany and are wholly owned by natural or juristic private persons of the EEA are eligible to receive grants for crew members who are EU citizens or citizens of European Free Trade Association (EFTA) states. Depending on the size of the ship and the position occupied by the employee

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\(^2\) For a distinguished definition of small and medium enterprises, please refer to the Official Journal of the EU No. L 124, 20 May 2003, p. 36.
aboard the ship, grants may range between €9,400 and €16,700 per crew member.

Furthermore, German tax law provides for the possibility of a wage tax reduction for employers of seafarers. Forty percent of the wage does not need to be transferred to the tax office under the condition that the seafarer’s assignment exceeds 183 days on a ship registered in the German Shipping Register and flying the German flag. The ship has to serve for the transport of goods and persons to or between foreign harbors. Up to and including 2013, Germany supported the creation of training positions on vessels flying the flag of an EU Member State. It is uncertain whether the funding program will be prolonged. Updates are expected in the second half of 2014.

4.4 Incentives for sustainable shipping services (Horizon 2020 and Connecting Europe Facility)

Horizon 2020 supports projects that aim to achieve a European transport system that is resource-efficient as well as climate- and environment-friendly. The shipping industry may be eligible for funding in the area of smart, green and integrated transport.

Horizon 2020 also supports waterborne transport systems if they contribute to the optimal use of energy resources and the minimization of environmental impacts such as pollutants and greenhouse gas emissions. Undertakings from EU Member States, from EFTA states and EEA and candidate countries are eligible to participate in this program. The program is valid until 31 December 2020. The maximum funding level depends on the project.

Calls for proposals are published continuously by the European Commission.

In addition to Horizon 2020, the Connecting Europe Facility (CEF) is a European instrument that is aimed at supporting the development of a high-performing, sustainable and efficiently interconnected trans-European network in the field of transport (TEN-T), focusing on projects that build missing cross-border links between different parts of the EU. The promotion of long-distance, short sea and inland shipping as a sustainable mode of transport is among the priorities of TEN-T. The TEN-T comprises the inland waterway network and inland ports, seaports and motorways of the sea.

The support for TEN-T projects mainly takes the form of grants. Grants may amount to up to 50% of the total project implementation costs for studies, depending on the type of project. The maximum funding rates for works in the area of transport can amount up to 30% of the eligible costs, reflecting the anticipated added value the project brings to the development of the TEN-T network as a whole.

Calls for proposals are published by the European Commission on an annual our multi-annual basis.

4.5 Special incentives

Almost all government agencies provide incentives for improving the environmental impact of industries. They may apply to shipping companies, depending on the facts and circumstances.

Subsidies for innovative research, development and innovation (R&D&I) activities may be available to the shipbuilding industry in Europe and Germany, depending on the facts of the planned project and the planned level of technical innovation as well as on the size of the applicant. The current EU framework legislation for R&D&I activities is being revised. The new framework and the German implementing legislation are expected to enter into force in the second half of 2014.

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3 German guidelines on the reduction of non-wage labor costs in German maritime shipping as of November 2012 (Richtlinien zur Senkung der Lohnnebenkosten in der deutschen Seeschifffahrt, 9 November 2012, in its version of 28 March 2013).
4 §41 a para. IV German Income Tax Act (Einkommenssteuerrregelung).
4.6 **Issues with flying the German flag**

With regard to grants, there are no issues with flying the German flag, other than those mentioned above (see section 4.3).

5. **General information**

5.1 **Infrastructure**

5.1.1 **Major ports**

The major ports are:

- Bremen/Bremerhaven (including the Jade-Weser Port, which is a deep-water harbor and safe from tides)
- Emden
- Hamburg
- Lübeck
- Rostock
- Wilhelmshaven

5.1.2 **Port facilities**

The following facilities are available in particular, although the list is not exhaustive:

- Maintenance and repair
- Dry-docking, docking
- Storage, logistic services of all kinds
- Free-trade zones
- Cranes for every size of vessel

5.1.3 **Airports close to the major ports**

Airports close to the major ports are:

- Bremen Airport (Bremen/Bremerhaven, Wilhelmshaven, Jade-Weser-Port)
- Hamburg Airport (Hamburg, Lübeck)
- Lübeck Airport (Hamburg, Lübeck)
- Rostock-Laage Airport (Rostock)

5.1.4 **Support services for the shipping industry**

All shipping industry services are readily available, in particular but not limited to the following:

- Banks with a shipping desk
- Consulting firms specializing in the shipping industry
- Maritime law services
- Shipping industry insurance brokers and loss adjusters

5.1.5 **Maritime education**

The following are maritime education and training institutions for the merchant marine:

- Bremen University of Applied Sciences (industrial engineer for ship construction and maritime traffic, nautical science, shipping and chartering)
- Bremerhaven University of Applied Sciences (engineer for ship operating technology, maritime technologies, cruise tourism management)
- Cuxhaven Public Navigation School (for first class, dual-purpose officers - up to master and chief engineer, unlimited certificate)
- Elsfleth/Leer University of Applied Sciences Oldenburg/Ostfriesland/Wilhelmshaven (master mariner - nautical science, maritime traffic, maritime management)
Maritime education and training colleges for ratings are the following:

- Flensburg University of Applied Sciences (B.Sc. maritime traffic, nautics and logistics; engineer for ship operating technology; ship mechanical engineering)
- Flensburg Navigation School (for first class, dual-purpose officers - up to master and chief engineer, unlimited certificate)
- Warnemünde University of Wismar Department of Maritime Studies (navigation/maritime logistics, ship's operation technology, installation engineering and supply engineering)

5.2 Safety and environmental issues

5.2.1 Implementation of the International Safety Management Code on board vessels

German-owned and controlled tonnage consists mainly of container vessels. Chapter 9 of the International Convention for the Safety of Life at Sea (SOLAS) has been compulsory for these vessels since 2002. The 88th amendment of the SOLAS protocol is in force since July 2006 and prescribes the double-hull construction of bulker ships.

5.2.2 Safety rules regarding manning

Standards of Training, Certification & Watchkeeping (STCW) 95 governs all manning of seagoing vessels. European Port State Control requires that all ships entering European ports be manned according to STCW 95. In Germany, compliance with STCW 95 is monitored by the See-Berufsgenossenschaft.

5.2.3 Special regulations on safety and the environment

Germany has ratified international treaties regarding marine pollution and safety of life at sea, such as the International Convention for the Prevention of Pollution from Ships (MARPOL) and SOLAS. Present regulations concerning safety and environmental issues are in line with these relevant international conventions to which Germany is a party.

5.3 Registration

5.3.1 Registration requirements

The German Shipping Register is operated by the district courts and consists of three registers:

1. Register of inland navigation ships
2. Register of seagoing ships
3. Register of ships under construction

The vessel must be owned by a person residing in Germany or an EU Member State. If a partnership owns a vessel, the majority of the partners have to be German. If a corporation owns a vessel, the majority of the managing directors have to be German.

An EU-located partnership or corporation may register a ship in the German Shipping Register if it appoints a representative residing in Germany who is responsible for compliance with shipping-related provisions.

5.3.2 Ship registration procedure

As a basic rule, the registration procedure complies with the procedure of any other international ship register.

5.3.3 Parallel registration

Parallel registration is possible. The prerequisites are the existence of a bareboat charter party and government permission in both countries, i.e., the country of the bareboat charterer and Germany. Permission is granted for two years and can be revoked at any time. In practice, it will be renewed upon simple application.
5.3.4 Requirements for the officers and crew serving on vessels
The qualifications of officers and crew must comply with STCW 95. Masters have to be German or EU citizens. Numbers and qualifications have to comply with the Safe Manning Certificates. However, the maritime alliance enables exceptions to the nationality requirements for officers and mechanics if training positions are provided at the same time.

5.3.5 International conventions regarding registration
There are no such conventions.

5.4 Accounting

5.4.1 Vessel
Vessels intended for long-term ownership or use, are classified as fixed assets according to German generally accepted accounting principles. The vessels are valued at historical cost, but are written down to actual value where the decline in value is considered to be permanent and book value exceeds nominal net cash flow. Vessels are depreciated over their economic lifetime. Audit procedures focus on the completeness of capitalized acquisition costs, appropriate calculation of depreciation and assessment of the need for impairment charges.

5.4.2 Vessel-based loans
A long-term loan is reported in the balance sheet at the nominal value of the amount received when the loan was granted and is not appreciated to its actual value due to a change in interest rates. The audit procedures focus on reconciliation loan redemption with the loan contracts, the appropriateness of recorded interest during the fiscal year as well as accrued interests at the balance sheet date and the adequate consideration of foreign currency translations.

5.4.3 Charter hire and operational expenditures
Expenses related to uncompleted tramp voyages are capitalized as inventories without profit margin realization. Revenue is recognized when cargo is unloaded. However, charter hire regarding time charter agreements is stated on a pro rata temporis basis within the profit and loss statement. The audit procedures focus on reconciliation of charter hire with the corresponding charter contracts and the completeness and appropriateness of operational expenditures.
1. Tax

1.1 Tax facilities for shipping companies

Under Greek law, income from shipping activities (i.e., profits from ownership of a Greek-flagged vessel) is annually taxed on the basis of the Gross Registered Tonnage (GRT) of the ship. Payment of this tax results in exemption from any other obligation of corporate income tax, and this exemption also applies to the shareholders (Article 2 of Law 27/1975). Furthermore, this exemption also covers any capital gains derived from the sale of vessels, as well as any insurance indemnity associated thereto. The tax is payable annually to the special tax office for ships, provided that the ship-owning companies have no other assets, and the sole income tax they are obliged to pay is the tonnage tax.

Under Greek tax law (L.27/75), vessels are classified in two categories:

Category A includes:
- Cargo vessels, tankers and refrigerators with a GRT of at least 3,000 register tons
- Steel hull vessels for dry or liquid cargo and refrigerators with a GRT exceeding 500 register tons and up to 3,000 register tons extending their voyages from Greek to foreign ports or trading between foreign ports
- Passenger vessels extending their voyages from Greek to foreign ports or transporting passengers between foreign ports
- Cruise vessels with a GRT of over 500 register tons, which during the year preceding the tax year carried out pleasure voyages between domestic and foreign ports for at least six months and on an exclusive basis
- Offshore drilling rigs (of over 5,000 displacement tons) and floating production storage offloading vessels (FPSO units) with a GRT of over 15,000 register tons, used for seabed exploration, offshore drilling, oil or natural gas pumping, refining and storing

Category B includes:
- Fishing boats
- Sailing boats and ships
- Any other vessel not classified under category A

Category A vessels in the Greek registry

The ownership (on 1 January of each year) of vessels flying the Greek flag triggers a tonnage tax liability, irrespective of the owner’s place of residence or establishment.

In 2002, the Greek government reduced the tonnage tax by approximately 70% (as presented below) for tankers, cargo vessels and refrigerators with a GRT of over 1,500 register tons as long as they are registered under Legislative Decree (LD) 2687/53, with the aim to attract vessels to flying the Greek flag. Such reduced rates remained fixed up until 31 December 2007 (see standard rates 2002-07 for vessels registered under LD 2687/53). As of 1 January 2008, said rates increase by 4% per year.

The above-mentioned tax (concerning vessels registered after 22 April 1975) is calculated on the gross tonnage of the vessel and is determined by the following scale:

<table>
<thead>
<tr>
<th>GRT</th>
<th>Coefficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>100-10,000</td>
<td>1.2</td>
</tr>
<tr>
<td>10,001-20,000</td>
<td>1.1</td>
</tr>
<tr>
<td>20,001-40,000</td>
<td>1.0</td>
</tr>
<tr>
<td>40,001-80,000</td>
<td>0.9</td>
</tr>
<tr>
<td>Over 80,000</td>
<td>0.8</td>
</tr>
</tbody>
</table>
For vessels registered under LD 2687/53, the tax due is further reduced by 50% for the bracket between 40,001 and 80,000 GRT and 75% for the bracket over 80,000 GRT. The scale is determined as follows:

<table>
<thead>
<tr>
<th>GRT</th>
<th>Coefficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>100-10,000</td>
<td>1.20</td>
</tr>
<tr>
<td>10,001-20,000</td>
<td>1.10</td>
</tr>
<tr>
<td>20,001-40,000</td>
<td>1.00</td>
</tr>
<tr>
<td>40,001-80,000</td>
<td>0.45</td>
</tr>
<tr>
<td>Over 80,000</td>
<td>0.20</td>
</tr>
</tbody>
</table>

The taxable gross tonnage is calculated by multiplying the above coefficient rates by each scale of GRT and adding up the total (for example, the taxable tonnage of a vessel with a GRT of 30,000 tons would be:

\[10,000 \text{ GRT} \times 1.2 + 10,000 \text{ GRT} \times 1.1 + 10,000 \times 1 = 33,000 \text{ tons}\].

The amount of the gross taxable tonnage is then multiplied by the respective tax rate corresponding to the age of the vessel, as stated below:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>0-4 years</td>
<td>€ (US$)</td>
<td>€ (US$)</td>
<td>€ (US$)</td>
<td>€ (US$)</td>
<td>€ (US$)</td>
<td>€ (US$)</td>
<td>€ (US$)</td>
<td>€ (US$)</td>
<td>€ (US$)</td>
<td>€ (US$)</td>
</tr>
<tr>
<td></td>
<td>0.40 (0.53)</td>
<td>0.99 (1.293)</td>
<td>1.336 (1.335)</td>
<td>1.357 (1.357)</td>
<td>0.24 (0.318)</td>
<td>0.28 (0.369)</td>
<td>0.382 (0.382)</td>
<td>(0.394) (0.394)</td>
<td>(0.407) (0.407)</td>
<td></td>
</tr>
<tr>
<td>5-9 years</td>
<td>0.73 (0.95)</td>
<td>2.318 (2.356)</td>
<td>2.394 (2.432)</td>
<td>0.44 (0.57)</td>
<td>0.50 (0.661)</td>
<td>0.684 (0.707)</td>
<td>(0.730)</td>
<td>(0.730)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10-19 years</td>
<td>0.71 (0.93)</td>
<td>2.269 (2.306)</td>
<td>2.344 (2.381)</td>
<td>0.43 (0.558)</td>
<td>0.49 (0.647)</td>
<td>0.670 (0.692)</td>
<td>0.692 (0.714)</td>
<td>0.692 (0.714)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>20-29 years</td>
<td>0.67 (0.88)</td>
<td>2.147 (2.182)</td>
<td>2.218 (2.253)</td>
<td>0.40 (0.528)</td>
<td>0.47 (0.612)</td>
<td>0.634 (0.655)</td>
<td>0.655 (0.676)</td>
<td>0.655 (0.676)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Over 30 years</td>
<td>0.52 (0.68)</td>
<td>1.659 (1.686)</td>
<td>1.714 (1.741)</td>
<td>0.31 (0.408)</td>
<td>0.36 (0.473)</td>
<td>0.490 (0.506)</td>
<td>0.506 (0.522)</td>
<td>0.506 (0.522)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Following the same example, if the above vessel is a four-year-old tanker, registered under LD 2687/53, the 2014 tonnage tax will be: 33,000 taxable tonnage * US$0.407 = US$13,431

The Euro equivalent is in accordance with the official exchange rate as of 28 February of each year concerned (i.e., 28 February 2013 in this case).

**Category B ships in the Greek registry**

The tonnage tax imposed on the owner - individual or company - of these vessels, is calculated using a scale taking into consideration their GRT and applying the corresponding tax rate.

**Ships of Greek ownership in a foreign registry**

If the crew of these vessels (irrespective of their category) are insured by NAT (the Greek Seafarers'
Pension Fund), the shipowners, ship managers, their representatives and process agents, and the person
who executed the relating agreement with NAT are jointly liable to pay a special contribution to the Greek
authorities under Law 29/75.

The above contribution is calculated on the taxable gross tonnage of the vessel and is determined using a
scale based on the GRT of the vessel. The amount of the taxable gross tonnage is multiplied by a tax rate
corresponding to the age of the vessel. The total amount of this contribution is calculated in US dollars.

Under the provisions of article 26 of Law 27/1975, as amended by Law 4110/2013, the aforementioned
tonnage tax is also imposed on foreign-flagged vessels owned either by domestic or by foreign companies,
in case the vessel’s management is assigned to a Greek ship management office established under the
conditions set forth by the aforementioned law. The rates applicable are the rates that were applicable for
Greek-flagged vessels each preceding year (e.g., for 2014, the rates applicable for foreign flag flying vessels
are the rates that were applicable in 2013 for Greek-flagged vessels).

**Contribution tax of offices of Law 27/1975**

According to the latest amendments in the Greek tax law, offices established under article 25 of Law
27/1975 (former Law 89/1967) and engaging in activities other than shipping management and
exploitation (e.g., insurance, brokerage, agency, etc.) are annually taxed on the amount of foreign exchange
imported in Greece and converted to Euros during the calendar years 2012–2015 (which can be no less than
USD 50,000) according to the following scale:

<table>
<thead>
<tr>
<th>Bracket of imported foreign exchange (US$)</th>
<th>Rate %</th>
<th>Bracket tax (US$)</th>
<th>Total foreign exchange imported (US$)</th>
<th>Total tax (US$)</th>
</tr>
</thead>
<tbody>
<tr>
<td>200,000</td>
<td>5</td>
<td>10,000</td>
<td>200,000</td>
<td>10,000</td>
</tr>
<tr>
<td>200,000</td>
<td>4</td>
<td>8,000</td>
<td>400,000</td>
<td>18,000</td>
</tr>
<tr>
<td>Excess amount</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Special contribution of shipping community as per Law 4223/2013**

A special contribution of the shipping community was introduced by Law 4223/2013 for years 2014, 2015
and 2016.

This contribution is levied on:

- Greek-flagged ships falling under category A (as defined above), or category B with at least 500 GRT,
  and is equal to twice the tax due each preceding tax period
- Foreign-flagged ships managed by a company established in Greece according to article 25 of Law
  27/1975

The amount of the contribution in both cases is equal to twice the tonnage tax due for each ship each
preceding tax year, while any time periods during which the ship paused its operations (e.g., due to repair,
etc.) or, in the case of foreign flag ships, was not managed by the above Greek management office do not
grant the right for a tax deduction. The total time during which the ships were under the Greek flag or under
the management of the Greek management office of Law 27/1975, respectively, is taken into account for the
calculation of the amount of the contribution.

The ship-owning companies and ship-owners and the above management companies established in Greece
(if applicable) are jointly liable for the contribution, which is assessed via the filing of a special contribution
return accompanied by copies of the tax returns of each preceding tax year. It is settled in two equal
installments, one in February (along with the contribution return) and one in July. The payment of the
contribution leads to the issuance of a certification by the tax authority that will be needed for acquiring a
tax and social security clearance certificate (stating that no tax and/or social security debts are outstanding) and for the issuance of a certification regarding the lawful establishment of the management company in Greece (if applicable).

The contribution is imposed, in spite of, and in addition to, the tonnage tax levied to foreign flag vessels as analyzed above.

1.2 Tax facilities for seafarers

The main incentive for Greek seafarers is the lower income tax rate compared to other employees (i.e., the income tax rates for seafarers are 15% and 10% for officers and lower crew, respectively).

As mentioned above, the question of deductibility of seafarers’ wages is irrelevant for shipping companies since they are not subject to corporate income tax.

1.3 Tax treaties and place of effective management

Greece has concluded double tax treaties (DTT) on income and capital tax with the following countries in order to avoid double taxation:

Albania, Armenia, Austria, Azerbaijan, Belgium, Bulgaria, Canada, China, Croatia, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Finland, France, Georgia, Germany, Hungary, Iceland, India, Ireland, Israel, Italy, Kuwait, Latvia, Lithuania, Luxembourg, Malta, Mexico, Moldova, Morocco, Netherlands, Norway, Poland, Portugal, Qatar, Romania, Russian Federation, Saudi Arabia, Serbia, Slovak Republic, Slovenia, South Africa, South Korea (ROK), Spain, Sweden, Switzerland, Tunisia, Turkey, Ukraine, United Kingdom, United States of America, Uzbekistan.

Under most of the above treaties, profits from international transportation are taxable in the state of the ship’s registry.

In addition, Greece has concluded shipping and air transport agreements for the avoidance of double taxation of income derived from sea and air transport. The main countries are: Albania, Australia, Bulgaria, China, Denmark, Egypt, Estonia, Ethiopia, Georgia, Germany, Jordan, Lebanon, Morocco, Netherlands, Norway, Pakistan, Poland, Romania, Russian Federation, South Africa, Switzerland, Syria, and Yugoslavia*.

*The application of the Greece–Yugoslavia shipping and air transport agreement varies depending on the successor state (i.e., Bosnia-Herzegovina, Croatia, Macedonia, Montenegro, Serbia, Slovenia and Kosovo). It explicitly applies with respect to Croatia and Slovenia.

1.4 Freight taxes

No freight taxes are levied.

1.5 Special vessel registration tax benefits for the shipowner

Tonnage tax was reduced by approximately 70% as from 1 January 2002 and was maintained at these rates until 31 December 2007 for tankers, cargo vessels and refrigerators with a GRT of over 1,500 tons, which are registered under LD 2687/53.

1.6 Changes to tax law

According to article 2 of Law 3790/2009 as amended by article 64 of the recently enacted Law 3842/2010, a special annual tax is imposed on private (not professional) leisure (recreational) ships. Said special tax is imposed only if the aforementioned ships remain in Greek territory for more than 60 days within a calendar year, are registered either in a Greek or foreign registry and have been furnished with certain documents (i.e., a leisure ship’s trade slip or transit log book) by the domestic competent authorities.

Within this legislative framework, the special tax is imposed on motor vessels that exceed 10 meters and is calculated as follows:

> For the first 10 meters, a special duty of €1 (US$1.3) is imposed
> For the next 3 meters (11–13 meters), €300 (US$390) per meter
• For the next 4 meters (14–17 meters), €550 (US$720) per meter
• For the next 4 meters (18–21 meters), €800 (US$1,000) per meter
• For the next 4 meters (22–25 meters), €1,050 (US$1,400) per meter
• For the meters in excess (26 meters and over), €1,300 (US$1,700) per meter

Special tax is also imposed on sailing ships and again is calculated based on the length of the ship.

The owner of the leisure ship, either individual or legal entity, is liable for the payment of said special tax. If the owner is a legal entity, its legal representative or administrator is jointly and severally liable for the payment of said tax. Said special tax has to be prepaid by 15 October of the year preceding the calendar year to which it refers.

In addition, pursuant to article 3 of Law 3790/2009 as amended by article 4 of Law 3808/2009, an extraordinary special levy was imposed on private (not professional) ships flying either a Greek or foreign flag. Said special levy applied only for calendar year 2009 and had to be paid by 30 April 2010. It was imposed only if the aforementioned ships were registered in Greece or were within Greek territory on 31 March 2009 and had been furnished with certain documents (i.e., a leisure ship's trade slip or transit log book) by the domestic competent authorities.

According to article 19 of Law 4002/2011, owners of professional leisure ships, the acquisition of which had been exempt from value-added tax (VAT) and the corresponding license has been, or is due to be, terminated on any grounds whatsoever, were allowed to remit the amount of VAT due on the ship and fuels to the State, being released from any taxes, fines and surcharges applicable for having used the ships as private ones in contradiction to the license terms. The deadline for coming under this beneficial regime expired on 20 January 2012.

According to article 13 of Law 4211/2013, a special annual levy (“sailing levy”) is imposed as of 1 January 2014 on private or professional leisure (recreational) ships, small motor engine vessels longer than seven meters and tourist daily cruise vessels longer than seven meters that sail, anchor or dock in Greek territorial waters independently of which flag they are flying.

The levy for ships shorter than 12 meters is calculated as follows:

<table>
<thead>
<tr>
<th>Range of total length (in meters)</th>
<th>Annual levy (in €)</th>
</tr>
</thead>
<tbody>
<tr>
<td>7 - 8</td>
<td>200</td>
</tr>
<tr>
<td>8 - 10</td>
<td>300</td>
</tr>
<tr>
<td>10 - 12</td>
<td>400</td>
</tr>
</tbody>
</table>

The levy for ships longer than 12 meters is calculated at €100 per meter per annum or €10 per meter per month, starting in both cases from the first meter of length.

The levy, as determined above, is reduced by 50% for professional ships, including tourist daily cruise vessels, with exclusive professional use. Further, the levy is reduced by 30% for ships longer than 12 meters that permanently dock in Greece.

Payment is effected electronically up until entering the Greek territory or in December of each year for the following year (if already in Greek territory), and the relevant receipt is kept as proof for payment. In case of nonpayment, a fine is imposed equal to 100% of the due levy.

2. Human capital

2.1 Formalities for hiring personnel
Crews of Greek cargo vessels consist of Greek qualified seafarers, holding an appropriate certificate,
depending on their capacity.

The safe manning of the vessels, the licenses, diplomas or the permits that each crew member must possess are determined by the relevant Presidential Decrees, according to the tonnage, type and technical characteristics of each vessel.

The formalities for hiring personnel are governed by the international Standards of Training, Certification & Watchkeeping Convention 1995 (STCW 95) as amended and in force, including PD 79/2012, which approved decisions STCW/CONF.2/33 and STCW/CONF.2/34 of the International Maritime Organization (IMO).

Seafarers commonly enter into a contract with the management company on behalf of the owning company. The crew contracts usually contain details of wages and overtime, duration, payment terms, repatriation, the nature of work, duties and responsibilities according to each time applicable rules.

The safe manning of each vessel is ruled by each ship’s administrative registration acts. The captain must be of Greek nationality.

2.2 National labor law

National labor law applies to all vessels flying the Greek flag or employing seafarers registered with NAT, unless (and always under the provisions of each vessel’s administrative registration act) an individual employment contract was signed between the seafarer and the ship-owning company under the laws of a third country.

2.3 Regulations on employing personnel

By virtue of Law 4078/2012, Greece ratified the Maritime Labour Convention, 2006 (the Convention) of the International Labour Organization (ILO), which sets out the conditions for decent work in the increasingly globalized maritime sector.

The Convention sets minimum requirements for seafarers to work on a ship and contains provisions on conditions of employment, hours of work and rest, accommodation, recreational facilities, food and catering, health protection, medical care, welfare and social security protection.

2.4 Collective labor agreements

Greek maritime collective labor agreements are executed in accordance with the provisions of Law 3276/44 between relevant employer’s and employee’s federations. After execution, they are ratified by the Administration and published to the Greek Government Gazette.

Collective labor agreements contain terms such as:

- Term of embarkation
- Minimum wage and other mandatory payments, which vary according to the seafarer’s position
- Leave entitlements (eight days per month holiday payment)
- Entitlements due to illness
- Rules regarding breach of contract
- Rules regarding working hours, e.g., eight standard hours and four hours maximum overtime as per the ILO180 Convention

Greek seafarers are organized under relevant maritime trade unions, such as the Panhellenic Seafarers’ Union Organization (PNO), the Panhellenic Union of Engineers (PEMEN) and the Panhellenic Union of Masters (PEPEN). These bodies have an active role in the formation of collective labor agreements and the protection of seafarers’ rights in general.

Through the year 2013, the following maritime collective labor agreements were concluded and further ratified by the Greek Maritime Ministry:

- For tugboat crew members
- For lifeboat crew members
• For masters of Mediterranean and tourist vessels
• For crew members of Mediterranean and tourist vessels
• For crew members of ferryboats and passenger vessels
• For crew members of ferryboats

2.5 **Treaties relating to social security contributions**
Greek seafarers are registered with NAT. Various regularly renewed collective agreements exist, and they vary depending on the position of the seafarer on board and the type of vessel.

3. **Corporate structure**

3.1 **Most commonly used legal structures for shipping activities**
The most commonly used legal structure for carrying on shipping activities is the incorporation of a ship-owning company (one vessel per company) as an offshore legal entity (most frequently as a Cypriot, Liberian, Maltese, Marshallese or Panamanian offshore ship-owning company), which operates in Greece through a management agreement with a management company (usually incorporated in one of the above jurisdictions), establishing a branch office in Greece under former Law 89/67 (and yet under Law 27/1975).

Provided that this structure is adhered to, ship management and ship-owning companies are exempt from any corporate income tax related to the shipping activity (except for the tonnage tax [see section 1.1]).

3.2 **Taxation of profit distribution**
Apart from the tonnage tax (and the special contribution of the shipping community introduced by Law 4223/2013) mentioned above, no other tax is imposed on either the profits of companies owning vessels flying the Greek flag or dividends from such companies. Moreover, no tax is imposed on the distribution of profits to Greek tax residents from foreign companies owning ships flying a foreign flag, which are under the administration of a company established in Greece; either the distribution is made directly to the shareholders or through a holding company, regardless of how many holding companies are interposed.

Law 4141/2013, which came into force on 4 May 2013, specifies certain conditions and the necessary supporting documentation that Greek tax resident individuals are obliged to maintain and submit in order to offset eventual deemed income assessments through the receipt of shipping dividends.

Law 4141/2013 imposed a 10% tax, exhausting any other tax liability of the beneficiary, on dividends or distributed profits in the form of a bonus that are received by a Greek tax resident individual and are paid or credited from fiscal year 2012 (financial year 2013) onwards by a foreign company of any type and form that maintains offices or branches established in Greece according to article 25 of Law 27/75, which deal exclusively with freight, insurance, settlement wreck, brokerage or construction or insurance or chartering of Greek or foreign-flagged ships of over 500 GRT as well as with the representation of shipping companies and companies with a similar object.

Foreign companies that have set up an office or branch in Greece under article 25 of Law 27/75 and are engaged in the management or operation of Greek or foreign-flagged ships are exempt from such tax.

4. **Grants and incentives**

4.1 **Specific and/or general subsidies available to shipping companies**
Greek-flagged vessels built in Greek shipyards are exempt from tonnage tax for the first six years of their existence.

4.2 **Investment incentives for shipping companies and the shipbuilding industry**
In 2002, the Greek government reduced the tonnage tax by approximately 70%, giving incentives to Greek and European Community vessels to register under the Greek flag.

4.3 **Special incentives for environmental awareness**
There are no special incentives. Penalties are a deterrent.

4.4 **Major changes in shipping subsidy legislation in the near future**
No such changes are expected.

5. **General information**

5.1 **Infrastructure**

5.1.1 **Major ports**
The major ports are: Alexandroupoli, Astakos, Igoumenitsa, Iráklion, Kalamata, Lavrio, Patras, Piraeus, Rafina, Thessaloníki, and Vólos.

The port of Piraeus, managed by OLP AE, a company listed on the Athens Stock Exchange, has general cargo and container facilities and is also used extensively for transshipment by sea. The port, which is the largest European port and the third largest passenger port worldwide, facilitating more than 20 million passengers per year, was reorganized with new infrastructure works for the hosting of the 2004 Olympic Games. Thessaloníki port, already privatized, is mainly used for trading with Balkan Peninsula countries.

5.1.2 **Port facilities**
The following facilities are available:
- Maintenance and repair
- Docking (in the port of Piraeus, dry-docking facilities can accommodate vessels up to 300,000 dead weight tonnage)
- Storage (for general cargo, reefer cargo and container terminals)
- Cranes for every size of vessel

5.1.3 **Airports close to major ports**
Airports are located close to all major ports. The main airports and their closest major ports are:
- Dimokritos (Alexandroupoli)
- Elefterios Venizelos airport, which is situated at Spata, on the outskirts of Athens (Lavrio, Piraeus, Rafina)
- Kalamata (Kalamata)
- King Pyrrhus, Ioannina (Igoumenitsa)
- Macedonia (Thessaloníki)
- Nicos Kazantzakis (Iráklion)

5.1.4 **Support services for the shipping industry**
The following support services are available:
- Greek and foreign banks with a shipping desk
- Consulting firms specializing in shipping (more than 20 firms)
- Maritime law services (more than 50 Greek and foreign law firms specializing in general and special maritime law)
- Insurance brokers for the shipping industry
- Protection and indemnity (P&I) clubs

5.1.5 **Maritime education**
Maritime education is provided by:

- National Merchant Navy Academy, which operates in various cities in Greece (Aspropirgos, Chios, Hydra, Ionian Islands, Iráklion, Kimi Euvoias, Syros, among others)
- University of Piraeus - Shipping Studies Department

5.2 Safety and environmental issues

5.2.1 Implementation of the International Safety Management Code on board vessels

All tankers, bulk carriers, cargo vessels and passenger vessels under Greek beneficial ownership have implemented the International Safety Management (ISM) Code. (Greece has implemented the relevant European Union legislation and the decisions of the IMO regarding the compulsory implementation of the ISM Code).

5.2.2 Safety rules regarding manning

The existing safety rules for manning can be characterized as strict. High standards are imposed on education, qualifications and training of seafarers. In addition, Greece is in compliance with STCW 95 regulations.

The Ministry of Mercantile Marine monitors the constant upgrading of Hellenic ships' safety standards and their harmonization with the decisions and regulations of international organizations and European Community directives.

5.2.3 Special regulations regarding safety and the environment

Greece has ratified a large number of international treaties regarding marine pollution and safety of lives at sea, such as MARPOL (International Convention for the Prevention of Pollution From Ships) (ratified under Law 743/1977) and SOLAS (International Convention for the Safety of Life at Sea). In addition, Greece is in full compliance with the IMO. Greece is a confirmed party of the IMO White List.

Since 2001, the Greek flag has been included in the Paris Memorandum of Understanding (MoU) White List. Also, the percentage of port state control inspections to ship calls at Greek ports was much higher than the required percentage of inspections under the Paris MoU (according to the Annual Report 2007 Paris MoU on Port State Control, available at the Paris MoU website: www.parismou.org). This underlines the quality of vessels flying the Greek flag and the Greek government's awareness of environmental safety.

The Ministry of Mercantile Marine is generally regarded as very strict where safety is concerned and has validated the international safety regulations, Environmental Risk from Ionising Contaminants: Assessment and Management (ERICA) I and II. Furthermore, Greece, as a member of the European Union, promotes the implementation of double hull requirements for oil tankers and equivalent design requirements for single hull oil tankers, as well as the banning of carriage of heavy fuel oil by single hull tankers.

5.3 Registration

5.3.1 Registration requirements

Registration of a vessel under the general provisions of Greek law

According to Article 5 of the Greek Code of Public Maritime Law (Law 187/1973), in order for a ship to be registered in the Greek registry, more than 50% of the shares in the ship must be owned by European Community citizens (individuals or companies). A Greek ship must be registered in a ship's registry. The act of registration must be dated and signed by the registrar of ships. All Greek ships and floating structures are registered in the public registry books kept by the port authorities. A ship under construction may also be registered. There are no age limits for cargo vessels and tankers.

Registration of a vessel pursuant to the terms of article 13 of LD 2687/53 “for investments and protection of foreign capital”

The Greek state, aiming to attract foreign capital, has enacted article 13 of LD 2687/53. Under this article, a foreign (non-Greek) company can register a vessel under the Greek flag on the condition that more than
50% of the shares in the ship are owned by European Community citizens (this is certified by the Association of Greek Shipowners, which issues a certificate of Greek ownership), and the vessel's GRT is over 1,500. There is no fee for the registration of a ship under the Greek flag, nor are there any annual fees. There is also no fee for the registration of a mortgage in the ship's registry.

5.3.2 Ship registration procedure
An application is submitted to the Greek Ministry of Mercantile Marine, along with all of the necessary documentation and, upon approval, a certificate of registration under the Greek flag is issued in the name of the shipping company.

5.3.3 Parallel registration
Parallel registration is not possible at this time under Greek legislation.

5.3.4 Requirements for the officers and crew serving on vessels
Certain minimum educational qualifications and a minimum number of years' experience at sea are required in the case of officers. Non-officers must have a valid seafarer's passport.

5.3.5 International conventions regarding registration
No international conventions regarding registration have been adopted.

5.3.6 Special requirements and rules relating to registration
All Greek port authorities who keep ship registry books also keep the relevant mortgage books. There are two types of mortgages:
- The ordinary mortgage for all types of vessels
- The preferred mortgage, which is for vessels with a GRT of over 500 (LD 3899/10 - 11 November 1958)
A notarial deed is required for a maritime mortgage to be registered in the ship's registry.
Hong Kong

Hong Kong is a special administrative region of China, and hence is a separate jurisdiction from mainland China.

1. Tax

1.1 Tax facilities for shipping companies

There is a specific charging section in Hong Kong Inland Revenue Ordinance (IRO), Section 23B, governing the taxation of a shipowner carrying on business in Hong Kong.

Under Section 23B(1) of the IRO, a person carries on business as an owner of ships in Hong Kong if:

- The business is normally controlled or managed in Hong Kong.
- The person is a company incorporated in Hong Kong.

The term “controlled and managed in Hong Kong” is not defined in the IRO. In practice, a business is considered controlled and managed in Hong Kong if the control or management of the day-to-day operations of the business takes place in Hong Kong.

Under Section 23B(2) of the IRO, when a person to whom Section 23B(1) does not apply carries on a business as an owner of ships, and any ship owned by that person calls at any location within Hong Kong waters, the person shall be deemed to be carrying on that business in Hong Kong. In this connection, calls of a casual nature may be disregarded at the discretion of the Commissioner of Inland Revenue (CIR). It should be noted that the casual call exemption only applies to taxpayers to whom Section 23B(1) does not apply.

Pursuant to Section 23B(3) of the IRO, the amount of Hong Kong assessable profits or allowable losses derived by a Hong Kong shipowner under Section 23B(1) or a nonresident shipowner under Section 23B(2) are ascertained by the following formula:

\[
\text{Relevant sums} = \frac{\text{Total shipping profit} \times \text{Total shipping income}}{\text{Total shipping income}}
\]

Where the assessor is of the opinion that the above formula cannot be satisfactorily applied to a nonresident shipowner, the assessable profits of such a nonresident shipowner may instead be computed on the basis of a fair percentage of the relevant sums accruing to the shipowner during the basis period.

If an assessment has been made on the basis of this fair percentage method, it is open to the shipowner to elect at any time within two years after the end of the year of assessment to have the profits revised to those ascertained by the formula method.

The definitions of the relevant terms used under section 23B are as follows.

Total shipping profit means: the worldwide accounting profit of the shipowner from its business as an owner of ships and as adjusted for profits tax purposes in accordance with the provisions of the IRO.

Total shipping income means: the worldwide income of the shipowner as reflected in its accounts from the operation of the shipping business. The amount excludes any income from ship dealing, agency income and investment income.

Relevant sums are the shipowner's receipts earned from, attributable to or in respect of:

(1) Any relevant carriage shipped in Hong Kong (carriage by sea of passengers, goods, livestock and mail, but does not include goods in transit and re-embarking passengers)
(ii) Any towage operation undertaken by a ship within the waters of Hong Kong or undertaken by a ship commencing within Hong Kong waters
(iii) Any dredging operation undertaken by a ship within Hong Kong waters
(iv) Any charter hire in respect of the operation of a ship navigating solely or mainly within the waters of Hong Kong
(v) One half of the charter hire in respect of the operation of a ship navigating between any location within the waters of Hong Kong and any location within waters of river trade limits
(vi) Any charter hire in respect of a charter party where one of the parties is a limited partnership that was registered in accordance with the Limited Partnership Ordinance before 2 December 1990 and whose principal assets include any ship, or any interest therein, acquired on or before that date

Where:

- Goods in transit means goods specified in a bill of lading that are brought to Hong Kong by sea solely for the purpose of onward carriage of those goods and in respect of which no freight charges for that onward carriage are paid or payable in Hong Kong.
- Re-embarking passengers are passengers whose tickets do not specify Hong Kong as the place of departure or as the place of destination.
- Charter hire means any sums earned by or accrued to an owner of a ship under a charter party in respect of the operation of a ship, but does not include any sums so earned or accrued where that charter party does not, or does not purport to, extend to the whole of that ship.
- If a charter party does not extend to the whole of the ship, the sums so derived are not treated as charter hire income. Instead, the sums derived attributable to any voyage commencing in Hong Kong waters are deemed to be in respect of the relevant carriage shipped in Hong Kong and are taxed as such.
- River trade limits has the same meaning as in the Hong Kong Merchant Shipping Ordinance. The term refers to waters in the vicinity of Hong Kong and inland waterways within the Pearl River Delta (for example, Macau and Mainland China ports such as Guangzhou).

Exempt sums are excluded from the “relevant sums” and comprise any amount otherwise included under (i) and (ii) above to the extent the ship that uplifted the goods, livestock, mail or passengers in Hong Kong, or is engaged in towing operations, is proceeding to sea from Hong Kong and

a) The ship is registered in Hong Kong under the Merchant Shipping (Registration) Ordinance.

b) The amount is derived by a person who has “reciprocity status.” A shipowner has “reciprocity status” if subject to Hong Kong profits tax by virtue of Section 23B(2) and resident in a territory outside Hong Kong which, if the Commissioner is satisfied, grants exemption from income or profits tax to shipowners controlled, managed or incorporated in Hong Kong in respect of their income derived from a business as an owner of ships carried on in that territory. In this regard, the Hong Kong Inland Revenue Department (IRD) has advised that shipowners from Chile, New Zealand and the Republic of Korea qualify for reciprocity status.

1.2 Tax facilities for seafarers

The wage costs of seafarers would normally be charged to the profit and loss account of a shipowner in order to arrive at its total shipping profit for a year. Thus, the wage costs would be deductible, subject to the apportionment as shown above.

Hong Kong salaries tax is imposed on a person who is in receipt of income arising in or derived from Hong Kong from any office, employment or pension.

An exemption clause is provided in the IRO to exempt a crew member from salaries tax if he or she is present in Hong Kong for no more than:

- A total of 60 days in the basis period (i.e., from 1 April to 31 March of next year) for a year of assessment
- A total of 120 days falling partly within each of the basis periods for two consecutive years of assessment
The salaries tax charge is the lower of the net chargeable income (assessable income less concessionary deductions and allowances) at progressive rates ranging from 2% to 17%, or at a flat rate of 15% on assessable income less concessionary deductions.

Notwithstanding the above, the income of a crew member of a ship operated in international traffic may be exempt from Hong Kong salaries tax irrespective of the individual's physical presence in Hong Kong, pursuant to the conditions as specified in certain stand-alone shipping agreements or comprehensive double tax agreements (CDTAs) Hong Kong has entered into with other jurisdictions.

1.3 Tax treaties and place of effective management

Hong Kong has entered into tax treaties with the following:

Austria, Belgium, Brunei, Canada*, Czech Republic, France, Hungary, Indonesia, Ireland, Italy**, Japan, Jersey*, Kuwait*, Liechtenstein, Luxembourg, Mainland China, Malaysia, Malta, Mexico*, Netherlands, New Zealand, Portugal, Qatar, Spain, Switzerland, Thailand, United Kingdom and Vietnam.

*Treaties will be effective from 2014–15

**Treaties not yet in force, pending the completion of the ratification procedures

Hong Kong has entered into CDTAs with the above jurisdictions and is also negotiating with a number of other jurisdictions. Except for Thailand and Indonesia, each of the above-listed CDTAs contains a clause with respect to the taxation of international transportation that states that profits from the operation of ships in international traffic shall only be taxed in the jurisdiction in which the enterprise operating the ships is a resident. Under Hong Kong's CDTAs with Thailand and Indonesia, however, 50% of the relevant shipping profits would still be taxed in the source jurisdiction. The CDTA with Mainland China, in addition to exempting corporate income tax, also exempts the relevant shipping income from business tax in Mainland China.

In addition to CDTAs, Hong Kong has also entered into stand-alone shipping agreements with Denmark, Germany, Norway, Singapore, Sri Lanka and the United States. Except for the agreement with Sri Lanka, these agreements generally provide for tax exemption in one contracting party for international shipping profits and gains on the disposal of ships operated in international traffic derived by certain qualified enterprises of the other contracting party. Under the agreement between Hong Kong and Sri Lanka, 50% of the profits derived from the operation of ships in international traffic may still be taxed in the source jurisdiction.

Residence

Under most of Hong Kong's CDTAs, a company that is incorporated in Hong Kong or, if incorporated outside Hong Kong, is normally managed or controlled in Hong Kong will be considered to be a resident of Hong Kong.

In this regard, the IRD has stated that the phrase “normally managed or controlled in Hong Kong,” as used in Hong Kong's CDTAs, is different from the phrase “central management and control” as generally used in common law to establish the residence of a company. The IRD states that the former phrase has a broader meaning than the latter as it does not require that both management and control be exercised in Hong Kong. In relation to determining whether a company is normally managed or controlled in Hong Kong, the IRD has indicated the following.

"Management," in this context, refers to management of daily business operations or implementation of the decisions made by top management, etc. “Control,” on the other hand, refers to control of the whole business at the top level, including formulating the central policy of the business, making strategic policies of the company, choosing business financing, evaluating business performance, etc. The board of directors usually exercises “control.” In other words, if the business of the company is normally managed or controlled in Hong Kong, including if the management of its daily business operations, the implementation of the decisions made by top management or the making of top-level policies is managed or controlled in Hong Kong, the company will be considered to be a resident of Hong Kong. The “management” or “control” of a company may be conducted in more than one place. However, so long as a company is normally managed or controlled in Hong
Kong, it will be considered to be a resident of Hong Kong.

Where a company is a resident of both jurisdictions under the definition of the relevant terms contained in a CDTA, the tie-breaker clause of the CDTA generally provides that the company shall be deemed to be a resident only of the side in which its place of effective management is situated.

In this context, the IRD has stated the following.

The term “place of effective management” refers to the place where key management and strategic decisions that are necessary for the conduct of the company’s business are in substance made. Under normal circumstances, it is the place where the most senior persons of a company formulate the direction and work plans of the company. A company can have only one place of effective management at any one time.

1.4 Freight taxes

Hong Kong does not have any freight taxes.

1.5 Special vessel registration benefits for the shipowner

Please refer to section 1.1 above.

1.6 Major changes to tax law anticipated in the near future

Major changes to the tax legislation regarding shipping in the near future are not expected.

2. Human capital

2.1 Formalities and regulations for employing personnel

There are no nationality or residential requirements for officers and crew serving on Hong Kong-registered ships. Crew size depends on the size and the type of ship and is set out in the Minimum Safe Manning Certificate required by the SOLAS Convention. Officers, as listed in the Minimum Safe Manning Certificate, are required to hold the respective classes of certificates of competency issued by Hong Kong, or Hong Kong Licenses issued in recognition of certificates of competency (for seagoing [oceangoing] ships except coastal or river trade voyages) issued by other maritime authorities in accordance with the Standards of Training, Certification & Watchkeeping Convention (STCW) 95 Convention. Ratings engaged on watchkeeping duties should hold STCW Watchkeeping Certificates issued in accordance with the STCW 95 Convention.

2.2 National labor law

The Employment Ordinance covers all employees, whether temporary or part-time, except a person serving under a crew agreement under the Merchant Shipping (Seafarers) Ordinance, or on board a ship that is not registered in Hong Kong.

2.3 Collective labor law

Hong Kong does not have collective labor legislation.

2.4 Treaties regarding social security contributions

Hong Kong has not entered into any social security or premium obligations treaties with other jurisdictions.

2.5 Manning advantages or disadvantages of flying Hong Kong’s flag

There are no apparent advantages or disadvantages of flying Hong Kong’s flag in relation to manning.

3. Corporate structure

3.1 Most commonly used legal structures for shipping activities

The most commonly used legal structures for shipping activities are in the form of corporations. The tax rate applicable to all corporations is 16.5%.
3.2 Taxation of profit distribution
Dividends are exempted from tax in Hong Kong as a matter of law or practice, and there is no withholding tax on dividends made by a Hong Kong company to its investors.

4. Grants and incentives

4.1 Specific and/or general subsidies available to shipping companies
There are no specific or general subsidies available to shipping companies.

4.2 Investment incentives for shipping companies and the shipbuilding industry
There are no investment incentives for shipping companies and the shipbuilding industry.

4.3 Special incentives for environmental awareness
There are no special incentives for environmental awareness.

4.4 Advantages or disadvantages of flying the Hong Kong flag
There is none applicable, as Hong Kong does not provide any subsidies and grants for shipping companies.

4.5 Major changes in shipping subsidy legislation anticipated in the near future
Major changes to shipping subsidy legislation in the near future are not expected.

5. General information

5.1 Infrastructure

5.1.1 Major ports
Hong Kong has only one major port located in the Kwai Chung-Tsing Yi basin.

5.1.2 Port facilities
The following support facilities are available:
• Maintenance and repair
• Docking
• Storage
• Cranes for every size of vessel

5.1.3 Airport close to the major port
Hong Kong has only one airport – the Hong Kong International Airport, located on Lantau Island.

5.1.4 Support services for the shipping industry
The following support facilities for the shipping industry are available:
• Banks with a shipping desk
• Consulting firms specialized in shipping
• Maritime law services
• Insurance brokers for the shipping industry

5.1.5 Maritime education
There are two types of systems for Maritime education.
University level: the Hong Kong Polytechnic University operates a degree program in International Shipping and Transport Logistics. This program equips graduates with a wide knowledge of maritime transport and logistics within a general broad perspective of international transport and trade. Graduates are taught the skills necessary to understand and manage maritime organizations and personnel.
Vocational type: the Maritime Services Training Institute (MSTI) provides a wide range of courses for new entrants, local and foreign in-service seafarers, and employees of marine-related and shore-based industry. The courses that MSTI provides include the two-year full-time Diploma Courses in Maritime Studies, new entrant day courses and modular day courses for deck cadet officers, local and foreign in-service seafarers, and employees of marine-related and shore-based industries. Besides, MSTI provides tailor-made safety training courses to meet the requirements of corporations.

5.2 Safety and environmental issues

5.2.1 Implementation of the International Safety Management Code
All Hong Kong registered ships are required to carry the International Safety Management (ISM) certificates and comply with the ISM certification requirements. The Marine Department also conducts safety inspections.

5.2.2 Safety rules regarding manning
The Shipping and Port Control (Works) Regulation and the Merchant Shipping (Local Vessels) (Works) Regulation entered into force 2 January 2007. All persons employed who carry out works on board the vessel in the waters of Hong Kong should hold valid certificates in respect of the relevant safety training courses.

The requirements of mandatory safety training under the above regulations are to ensure that any persons engaged in the works – such as shipboard cargo handling, ship-repairing and ship-breaking, and marine construction – on board a ship in the waters of Hong Kong have received relevant safety training.

5.2.3 Special regulations on safety and the environment
Hong Kong adopts all major international conventions promulgated by the International Maritime Organization (IMO) and the International Labour Organization.

5.3 Registration

5.3.1 Registration requirements
A ship that complies with international standards for safety and protection of marine environment would be able to meet the requirements for registration in Hong Kong. A ship is able to be registered in Hong Kong when:

- A majority interest in the ship is owned by one or more “qualified persons,” or operated under a demise charter (bare boat charter) by a corporation that is a “qualified person” (see definition below).
- The ship is not registered elsewhere.
- The vessel (G.N.4653 dated 16 September 2005) is not a:
  - Non-self-propelled barge carrying petroleum products or dangerous goods of any substance that falls within the purview of the International Convention of Pollution from ships Annexes I, II or III
  - Accommodation barge
  - Fishing vessel
  - Ship engaged in processing living resources of the sea, including whale and fish factories and aqua farming vessels
  - Specialized ship engaged in research, expeditions or survey
  - Non-convention ship serving exclusively within the domestic waters of a country (other than Hong Kong and Mainland China waters) and not proceeding to sea
  - Ship propelled by nuclear energy
  - Mobile offshore drilling unit
  - A representative person is appointed in relation to the ship.
- A qualified person must be:
  - An individual who holds a valid Hong Kong Identity Card and who is ordinarily a resident in Hong Kong
  - A body incorporated in Hong Kong
• An overseas company registered in the Hong Kong Companies Registry under the Hong Kong Companies Ordinance

5.3.2 Ship registration procedure

Registration should be made to the Marine Department. The following documents (which must be original, unless otherwise specified) will need to be submitted for full registration of the ship:

• Application form (Form No. RS/A1)
• Form of Authority (Form No. M.O. 812) for making and signing applications and declarations, where necessary
• Declaration of Entitlement to own a ship registered in Hong Kong (where a ship has more than one owner, a separate Declaration of Entitlement must be made by each owner)
• Title documents (e.g., a Builder’s Certificate [Form No. M.O. 42] for a new ship, a duly executed Bill of Sale plus a copy of Certificate of Ownership free of encumbrance where there has been a sale of the ship in favor of the owner, a Certificate of Ownership free of encumbrance where there has not been a sale of the ship that is not a new ship)
• Certificate or evidence of deletion from previous registry if it is not a new ship The evidence can be in any one of the following forms:
  • A certificate of deletion from the last registry where the ship was registered
  • A letter, telex or fax from the ship’s last registry informing the Hong Kong Shipping Registry that it has consented to close the ship and that steps are being taken to effect the closure
  • A certified true copy of the application made by the owner or the representative person of the ship to the registry where the ship was last registered to close the registration of the ship
• Notes:
  • Where the certificate(s) of deletion cannot be produced at the time of registration, it or they must be presented to the Registrar within 30 days from the date of registration.
  • If the ship is concurrently registered in more than one register, evidence of deletion from each of the registers is required.
  • When the vessel is successfully registered in Hong Kong, the vessel’s previous registration(s) shall have been deleted.
• Certificate of Incorporation or Registration in Hong Kong of owner or Hong Kong Identity Card of owner, as appropriate, or a certified true copy of the company certificate or Hong Kong Identity Card
• Original or certified true copy of Certificate of Incorporation and Memorandum of Association of the representative person appointed in relation to the ship, where applicable
• Certificate of Survey (SUR59E) giving the principal particulars of the ship, international tonnage, etc.
• Certificate or Declaration of Marking of Ship (Form No. RS/S1) completed by the master of the ship or an authorized surveyor

Provisional registration is not a prerequisite for full registration. However, provisional registry should be appropriate when the original title documents cannot be produced at the time of registration.

The validity of provisional registration is one month. In special circumstances, it may be extended for a further period of one month maximum, upon application by the owner with acceptable justification. The following documents have to be submitted for provisional registration:

• Application form (Form No. RS/A1)
• Form of Authority (Form No. M.O. 812) for making and signing application and declaration, where necessary
• Declaration of Entitlement to own a ship registered in Hong Kong from owner(s)
• A fax or photocopy of the title document as required under paragraph 2.1 (d)
• Certificate of Survey (paragraph 2.1 (h)) or a photocopy of the ship’s current International Tonnage Certificate certified by any one of the following:
• The issuing authority of that certificate
The shipowner
- The representative person appointed in relation to the ship
- Certificate of Incorporation or Registration in Hong Kong of owner or Hong Kong Identity Card of owner, or a certified true copy of the company certificate or Hong Kong Identity Card
- Original or certified true copy of Certificate of Incorporation and Memorandum of Association of the representative person appointed in relation to the ship, where applicable
- Certificate or Declaration of Marking of Ship (Form No. RS/S1) completed by the master of the ship or an authorized surveyor
- Certificate or evidence of deletion from previous registry as referred to under paragraph 2.1 (e)

5.3.3 Parallel registration
A ship on demise charter (bareboat charter) to a body corporation that is a qualified person (defined in section 5.3.1 above) can be on full or provisional registration. However, no dual registration is allowed. The registration is valid for the period of the demise charter, and any change to the owner or demise charterer will render the ship unable to be registered. The procedures for full or provisional registration of a vessel on demise charter will be the same as described in section 5.3.2 above as appropriate. In addition, the following documents will need to be submitted:
- Form of Authority for making and signing application and declaration by the demise charterer (Form No. M.O. 812, where necessary
- Original or certified true copy of Certificate of Incorporation or Registration of the demise charterer in Hong Kong
- Declaration of Entitlement to register a ship in Hong Kong by the demise charterer (Form No. RS/D6), together with a true and complete copy of the demise charter party made between the owner and the demise charterer

5.3.4 Requirements for officers and crew serving on vessels
The Mercantile Marine Office of the Marine Department registers local seafarers, regulates their employment terms and conditions on board ships of all flags, and supervises the employment and discharge of seafarers on Hong Kong ships.

As a party to the STCW, Hong Kong carries out examinations and issue certificates of competencies to seafarers working on Hong Kong-registered ships and local vessels. Examinations are held regularly to suit the demand. Certificates of competencies are issued to those candidates who have passed the master, coxswain, deck officer and engineer examinations to operate ships trading locally and internationally.
Licenses are also issued to seafarers whose certificates of competencies are issued by countries on the STCW white list to serve on Hong Kong-registered ships.

5.3.5 International conventions regarding registration
Hong Kong-registered ships are required to comply fully with the requirements of IMO and ILO Conventions, ratified by Hong Kong, with respect to safety, protection of the marine environment, and health and welfare of the crew. In special circumstances, exemption from the Convention requirements may be granted, provided that safety as well as protection of the marine environment would not be jeopardized.

5.3.6 Special requirements or rules relating to registration
The registration of a mortgage must be in the specified form (Form No. RS/M1). Mortgages rank in priority according to the date and time when they are presented and accepted for registration and not according to the date of the actual mortgage instrument.
India

1. Tax

1.1 Tax facilities for shipping companies

1.1.1 Indian shipping companies

Computation of taxable income

- Indian shipping companies are assessed on a “net-of-expenses” basis.
- The expenses incurred for the purpose of the business are allowed as a deduction, subject to certain conditions.

Mode of assessment by the Indian revenue authorities

- Companies are required to file a tax return every year.
- Once the return has been filed, the Indian revenue authorities have the power to scrutinize it and determine whether the taxable income was calculated correctly.

1.1.2 Alternative tax regime for Indian companies: tonnage tax regime

General

Indian shipping companies have a choice between tonnage tax and normal corporate income tax.

Provisions

- The tonnage tax regime is optional. If the company does not opt specifically for the tonnage tax regime, it may continue to be governed by the normal provisions (net of expenses basis). But once opted into, the tonnage tax regime applies to the company for a period of 10 years. The company may, however, opt out of the regime in any subsequent year by furnishing a declaration in a prescribed form.
- The tonnage income is determined by aggregating the prescribed tonnage income of each qualifying ship. The tonnage income is determined on a presumptive basis based on the tonnage of the qualifying ship. Once covered by the tonnage tax regime, receipts from qualifying shipping activities are not once again taxed on actual income basis.
- The tonnage income being determined on a presumptive basis, no further deduction of expenses or depreciation or set off of loss can be claimed against the tonnage income.

The tonnage income so determined is taxed at the normal corporate tax rate applicable for that year. Thus, under the tonnage tax regime, tax is payable even if there is a loss in a particular year.

- The option to be governed by the provisions of the tonnage tax regime is available to qualifying companies. A qualifying company is a company that:
  - Is formed and registered under Indian corporate law
  - Has its place of effective management in India
  - Owns at least one qualifying ship
  - Takes as its main objective to carry on the business of operating qualifying ships
  - A qualifying ship has been defined to include any seagoing vessel of 15 net tons or more that is registered under the Merchant Shipping Act, 1958, or a ship registered outside India with respect to which a license has been issued by the Director-General of Shipping under sections 406 and 407 of the Merchant Shipping Act, 1958, and with respect to which a valid certificate indicating its net tonnage is in force subject to certain exclusions.

A company shall be regarded as operating a ship if it operates any ship, whether owned or chartered by the company, even in the event that only part of the ship is chartered in. However, a company is not regarded as the operator of a ship if the ship has been chartered out on bareboat charter-cum-demise terms or on bareboat charter terms for a period exceeding three years.

Computation of tonnage income

- The tonnage income of a tonnage tax company shall be the aggregate of the tonnage income of each
qualifying ship.

- The tonnage income of each qualifying ship shall be the daily tonnage income of each ship multiplied by the number of days in the previous year (or the number of days in part of the previous year in case the ship was operated by the company as a qualifying ship only for a part of the previous year).
- The daily tonnage income of a qualifying ship will be based on the net tonnage of the ship.

<table>
<thead>
<tr>
<th>Total net tonnage</th>
<th>Income per day INR (€)¹</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 1,000</td>
<td>70 (0.82) per 100 tons</td>
</tr>
<tr>
<td>1,001–10,000</td>
<td>700 (8.23) plus 53 (0.62) for every 100 tons exceeding 1,000 tons</td>
</tr>
<tr>
<td>10,001–25,000</td>
<td>5470 (64.35) plus 42 (0.49) for every 100 tons exceeding 10,000 tons</td>
</tr>
<tr>
<td>Exceeding 25,000</td>
<td>11770 (138.47) plus 29 (0.34) for every 100 tons exceeding 25,000 tons</td>
</tr>
</tbody>
</table>

- Qualifying shipping income of a tonnage tax company has been defined as its profits from core activities and profits from incidental activities (limited to 0.25% of the turnover of core activities if the balance income from incidental activities is subject to tax at normal rates).
- Income from non-qualifying ships of a tonnage tax company is to be computed in accordance with the normal provisions.
- There are also comprehensive provisions for the allocation of common costs, calculation of depreciation, set-off and exclusion of loss, among other things.
- The profits from the business of operating qualifying ships would not be taken into consideration for the purpose of computation of minimum alternate tax (a special regime of taxation imposed on the basis of accounting profits).

Procedure

- For opting under the tonnage tax regime, the application should be made to an appropriate authority within three months of the date of incorporation or the date on which a company becomes a qualifying company, as the case may be.
- An option in favor of the tonnage tax regime shall, after it has been approved, remain in force for 10 years from the date on which such option is exercised, but shall cease to have effect in certain specified circumstances.
- A qualifying company that on its own opts out of the tonnage tax regime, or is excluded on account of any defaults, will not be eligible to opt in for the tonnage tax regime for a period of 10 years from the date of opting out or default, as the case may be.

Significant conditions

- The company is required to credit a minimum of 20% of its book profits to a tonnage tax reserve account.
- The tonnage tax reserve account can be utilized within a period of eight years for the purpose of acquiring a new ship for the business or for the purpose of operating qualifying ships until the acquisition of a new ship.
- The company is required to comply with some minimum training requirements.
- The company is required to maintain separate books of accounts.
- The net tonnage of the qualifying ships from “chartering in” operations should not exceed the prescribed ceiling limit of 49%.

1.1.3 Nonresident companies

Computation of taxable income

¹ Exchange rate: €1=INR85.
Taxable income is determined on a presumptive basis, which is 7.5% of the following gross amounts:

- Amount paid or payable (including demurrage or handling charges) on account of the carriage of passengers, livestock, mail or goods shipped at any port in India.
- Amount received or deemed to be received (including demurrage or handling charges) in India on account of the carriage of passengers, livestock, mail or goods shipped at any port outside India.

Nonresident shipping companies have an option to invoke the beneficial provisions of the relevant tax treaty with India to determine their taxability.

Mode of assessment by the Indian revenue authorities

- A nonresident shipping company that carries passengers, livestock, mail or goods shipped at a port in India would, before departure from India, prepare and furnish the Indian revenue authorities with a return of the amount paid or payable on account of carriage of all passengers, livestock, mail or goods shipped at that port since the last arrival of the ship. In certain exceptional circumstances, the return may be filed within 30 days of the date of departure of the ship, provided that satisfactory arrangements have been made for the payment of taxes.
- Unless taxes are duly paid or satisfactory arrangements have been made for the payment of the same, customs authorities will not grant a port clearance certificate for the voyage.

1.1.4 Fringe benefit tax

Fringe benefit tax (FBT) was introduced by the Finance Act, 2005, and has been withdrawn with effect from the financial year beginning 1 April 2009.

1.2 Tax facilities for seafarers

Indian Income Tax Act provisions

The tax incidence on seafarers in India depends on their residential status.

Individuals are considered residents if they meet one of the following criteria:

- They reside in India for 182 days or more during the Indian tax year (1 April to 31 March).
- They reside in India for 60 days or more during the tax year and have resided in India for at least 365 days during the preceding four tax years.

In accordance with the law, a period of 60 days as referred to above is increased to 182 days with respect to a citizen of India who has left India in any previous year as a member of the crew of an Indian ship as defined under the Merchant Shipping Act, 1958.

Income from salaries received by or due to any individuals, being nonresident, as remuneration for services rendered in connection with their employment on a foreign ship, where their total stay in India does not exceed 90 days in a tax year, is exempt from tax.

The effective income tax rates for an individual are as follows:

<table>
<thead>
<tr>
<th>Total income of the individual (R) (€)</th>
<th>Rate of income tax INR (€)2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 200,000 (2,353)</td>
<td>Zero</td>
</tr>
<tr>
<td>200,001 (2,353) – 500,000 (5,882)</td>
<td>10% of the amount that exceeds 200,000 (2,353)</td>
</tr>
<tr>
<td>500,001 (5,882) – 1,000,000 (11,765)</td>
<td>INR 30,000 plus 20% of the amount that exceeds 500,000 (5,882)</td>
</tr>
<tr>
<td>Above 1,000,000 (11,765)</td>
<td>130,000 plus 30% of the amount that exceeds 1,000,000 (11,765)</td>
</tr>
</tbody>
</table>

In addition, a cess of 3% is payable on the amount of tax. Furthermore, in the case of senior citizens (over 60 years of age and up to 80 years) and super senior citizens (over 80 years of age), the basic exemption limit

2 Exchange rate: €1=INR85.
has been increased to INR250,000 (€2,941) and INR500,000 (€5,882), respectively.

Certain deductions are prescribed in the Indian tax laws with respect to various contributions and investments made from salary, which apply to seafarers, as well as other individuals.

**Double taxation avoidance agreement**

In addition, dependent personal services under various double taxation avoidance agreements entered into by India generally states that remuneration derived with respect to an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a contracting state may be taxed in that state. Accordingly, remuneration derived by such crew could be taxed in the contracting state in which the employer is a resident. However, the same will have to be analyzed based on the exact wording of the relevant tax treaty as some other treaties may have a different rule.

### 1.3 Tax treaties and place of effective management

India has negotiated double taxation avoidance agreements with the following countries:

**Comprehensive agreements**

Armenia, Australia, Austria, Bangladesh, Belarus, Belgium, Botswana, Brazil, Bulgaria, Canada, China, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Indonesia, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Kenya, Korea (ROC), Kuwait, Kyrgyzstan, Libya, Lithuania, Luxembourg, Malaysia, Malta, Mauritius, Mexico, Mongolia, Montenegro, Morocco, Myanmar, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Norway, Oman, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saudi Arabia, Serbia, Singapore, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Sweden, Switzerland, Syria, Tajikistan, Tanzania, Thailand, Trinidad and Tobago, Turkey, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United Kingdom, United States of America, Uzbekistan, Vietnam, Zambia.

India has signed tax treaties with various countries; most of such treaties provide that profits derived from the operation of ships in international traffic will be taxed in one contracting state only. The profits concerned are wholly exempt from tax in the state of source and are taxed exclusively in the state in which the place of effective management or place of residence of the enterprise engaged in international traffic is situated.

Most of the tax treaties, such as the tax treaties with Spain, Sweden, the United Arab Emirates, the United Kingdom and the United States of America, use “place of residence” as the criterion, instead of “place of effective management.” However, there are certain tax treaties that India has signed (e.g., Bangladesh and Tanzania) that provide for source-based taxation, i.e. taxation in the state of source. Additionally, there are certain other treaties that India has signed (e.g., Greece and Kenya) that provide for residence as well as source-based taxation. Accordingly, it may be relevant to consider the specific tax treaty to determine the taxation from operation of ships in international traffic.

**Main issues regarding taxability of profits of the shipping companies in these tax treaties:**

- Ascertaining the place of effective management where this criterion has been used in the tax treaty for determining the state to which the right to tax shipping profits has been conferred
- Ascertaining the place of residence where this criterion has been used in the tax treaty to determine the state to which the right to tax shipping profits has been conferred
- Scope of the profits derived from the operation of ships in international traffic. In accordance with the Organisation for Economic Co-operation and Development (OECD) Model Convention commentary, such profits include profits derived from not only the carriage of passengers or cargo, but also other auxiliary activities more or less closely connected with the direct operation of ships; for example, profits from the charter of ships, sale of tickets and leasing of containers. In this connection, some of the tax treaties, such as the agreement with the United States of America and the United Kingdom, specifically provide for the inclusion of the profits derived from certain activities within the scope of profit from the operation of ships in international traffic. Therefore the scope of profits derived from the operation of ships, its
inclusions and exclusions, needs to be evaluated with regard to the language of the applicable tax treaty.

1.4 Special vessel registration tax benefits for the shipowner
Under the Indian Income Tax Act, the taxability of shipping profits is governed by the criterion of the residence of the person engaged in the business of operating the ships. Profits derived by a nonresident enterprise from shipping activities are taxable at a presumptive rate of 7.5% of the amount payable to the enterprise for carriage of, for example, passengers or goods.

The resident enterprise is subject to taxation on its net profits from such activities or on a presumptive basis under the tonnage tax regime discussed above. Hence, the registration of a ship in India does not offer any special tax benefits for the shipowner.

1.5 Changes to tax law and other laws anticipated in the near future
India has a national shipping policy to provide fiscal, financial, administrative and legislative measures for the growth and development of shipping in India. The draft maritime policy proposes to amend the provisions and scope of the Multimodal Transport of Goods Act, the Carriage of Goods by Sea Act and the Bill of Lading Act, in view of the requirements of the industry.

Furthermore, the Department of Shipping is planning to enact a Shipping Trade Practices Act\(^3\), which is presently in draft stage, to bring transparency in trade practices adopted by maritime transport logistics service providers.

2. Indirect tax
We have set out below the typical indirect taxes currently applicable to various sectors in the shipping industry (including coastal transportation) along with the underlying industry issues and ambiguities:

- Up to 30 June 2012, service tax was applicable on specified taxable services.
- With effect from 1 July 2012, a negative list of services has been introduced. Under the negative list regime, service tax is applicable on all services except for those that are covered in the “negative list of services” or “exempted list of services.” For this purpose, the term “service” is defined as any activity done for a consideration (excluding transfer of immovable property, transaction involving money or actionable claim, and services provided by an employee to employer).
- Services covered in the negative list or exempted list of services are not liable to service tax. The negative list of services covers services of “transportation of goods by vessel from outside India to the first customs station of landing in India.”
- Other services typically provided by a shipping company, including transportation of goods by sea and time charter of vessels, are regarded taxable services under the service tax legislation.
- Place of Provision of Services Rules, 2012 (PPOS Rules) have been introduced with effect from 1 July 2012 to determine the place of provision of service (PPOS) for any services. If the PPOS is in India, the service would be taxable. If the PPOS is outside India, service tax is not applicable.
- Further, if the PPOS for any service is outside India, the additional conditions to qualify as “export” are:
  (i) The service provider is located in taxable territory.
  (ii) The service recipient is located outside India.
  (iii) The service provided is a service other than in the negative list.
  (iv) Payment is received in convertible foreign exchange.
- If the PPOS for any service is outside India and if the services do not qualify as export, such service would be a non-taxable service.
- If the services qualify as “export,” (i.e., where the service provider is located in India and the conditions (i) to (iv) stated above are satisfied) the service provider should be eligible for a credit or refund of service tax, excise duty and additional customs duty paid on inputs, capital goods and input services.

\(^3\) Ministry of Shipping, Government of India website, shipping.gov.in.
However, if the services are non-taxable services, taxes paid on inputs, capital goods and input services may not be eligible for credit or refund and could be an additional cost.

- As per the PPOS Rules, in the case of services of transportation of goods by vessel from India to an overseas port, the PPOS is the destination of the goods (i.e., outside India). Since the PPOS is outside India, these services do not attract service tax. Further, if the conditions (i) to (iv) as stated above are satisfied, the services of transportation of goods by vessel from India to outside India could qualify as export.

- The generic effective rate of service tax applicable is 12.36%.

- We understand that the industry has taken a position that time charter does not attract value-added tax (VAT). This position is on the basis that effective control and possession of the vessel is not transferred, which is an essential condition to qualify as a deemed sale for levy of VAT. However, there is a prevailing ambiguity in relation to applicability of VAT on time charter arrangements across states.

Service tax exemption

- The service tax exemption that was available prior to 1 March 2013 for transportation of petroleum and petroleum products, postal mails or mail bags and household effects by railways and vessels has been withdrawn.

Customs and excise duty on ships

- Excise duty has been exempted on ships and vessels including cargo ships, cruise ships, dredgers, floating cranes, floating docks, floating or submersible drilling or production platforms as of 1 March 2013.

- Consequently, the countervailing duty (CVD) on the above-mentioned vessels imported into India has been fully exempted as of 1 March 2013.

- Prior to 1 March 2013, the CVD was payable on conversion of foreign-going vessels to coastal vessels as follows:
  - Full lease or contract value, if the import is under a lease agreement or contract
  - For each month, or part thereof, of stay in India as coastal vessel, 1/120th of the applicable duty

Customs duty on yachts and other vessels

- Basic customs duty on yachts and other vessels (under chapter 89 03) has been enhanced from 10% to 25% as of 1 March 2013.

Customs duty exemption on capital goods, spares, equipment, etc.

- There is a custom duty exemption on capital goods, spares, equipment, consumables, etc. for repairs of ocean-going vessels by a ship repair unit registered with the Director General of Shipping (DGS).

- Prior to 1 March 2013, this exemption was subject to the condition that goods are consumed within three months from date of importation. The time for consumption of these goods to be eligible for this exemption has been increased from three months to one year as of 1 March 2013.

Goods and services tax

Following the successful execution of the VAT legislations across all states, the Indian Ministry of Finance now proposes to implement a goods and services tax (GST) in India. GST will be a comprehensive “consumption tax” levied on the supply of all goods and services (except for a negative list) on a destination basis. GST is proposed to subsume the following taxes:

<table>
<thead>
<tr>
<th>Central taxes</th>
<th>State taxes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Excise duty</strong></td>
<td>VAT, sales tax</td>
</tr>
<tr>
<td><strong>Service tax</strong></td>
<td>Entertainment tax (not levied by local bodies), luxury tax</td>
</tr>
<tr>
<td><strong>Additional and special additional customs duty</strong></td>
<td>Taxes on lottery, betting and gambling</td>
</tr>
<tr>
<td><strong>Surcharges and cesses</strong></td>
<td>State cesses and surcharges relating to supply of goods and services</td>
</tr>
<tr>
<td></td>
<td>Entry tax (not in lieu of octroi)</td>
</tr>
</tbody>
</table>
3. Corporate structure

3.1 Most commonly used legal structures for shipping activities
There is no special legal structure for the formation of companies engaged in shipping activities.

3.2 Taxation of profit distribution
For the financial year, dividend distribution tax at an approximate rate of 16.22% is payable by domestic companies. Shareholders are exempt from tax on dividends.

4. Grants and incentives

4.1 Specific and/or general subsidies available to shipping companies
In the recent past, the Government has taken several steps to promote the shipping industry. In the case of a sale of a vessel to foreign parties, shipowners are allowed to retain the sale proceeds abroad and use them for new purchases. Furthermore, the Government has placed the import of new vessels (by way of new buildings or construction) under the open general license. Technical clearance and price reasonableness is not required; however, the vessel is mandatorily surveyed at the time of registration by the Principal Officer, Mercantile Maritime Department (PO, MMD). Any deficiency in the vessel has to be removed before registration.

The Government has allowed 100% foreign direct investment (FDI) for the acquisition of ships and has brought the acquisition of all types of ships under the ambit of the open general license (OGL).

The Central Government also provides 100% grants-in-aid to states in the northeastern region for the development of inland water transport (IWT).

4.2 Investment incentives for shipping companies and the shipbuilding industry
The Investment Act of 1960, last amended in 1989, regulates incentives for investments. The general condition of eligibility for the facilities is regular bookkeeping with regular annual closings. The request for grants and incentives is raised to the Investment Committee of the Ministry of Finance. Automatic approval is also available for acquisition by ship-owning companies for the categories that are not covered under the OGL (e.g., barges, tugs, boats). The various incentives available are as follows:

- Exemption from customs duty
- Barges or pontoons imported along with ships for speedier unloading of imported goods and loading of export goods on a re-export basis are fully exempt from customs duty subject to compliance with specified conditions.
- Capital goods, spares, raw material parts, material handling equipment and consumables for the repair

GST legislation has yet to be formulated by the Government, and there is a lack of clarity on various aspects, including tax rates and tax credits.

The timeline for introduction of GST in India is not yet finalized.

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5 “Guidelines for Import of All Types of Ships,” Press Information Bureau, Government of India website, pib.nic.in/ archive, 11 January 2012.
of oceangoing vessels by a ship repair unit registered with the Director-General of Shipping of the Indian Government are also exempt from customs duty subject to compliance with specified conditions.

- Further, there is a zero rate of customs duty on the import of vessels for the transport of goods, and other vessels for the transport of both persons and goods subject to compliance with specified conditions.

**Income tax incentives**

Investment incentives granted to shipping companies under the shipping policy are:

- Shipping companies can now get their ships repaired in any shipyard without seeking prior approval from the Government.
- The Quarterly Block Allocation scheme for the repair of ships has been eliminated.
- The Reserve Bank of India (RBI) now permits foreign currency payments for ship repair and dry-docking and spares for imported capital goods, without any value limit.
- Freedom to time charter out ships for Indian shipping companies.
- Investment of 100% by nonresident Indians (NRIs) in shipping with full repatriation benefits.
- Facilities at par with 100% export-oriented units (EOUs) for the ship repair industry.
- Excise duty for the shipbuilding industry has now been waived.
- Freight charges on account of movement of the fertilizers and petroleum products are allowed to be paid in convertible currency.
- No permission is required for raising foreign exchange loans from abroad by mortgaging vessels with the lender.

5. General information

India has an extensive coastline of around 7,517km. The country’s maritime industry encompasses ports (both major and non-major), shipping (overseas and coastal), IWT and aids to navigation and manpower both on board and ashore. Around 90% of India’s external merchandise trade by volume, and 70% by value, is transported through maritime transport.

The marine transport sector contributes more than 0.2% to India’s GDP at constant prices. The transport sector’s contribution to the country’s GDP has been rising over the past few years, mainly due to growing economic activity in India. The growing trend of Western countries transitioning their manufacturing functions to low-cost countries, as well as the likely prospect of India emerging as a manufacturing outsourcing hub, is expected to contribute to the growth of the country’s marine industry.

5.1 Marine industry

India’s shipping sector has grown over the years in terms of its physical and financial assets, human resources, knowledge base, operating processes and support infrastructure. In January 2013, the country ranked 17th globally by ownership of fleet, accounting for 1.39% of global deadweight tonnage (DWT).
Indian-flagged vessels cumulatively accounted for the 13th largest DWT in the world. Foreign-flagged vessels account for 32.87% of the total owned fleet in India.

Shipping tonnage in India has grown from only 0.2 million gross registered tonnage (GRT) with 59 vessels in 1947 to 10.42 million GRT with 1,154 vessels as of 31 December 2012.

Out of 1,154 vessels, 349 ships are engaged in overseas trade, while the remaining 805 vessels operate on inland routes. In terms of capacity, approximately 89.6% of GRT (9.33 million GRT) is engaged in overseas trade, while coastal shipping accounts for the remaining 10.37%. The average age of the Indian fleet has increased from 14.8 years in FY09 to approximately 17.03 years as of 30 November 2012, as compared to a world average of approximately 16.7 years.

In December 2012, 35.1% of the overseas vessels were dry cargo liners. Of coastal vessels, approximately 34% were tugs while 1 vessel was in the ro-ro category. The share of coastal shipping and IWT in total inland cargo transport is limited to 7% and 1%, respectively. The structural development of these transport modes could help normalize cargo volumes transported via land and sea networks.

Twelfth Five-Year Plan (2012-17)

The Working Group on Shipping & Inland Water Transport recommended a funding requirement of INR905.19 billion for the shipping sector, which including INR104.49 billion as gross budgetary support (GBS), INR21.40 billion state government funding and INR776.80 billion as private investment and internal extra budgetary resources (IEBR) for the Twelfth Five-Year Plan 2012-17.

<table>
<thead>
<tr>
<th>Major heads of expenditure</th>
<th>GBS</th>
<th>State governments</th>
<th>Private investment/IEBR</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Ship acquisition</td>
<td></td>
<td></td>
<td>600.00</td>
<td>600.00</td>
</tr>
<tr>
<td>2 Restructuring of the</td>
<td>6.46</td>
<td></td>
<td></td>
<td>6.46</td>
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<tr>
<td>regulatory regime</td>
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<td></td>
</tr>
<tr>
<td>3 DG (shipping)</td>
<td>1.50</td>
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<td></td>
<td>1.50</td>
</tr>
<tr>
<td>4 Indian Maritime University</td>
<td>12.80</td>
<td></td>
<td></td>
<td>12.80</td>
</tr>
<tr>
<td>(IMU)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5 Training and welfare</td>
<td>8.28</td>
<td></td>
<td></td>
<td>8.28</td>
</tr>
<tr>
<td>6 Seafarers safety</td>
<td>0.30</td>
<td></td>
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<td>0.30</td>
</tr>
<tr>
<td>7 Coastal shipping</td>
<td>27.35</td>
<td>10.00</td>
<td>123.60</td>
<td>160.95</td>
</tr>
<tr>
<td>8 Multimodal transport</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9 Lighthouses and lightships</td>
<td>7.90</td>
<td></td>
<td></td>
<td>7.90</td>
</tr>
<tr>
<td>10 Inland water transportation</td>
<td>40.40</td>
<td>11.40</td>
<td>53.20</td>
<td>105.00</td>
</tr>
<tr>
<td>11 Total</td>
<td>104.99</td>
<td>21.40</td>
<td>776.80</td>
<td>903.19</td>
</tr>
</tbody>
</table>

Maritime Agenda 2010-2020

In January 2011, the Ministry of Shipping (MoS) launched a perspective plan for 10 years under the Maritime Agenda 2010-20. The agenda envisages investment of more than INR4,500 billion during 2010-

20. Of this, 37% (INR1,650 billion) has been earmarked for the shipping sector and the rest, approximately INR2,870 billion, for the port sector. Of the proposed investments in ports, INR1,194 billion is expected for the major ports and INR1,679 billion for the non-major ports.

Key objectives of the program:

- To increase Indian shipping tonnage by fourfold to 43 million gross tonnage (GT)
- To create a port capacity of around 3,200 million tons to handle the expected traffic of around 2,500 million tons
- To achieve a 5% and 10% share of global shipbuilding and ship repair, respectively
- To increase the share of Indian seafarers to at least 9% by 2015
- To develop inland waterways transportation and coastal shipping
- To increase the tonnage under the Indian flag and increase the share of Indian ships in export import (EXIM) trade

The agenda has identified a total of 352 major port projects with construction or reconstruction of berths and jetties accounting for one-third of the total projects. Sixty percent of the investment is proposed to come from the private sector. The agenda also proposes setting up jetties for ro-ro ferry service networks in Gulf of Kutch, Gulf of Cambay and western and southern coastal states up to Kerala, which may cost approximately INR1 billion.

Draft coastal shipping policy

In February 2011, the Directorate-General of Shipping submitted the draft coastal shipping policy with 41 recommendations to promote coastal shipping in India. Some of the key recommendations are:

- Extending the scope of river sea vessels (RSVs) to other types of vessels, such as oil tankers and other specialized vessels
- Setting up more minor ports along the coast, at least one port at a distance of every 100km
- Exemption of tax for ship construction
- Providing subsidy for ro-ro jetties and repair jetties
- Establishing a coastal development fund for coastal ships
- Introducing full cabotage with a lead time of six months
- Allowing the transshipment of cargo by foreign flags
- Promoting modal shift from road and rail to coastal shipping using the carbon credit scheme

Recently, the Government has taken various steps to develop IWT in the country. In March 2013, the Government introduced the “National Waterway Bill” that declares declare the navigable stretch of the Barak River between Lakhipur and Bhanga (121km) in Southern Assam as a National Waterway. It also lays down the regulation and development of the proposed waterway. The infrastructure project is estimated to cost INR1.23 billion to be completed in two phases by 2019. Also, in July 2012, the Government constituted a committee to scale up private investment in the Inland Waterways Sector. The committee will assess the investment potential of the sector and suggest measures for scaling up private investment. Fifty-eight port development projects in PPP mode have been awarded as of 31 March 2013. Out of these, 29 projects have been completed, 16 are at various stages of construction and the remaining 13 have been awarded during 2012-13.

In 2012, MoS has also released the draft proposing revised chartering methodology to increase transparency and reduce finalization time for shipping arrangements.

The Government has decided to set up two new major ports - one each at Sagar in West Bengal and the other at Dugarajpatnam in Andhra Pradesh. In respect of the Sagar Port, RITES has estimated capital cost (including connectivity project) at INR78.2 billion. The tentative cost for Dugarajpatnam has been estimated at INR79.8 billion by the technical committee set up by MoS. However, the feasibility study of the proposed location is also being carried out by RITES. In respect of ports at Sagar and Dugarajpatnam, the concessions are targeted to be awarded in the financial year 2014-15.

In December 2012, the government issued notification relaxing the cabotage policy for the International Container Transhipment Terminal at Vallarpadam near Kochi in Kerala. The move will help to reduce transit times up to seven days and also international freight by up to US$300 a container. In April 2013, the Cabinet Committee on Economic Affairs (CCEA) approved a project related to the extension of the existing container terminal at Visakhapatnam Port on a design, build, finance, operate and transfer (DBFOT) basis for a period of 30 years at an estimated cost of INR6.3 billion, subject to necessary clearances, such as security and environmental and forest clearances being obtained. The project would enhance the container handling capacity of Visakhapatnam port from 0.4 million TEUs (20-foot equivalent units) to 1 million TEUs.

### 5.1.1 Industry outlook

From a long-term demand perspective, infrastructure development in developing economies is irreversible and will continue to drive demand for shipping services. On the supply side, the revival of global financial markets is expected to drive a new order, which is likely to apply considerable pressure on the already heavily booked shipyards. Freight rates across all vessel types are likely to witness continued volatility due to the existence of a significant fleet size eyeing the transportation of limited cargo volumes.

Container cargo volumes are expected to grow exponentially, driven by the containerization of new commodities. However, foreign ships, with their established container fleets, are likely to garner a substantial share of this market.

<table>
<thead>
<tr>
<th>Plan period</th>
<th>Target (million gross tonnage)</th>
<th>Achievement (million gross tonnage)</th>
</tr>
</thead>
<tbody>
<tr>
<td>5th plan</td>
<td>8.64</td>
<td>5.58</td>
</tr>
<tr>
<td>6th plan</td>
<td>7.50</td>
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<td>7th plan</td>
<td>7.50</td>
<td>5.91</td>
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<tr>
<td>8th plan</td>
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<td>6.92</td>
</tr>
<tr>
<td>9th plan</td>
<td>9.00</td>
<td>6.93</td>
</tr>
<tr>
<td>10th plan</td>
<td>Not fixed</td>
<td>8.60</td>
</tr>
<tr>
<td>11th plan</td>
<td>Three scenarios in total tonnage depending on the investment:</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>Scenario 1: 10</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Scenario 2: 12</td>
<td></td>
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<tr>
<td></td>
<td>Scenario 3: 15</td>
<td></td>
</tr>
<tr>
<td>12th plan</td>
<td>Three scenarios in total tonnage depending on investment:</td>
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</tr>
<tr>
<td></td>
<td>Scenario 1: 11.2-12.4</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Scenario 2: 12.1-26.6</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Scenario 3: 12.1-53.3</td>
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</tr>
</tbody>
</table>

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Indian tonnage has not been able to keep pace with the growing volume of its trade. During the various plan periods, India has not been able to achieve the targeted tonnage levels.

Driven by the Government's initiatives, acquisitions of new vessels and the formulation of an effective maritime policy, India's shipping industry will likely leverage growth opportunities by not only focusing on India-centric trade, but also adopting a more global outlook to fully utilize cross-trade opportunities.

5.1.2 Maritime education

Unprecedented growth in the Indian marine sector has led to growth in the demand for trained professionals. This in turn has created the need to set up specialized maritime training institutes, implying different avenues leading to maritime training in India. There are 138 training institutes approved by the DGS. More than 75% of these institutes belong to the private sector.

In November 2008, the Indian Maritime University (IMU), Chennai was established as a central university and the following seven public sector institutes were merged with IMU:

1. National Maritime Academy, Chennai
2. Lal Bahadur Shastri (LBS) College of Advanced Maritime Studies and Research, Mumbai
3. Marine Engineering and Research Institute, Kolkata
4. Marine Engineering and Research Institute, Mumbai
5. Training Ship Chanakya, Navi Mumbai
6. Indian Institute of Port Management, Kolkata
7. National Ship Design & Research Centre, Visakhapatnam

The MoS initiated various measures to develop maritime education and training within the country:

- The IMU, Chennai has established campuses in Chennai, Kolkata, Mumbai and Visakhapatnam to facilitate and promote maritime studies, research and extension work.
- The private colleges are allowed to offer marine education and training in India. More than 110 maritime training institutes operate in the private sector.

The DGS has introduced a common entrance test (CET) for admission for the general purpose (GP) rating pre-sea training course with effect from January 2012. This would help achieve better training standards to match international standards.

5.2 Safety and environmental issues — implementation of the International Safety Management Code on board vessels

Most of the shipping companies in India have implemented the International Safety Management (ISM) Code. They have to navigate in international territories, and it would be impossible to sail their ships without implementation of the ISM Code.

The Government introduced the Merchant Shipping (Amendment) Bill, 2004, which facilitated the implementation of the International Ship and Port Security (ISPS) Code. The Merchant Shipping Act, 1958, had to be amended to incorporate provisions relating to security measures to be adopted by ships and ports. These provisions include the international ship security certificate, the ship identification number, control measures and compliance. ISPS facilitates an international framework through which ship and port facilities can cooperate to detect and deter acts, which threaten security in the maritime transport sector.

- In India, the ISPS Code covers all major ports, non-major ports and ships catering to international trade.
- India, along with Singapore, is among the first few countries to have completed the implementation of the ISPS Code.

An Inter-Ministerial Group has been formed to negotiate with hijackers and coordinate with vessel owners and other countries. The group will work on freeing captive Indians and enhancing

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maritime security. In August 2013, the Government issued guidelines on deployment of armed security guards on board merchant ships to enable deployment of private armed security guards on Indian-flagged merchant ships particularly when transiting through the high risk area (HRA) in the Gulf of Aden region in Africa.17

In July 2010, the Government announced its plans to install radiation monitoring portals (RMPs) in all major Indian ports by 2012. Currently, Customs, which is empowered to check import-export cargo, visually examines imported steel junk. However, RMPs will only help prevent the smuggling of radioactive hazardous material.

In May 2010, the MoS approved the establishment of the Indian Maritime Casualty Investigation Cell, in view of recent growth in marine traffic, which resulted in a rising incidence of shipping causalities and the consequent loss of lives and ships as well as marine pollution. The cell will be in line with the Code of International Standards and Recommended Practices for Safety Investigations into Marine Casualties or Marine Incident, which the International Maritime Organization had implemented from 1 January 2010.

5.2.1 Special regulations on safety and the environment

There are special regulations under the United Nations Economic Program (UNEP) mandating the coastal states ensure adequate charts and maps to guarantee safe navigation. Other regulations are:

- International Convention for the Safety of Life at Sea (SOLAS) regulations
- Marine Pollution regulations (MARPOL)

The ports in India have yet to levy terminal security charges on the shipping lines as required by SOLAS, although this has already come into force in Europe. Shipping lines have, therefore, already started passing on the charges paid by them to ports and terminals in Europe to Indian importers, while collecting the freight.

The Merchant Shipping Amendment Act, 2003, has been passed. The Act aims to bring laws relating to the safety of shipping, pollution control and liability limitation at par with international conventions and protocols that have been signed by India.

To prevent oil spills at Indian ports, the Indian Coast Guard has directed all the ports to prepare local oil spill disaster contingency plans. Many ports are provided with tier-1 pollution response equipment. Tankers that are more than 25 years old are not allowed to enter the ports.18

In August 2012, the National Automated Identification System (AIS) was set up for an estimated cost of INR1.32 billion, to provide a network to track vessels up to a distance of 50 kilometers from the coast.

In July 2011, the Indian Cabinet gave its approval for accession to the 1997 Protocol adding Annex VI (Regulations for the Prevention of Air Pollution) to the Convention for the Prevention of Pollution from Ships 1973/78 (MARPOL 73/78) of the International Maritime Organization (IMO). This annex limits sets the sulphur content of fuel oil to 4.5% m/m. India is a party to MARPOL 73/78 and has already ratified Annexes I to V.19

5.3 Registration

5.3.1 Registration requirements

Every Indian ship exceeding 15 tons net weight and not solely employed for navigation along the coasts of India is required to be registered under the Indian Merchant Shipping Act, 1958.

Ships owned by the following are considered to be Indian ships:

- A citizen of India
- A company or a body established by, or under, any central or state act that has its principal place of business in India

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A cooperative society that is registered, or deemed to be registered, under the Indian Cooperative Societies Act, 1912, or any other law relating to cooperative societies currently in force in any state.

Recently, the Government has introduced an amendment to the Indian Merchant Shipping Act, 1958 called the Merchant Shipping (Amendment) bill, 2013 which applies to control of harmful anti-fouling systems on ships. It has also enacted the Merchant Shipping (regulation of entry of ships into ports, anchorages and offshore facilities) Rules, 2012. These rules are applicable to foreign-registered vessels with a GRT of 300 tonnes or more. The rule mandates foreign-registered vessels entering Indian ports to hold third-party liability cover against maritime claims, such as wreck removal and oil pollution.

In 2009, the DGS extended the validity of provisional registration of deep sea fishing vessels from six months to one year. These vessels are still required to undergo annual inspection every year. Fishing vessels that are more than 20 meters in length are also required to comply with the Merchant Shipping (Indian fishing boat inspection) Rules, 1988.

In August 2008, the DGS issued new guidelines that provided exemptions under the Merchant Shipping Act for the construction, survey, certification and operation of river-sea vessels. The new regulation exempts ships, other than passenger ships, oil tankers and offshore support vessels, from operating on the Indian coast within the country’s territorial waters. The key objectives of the legislation are to provide standards of construction, safe operation and certification rules for river-sea vessels plying on India’s coast and facilitate the safe integration of seaborne trade from inland waters to coastal waters and vice versa. Under the new rules, a vessel will be built, registered and certified and will carry a type notation for the service for which it is intended.

5.3.2 Ship registration procedure

A ship can be registered in Kolkata, Madras, Mumbai or any other authorized port. An application for registration has to be submitted to the Principal Officer (the Registrar) of the Mercantile Marine Department of the aforementioned port. The Registrar arranges for the ship to be surveyed by a surveyor to determine tonnage and any other particulars relating to the identity of the ship as may be prescribed. The Registrar also arranges for the ship to be marked permanently and visibly to its satisfaction. The person who wishes to be registered as the owner of the ship is required to draw up a declaration of ownership in the prescribed form, with particulars, such as when and where the ship was built. Once the requirements for the registry have been completed, the particulars of the ship, such as the name of the ship and the port to which it belongs, are noted by the Registrar in the permanent records, and on completion of these formalities, the Registrar issues a certificate of registration.

5.3.3 Parallel registration

There are no provisions for parallel registration in the Merchant Shipping Act, 1958. There is a provision for single registration only.

5.3.4 Requirements for officers and crew serving on vessels

The Merchant Shipping Act, 1958, contains provisions relevant for requirements for the officers and crew serving on vessels registered in India.

5.3.5 International conventions regarding registration

The rules and regulations of the IMO are adhered to in this respect.

5.3.6 Special requirements or rules relating to registration

There are no special requirements or rules regarding registration.

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Indonesia

1. Tax

1.1 Tax facilities for shipping companies
In Indonesia, a value-added tax (VAT) exemption is applicable to:

- Importation and local procurement of ocean vessels, river transport vessels, lake vessels and ferries, pilot boats, tugboats, fishing vessels, barges and spare parts, as well as navigational safety equipment or human safety equipment by national commercial shipping companies or national fishing companies for operational activities
- Services received by national commercial shipping companies, national fishing companies, national seaport operators or national river, lake crossing and ferry operators, covering vessel charter, port services, tugboat services, piloting, berthing and anchoring services and vessel maintenance or docking services

1.2 Tax facilities for seafarers
There are no tax facilities for seafarers.

1.3 Tax treaties
The Indonesian government has ratified tax treaties with the following countries: Algeria, Australia, Austria, Bangladesh, Belgium, Brunei Darussalam, Bulgaria, Canada, China, Croatia, Czech Republic, Denmark, Egypt, Finland, France, Germany, Hong Kong, Hungary, India, Italy, Iran, Japan, Jordan, Kuwait, Luxembourg, Malaysia, Morocco, Mexico, Mongolia, Netherlands, New Zealand, North Korea, Norway, Pakistan, Papua New Guinea*, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Seychelles, Singapore, Slovak Republic, South Africa, South Korea (ROK), Spain, Sri Lanka, Sudan, Suriname*, Sweden, Switzerland, Syria, Taiwan (ROC), Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States of America, Uzbekistan, Venezuela, Vietnam and Zimbabwe*.

*The tax treaty is subject to exchange of ratification documents by both governments.

Some tax treaties provide relief on income of non-Indonesian shipping companies from shipping operations in international traffic.

In addition to the above treaties, Indonesia has entered into agreements for the reciprocal exemption of taxes and duties on air transport with Bangladesh, Croatia, Laos, Morocco, Saudi Arabia and South Africa.

1.4 Freight taxes
No freight taxes apply in Indonesia.

1.5 Special vessel registration tax benefits for the shipowner
The registration of vessels in Indonesia does not entail any special tax benefits for the shipowner.

1.6 Changes to tax law anticipated in the near future
None.

2. Human capital

2.1 Formalities for hiring personnel
In general, national labor law provides comments on several employment issues, such as:

- General provisions
- Basis, principle and objective
- Equal opportunity and treatment
- Manpower planning and information
- Vocational training
2.2 National labor law
The labor law was released on 25 March 2003 and revoked the previous laws. The law is broadly applicable to all employment affairs in Indonesia, including crew members, in the shipping industry.

2.3 Regulations on employing personnel
In general, minimum wages are regulated and adapted on a routine basis by the provincial government.

2.4 Collective labor agreements
Collective labor agreements between seafarers and entrepreneurs are reviewed on an annual basis. The agreements must be reported to the Ministry of Manpower and Transmigration and harbor masters.

2.5 Treaties relating to social security contributions
Registration of local employees in the employee social security insurance program is mandatory for employers.

2.6 Manning issues with flying the Indonesian flag
There is a limitation on employing foreign seafarers for vessels flying the Indonesian flag, and certain positions are reserved for local employees only.

3. Corporate structure

3.1 Most commonly used legal structures for shipping activities
The most commonly used legal structures for the operation of shipping activities are a limited liability company and a branch of a foreign shipping company (permanent establishment). Specific foreign ownership is regulated. In accordance with Presidential Regulation No. 36/2010 regarding the list of business fields closed to capital investment and those that are open but subject to requirements, the limit for foreign ownership in a shipping service is 49% maximum.

The corporate income tax of a shipping company is calculated based on an estimated profit. The corporate income tax payable by a domestic shipping company (i.e., a company established under Indonesian law) is 1.2% of the company’s gross income. Gross income is defined as income received or earned by a domestic shipping company from transportation of passengers or cargo from one port to another port in Indonesia or from one port in Indonesia to another port outside Indonesia and vice versa. The corporate income tax payable by a permanent establishment of a foreign shipping company is 2.64% of its gross income. The gross income is defined as income received or earned by a foreign shipping company from transportation of passengers or cargo from one port to another port in Indonesia or from one port in Indonesia to another port overseas. The effective tax rate is likely to change, affected by the reduction of the corporate tax rate introduced under the 2008 amendment of the Income Tax Law. Although the effective tax rate is likely to change as a result of the reduction of the corporate tax rate, no tax regulation has been issued to confirm this.

3.2 Taxation of profit distribution
Profit distributions in the form of dividends to corporate shareholders domiciled in Indonesia may be exempt
from tax provided that the dividends are paid out of retained earnings and the company receiving the dividends holds at least 25% of the shares of the company paying the dividend. No withholding tax applies to tax-exempt dividends. If the conditions are not satisfied, the dividends are taxable in the hands of the corporate shareholders and the company paying dividends is required to deduct withholding tax at a rate of 15%, which represents prepaid tax of the shareholders. Dividend distributed to an individual resident shareholder is subject to income tax at a rate to be determined by a government regulation with a maximum rate of 10%. The currently prevailing tax rate is 10%. This tax is final in nature.

If the shareholders are nonresidents (either individual or corporate shareholders), the applicable withholding tax rate is 20% or a reduced rate, depending on the relevant double tax treaty, provided that the shareholder is the beneficial owner of the dividend income and a certificate of tax residence of the foreign shareholder is provided.

Net income after tax of a permanent establishment is, in general, subject to 20% withholding tax (branch profit tax). For shipping industries, this is included in the 2.64% income tax as mentioned in section 3.1.

4. Grants and incentives

4.1 Specific and/or general subsidies available to shipping companies
No subsidies exist.

4.2 Investment incentives for shipping companies and the shipbuilding industry
The investment incentives for shipping companies and/or the shipbuilding industry established under the recommendation of the Foreign Investment Coordination Board are as follows:
- Exemption or relief from import duty and levies:
- On the importation of capital goods, e.g., machinery, equipment, spare parts and auxiliary components
- On the importation of raw materials for the purpose of two years’ full production
- Exemption from the transfer of ownership fee for ship registration (deed or certificate) made for the first time in Indonesia.

Regulation of the Minister of Finance No. 176 year 2009 stipulates that only public transportation service shipping companies are granted such exemption or relief from import duty and levies.

An income tax allowance incentive is granted to companies engaging in certain business sectors or regions. The tax incentives include:
- Accelerated depreciation and amortization
- Carryforward of a tax loss for a period of 10 years, subject to certain conditions
- Reduced dividend withholding tax of 10% on dividends paid offshore or a lower tax rate prescribed by an applicable tax treaty
- Investment allowance in the form of a net income reduction by 30% of the amount of capital invested in land and buildings and in plant and equipment, to be claimed at a rate of 5% each year over a six-year period.

To qualify for income tax allowance incentive, the investment must be a new investment or an investment for the purpose of expanding a current business. Government Regulation No. 52/2011 states that the tax facilities can only be utilized after the taxpaying entity has realized at least 80% of its investment plan. This provision is only applicable to eligible new investment after the enactment of Government Regulation No. 52/2011. Companies existing at the time the regulation was issued may still apply, subject to satisfaction of requirements.

Taxpayers that have obtained investment approval prior to the enactment of Government Regulation No. 52/2011 are eligible for the above tax incentives if they meet the following criteria:
- Have a new investment plan of a minimum of IDR1 trillion
- Have not entered into commercial production by the date of effect of Government Regulation No. 52/2011
Under Government Regulation No. 52/2011, there are 52 categories of business sectors and 77 types
of investment, in particular sectors and regions that may qualify for the incentives. This includes the manufacturing or assembling of certain types of ships and boats, as well as repair and maintenance of certain types of vessels.

For a six-year period that begins with the granting of the tax incentives, certain restrictions apply to the use and transfer of fixed assets to which the incentives have been applied. The incentives can be revoked if these rules are violated. Implementation of government regulation is evaluated within two years from the date on which the approval is granted. A monitoring team will be established for this purpose.

4.3 Special incentives for environmental awareness

No such incentives exist.

4.4 Issues with flying the Indonesian flag

Regulation of the Minister of Transportation No. KM20 year 2006 stipulates that Indonesian-flagged vessels with a gross ton (GT) of 100 or higher with the capacity of 250PK or more have to be registered with the Indonesian Classification Bureau.

Foreign-flagged vessels are permitted to operate in international traffic services. Domestic traffic is allowed for national fleets (Indonesian-flagged vessels), which can be carried out by Indonesian shipping companies only. Government Regulation No. 20/2010 regarding goods transportation, which was amended by Government Regulation No. 22/2011 regarding water transportation, states that a foreign-flagged vessel is still allowed to carry out activities that do not include passenger and/or goods transport activities in the domestic sea freight activities in Indonesia waters on the condition that an Indonesian-flagged vessel is not available or has not sufficient availability. Based on the Ministry of Transportation Regulation No. 48/2011 (the implementation of Government Regulation No.22/2011), foreign-flagged vessels that will perform activities as mentioned above must have permission from the Ministry of Transportation. Additionally, the operation of the foreign-flagged vessel must be performed by an Indonesian naval or shipping company. Permits for the use of foreign-flagged vessels are provided for a maximum period of three months and can be extended after evaluation.

The following are the activities for which the use of foreign-flagged vessels is allowed (based on Attachment Number II of Ministry of Transportation Regulation No. 48 Year 2011):

- Oil and gas survey (until December 2014)
- Seismic survey
- Geophysics survey
- Geotechnical survey
- Drilling (until December 2015)
- Jack up rig
- Semi-submersible rig
- Deepwater drill ship
- Tender assist rig
- Swamp barge rig
- Offshore construction
- Derrick/crane, pipe/cable/subsea umbilical riser flexible (SURF) laying barge or vessel (until December 2013)
- Diving support vessel (expired December 2012)
- Offshore operations support (expired December 2012)
- Anchor handling tug supply vessel more than 5000 bhp with dynamic position (DP2/DP3)
- Platform supply vessel
- Diving support vessel
- Dredging (until December 2013)
- Drag-head suction hopper dredger
- Trailing suction hopper dredger
• Salvage and underwater works (until December 2013)
• Heavy floating crane
• Heavy crane barge
• Survey salvage

4.5 **Major changes in shipping subsidy legislation in the near future**
No subsidies exist, nor are any likely to appear in the near future.

5. **General information**

5.1 **Infrastructure**

5.1.1 **Major ports**

<table>
<thead>
<tr>
<th>Islands</th>
<th>Provinces</th>
<th>Ports</th>
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</thead>
<tbody>
<tr>
<td>Irian Jaya</td>
<td>Irian Jaya</td>
<td>Jayapura</td>
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<tr>
<td>Java</td>
<td>Central Java</td>
<td>Tanjung Emas, Semarang</td>
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<td>Tanjung Intan, Cilacap</td>
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<td></td>
<td>East Java</td>
<td>Tanjung Perak</td>
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<td>Tanjung Wangi, Banyuwangi (Ketapang)</td>
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<td>Jakarta</td>
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<td>Tanjung Priok</td>
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<td>West Java</td>
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<td>Tanjung Bara</td>
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<td>South Kalimantan</td>
<td>Banjarmasin</td>
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<td>West Kalimantan</td>
<td>Pontianak</td>
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<td>Sulawesi</td>
<td>North Sulawesi</td>
<td>Bitung</td>
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<td>South Sulawesi</td>
<td>Soekarno Hatta</td>
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<td>Sumatra</td>
<td>Aceh</td>
<td>Lhokseumawe</td>
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<td>Bengkulu</td>
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<td>Jambi</td>
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<td>Lampung</td>
<td>Panjang</td>
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<tr>
<td>North Sumatra</td>
<td>Belawan</td>
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<td>Riau</td>
<td>Kijang</td>
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<td>Sekupang</td>
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<td>Yos Sudarso</td>
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<tr>
<td>South Sumatra</td>
<td>Palembang</td>
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<tr>
<td>West Sumatra</td>
<td>Teluk Bayau</td>
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</tr>
</tbody>
</table>
5.1.2 Port facilities
The following port facilities are available:
  • Maintenance and repair
  • Docking
  • Storage
  • Cranes for every size of vessel

5.1.3 Airports close to the major ports

<table>
<thead>
<tr>
<th>Islands</th>
<th>Provinces</th>
<th>International airports</th>
<th>Nearest ports</th>
</tr>
</thead>
<tbody>
<tr>
<td>Irian Jaya</td>
<td>Irian Jaya</td>
<td>Sentani</td>
<td>Jayapura</td>
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<tr>
<td>Java</td>
<td>East Java</td>
<td>Juanda</td>
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<td>Jakarta</td>
<td>Soekarno Hatta</td>
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<td>Tanjung Priok</td>
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<td>Kalimantan</td>
<td>East Kalimantan</td>
<td>Sebinggan</td>
<td>Balikpapan</td>
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<td>South Kalimantan</td>
<td>Syamsudin Noor</td>
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<td>Banjarmasin</td>
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<tr>
<td>West Kalimantan</td>
<td>Supadio</td>
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<td>Pontianak</td>
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<tr>
<td>Sulawesi</td>
<td>South Sulawesi</td>
<td>Hasanudin</td>
<td>Ujung Pandang</td>
</tr>
<tr>
<td>Sumatra</td>
<td>North Sumatra</td>
<td>Polonia</td>
<td>Belawan</td>
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<tr>
<td>Riau</td>
<td>Hang Nadim</td>
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<td>Batam</td>
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<tr>
<td>South Sumatra</td>
<td>Sultan M. Badaruddin II</td>
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<td>Palembang</td>
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<tr>
<td>West Sumatra</td>
<td>Tabing</td>
<td></td>
<td>Padang</td>
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</tbody>
</table>

5.1.4 Support services for the shipping industry
The following support services are available:
  • Insurance brokers for the shipping industry
  • Provision support (logistics)

5.1.5 Maritime education
Maritime education is provided by:
  • College of Maritime Science (Sekolah Tinggi Ilmu Pelayaran), previously Maritime Experts Education and Training (Pendidikan Dan Latihan ahli Pelayaran), in Jakarta
  • Polytechnic of Maritime Science (Politeknik Ilmu Pelayaran), previously Maritime Education and Training School (Balai Pendidikan Dan Latihan Pelayaran), in Semarang and Ujung Pandang

These schools are administered under the education and training division of the Ministry of Transportation.

5.2 Safety and environmental issues

5.2.1 Implementation of the International Safety Management Code on board vessels
Compliance with the requirements of the International Safety Management (ISM) Code by shipping companies is required in Indonesia. The Indonesian government will issue two documents for shipping companies that comply with the ISM Code, namely the document of compliance (DOC) and the safety management certificate (SMC). These documents will be issued after the shipping companies pass an audit performed by the appropriate authority.

5.2.2 Safety rules regarding manning
Industry safety rules concerning manning are considered by some in the industry as less strict in Indonesia
than in other countries.

5.2.3 Special regulations on safety and the environment
Articles 35, 36, 65 and 66 of Government Regulation No. 21/1992, which govern the maritime industry, regulate safety and the environment in the area of shipping. Government Regulation No. 21/2010 is the new regulation regarding maritime environment safety; it does not automatically cancel the previous regulation as long as the previous regulation is not contradicted by the new regulation.

5.3 Registration

5.3.1 Registration requirements
The registration requirements for a ship to fly the Indonesian flag are as follows:
- The ships must have a gross tonnage of at least seven GT.
- The ships must be owned by an Indonesian citizen or a corporation established in Indonesia and under Indonesian law.
- The ships must be owned by an Indonesian legal entity in the form of a joint venture company with shares, the majority of which are owned by an Indonesian citizen.

5.3.2 Ship registration procedure
Ownership can be registered at the head office of the Directorate General of Sea Transportation, supported by the following documents:
- Certificate of ownership
- Evidence of owner's identity
- Ship measurement certificate
- Evidence of transfer duty payment
- De-registration or cancelation letter for ships registered in other countries

5.3.3 Parallel registration
Parallel registration is possible. There are no special rules regarding parallel registration.

5.3.4 Requirements for officers and crew serving on vessels
Officers and crew serving on vessels are required to have certain seafarer certificates from the relevant authorities (harbor master or port administration).

5.3.5 International conventions regarding registration
Indonesia follows international conventions for shipping registration.

5.3.6 Special requirements or rules relating to registration
Information is not available.

5.4 Consequent implementation of cabotage and imposition regulations with respect to the national shipping industry (Law No. 17 year 2008 regarding shipping)

5.4.1 Trade
Inter-seaport transport of goods or freight in Indonesia must be carried out by Indonesian-flagged vessels of national shipping companies.

5.4.2 Finance
- Tax: the existing tax facilities provided to the national shipping industry will likely be improved, and penalties are expected to be imposed on national shipping companies that have already received incentives but are making investments in other sectors.
- Finance institutions: support will likely be provided to national banking institutions and other non-bank finance institutions, and proper funding schemes are anticipated to be set up for the national shipping industry.
Insurance: each vessel, including the people, goods and freight, should be fully insured.

5.4.3 Communication
- Sea transportation: the existing system is expected to be improved in all aspects.
- Port: Indonesia will likely improve and develop the existing structure and infrastructure to achieve an optimal service level for the port and facilities.

5.4.4 Industry
The Indonesian shipping industry is expected to develop and continue to improve.

5.4.5 Energy and mineral resources
The availability of fuel for the operation of vessels is likely to be guaranteed.

5.4.6 Education and training
The development of educational and training centers is an issue that receives a lot of attention.
Ireland

1. Tax

1.1 Tax facilities for shipping companies

Tonnage tax regime

Introduction

Ireland received formal approval for its tonnage tax regime from the European Union (EU) in December 2002. As a result, effective 1 January 2003, qualifying companies involved in international shipping activities have the option to remain subject to the normal tax regime in Ireland (see section titled “Corporation tax—general” below), i.e., corporation tax of 12.5% on taxable profits, or they may elect to be taxed under the new tonnage tax regime.

A qualifying company is a company that is subject to Irish corporation tax, operates qualifying ships and carries on the strategic and commercial management of those ships in Ireland.

Irish-resident shipping companies that are shipowners, charterers or ship managers in receipt of “relevant shipping income” can qualify for the regime. Shipping companies electing into the regime are not assessed for tax on their shipping profits but instead on “notional” profit based on the net tonnage of the owned or chartered vessels operated by the company. The tonnage tax regime only applies to profits from qualifying shipping activities.

Relevant shipping income

Relevant shipping income means a company’s income from:

- The carriage of passengers by sea in a qualifying ship operated by the company
- The carriage of cargo by sea in a qualifying ship operated by the company
- Towage, salvage or other marine assistance by a qualifying ship operated by the company, excluding income from any such work undertaken in a port or an area under the jurisdiction of a port authority
- Transport in connection with other services of a kind necessarily provided at sea by a qualifying ship operated by the company
- The provision on board a qualifying ship operated by the company of goods or services ancillary to the carriage of passengers or cargo, but only to the extent that such goods or services are provided for consumption on board the qualifying ship
- The granting of rights by virtue of which another person provides or will provide such ancillary services on board a qualifying ship operated by the company
- Other ship-related activities that are a necessary and integral part of the business of operating the company’s qualifying ships
- The charter of a qualifying ship for use for the carriage by sea of passengers and cargo where the operation of the ship and the crew of the ship remain under the direction and control of the company
- The provision of ship management services for qualifying ships operated by the company
- Certain dividends from overseas qualifying companies
- Foreign currency gains related to the tonnage tax trade

Generally, investment income is not treated as relevant shipping income.

The Irish Revenue, in its Tax Briefing 65 dated December 2006, provided clarification as to whether income from the following specific activities can be included as relevant shipping income:

- Forward freight agreements (FFAs) - Income from FFAs may be included if the agreements are used for hedging purposes only (i.e., to hedge against rate fluctuations in the company’s tonnage tax trade, rather than speculative purposes) and if the agreements relate at all times to contracts undertaken by the company using its own qualifying ships or qualifying ships that have been chartered in.
- Contracts of affreightment (COAs) - Income from COAs may be included provided the company uses
its own qualifying ships or qualifying ships that have been chartered in, and that “vessels of an excluded kind” are excluded under tonnage tax arrangements.

- Foreign currency gains - As noted above, foreign currency gains related to the tonnage tax trade may be included. However, income from interest rate swaps does not qualify.

**Qualifying ship**

A qualifying ship is a self-propelled, seagoing vessel of 100 tons or more gross tonnage, which is certificated for navigation at sea by the competent authority of any country or territory.

Certain vessels, such as fishing vessels, harbor ferries, offshore installations, dredgers and sport/recreational vessels, are excluded from being a qualifying ship.

**Calculation of tonnage tax profits**

Notional profit is calculated as follows:

Net tonnage of each vessel is broken down into 100 ton increments, and the following daily rates are applied to each increment:

<table>
<thead>
<tr>
<th>Total net tonnage</th>
<th>Daily rate (€)</th>
</tr>
</thead>
<tbody>
<tr>
<td>First 1,000 net tons</td>
<td>€1.00</td>
</tr>
<tr>
<td>Between 1,000 net tons and 10,000 net tons</td>
<td>€0.75</td>
</tr>
<tr>
<td>Between 10,000 net tons and 25,000 net tons</td>
<td>€0.50</td>
</tr>
<tr>
<td>Above 25,000 net tons</td>
<td>€0.25</td>
</tr>
</tbody>
</table>

These taxes would be subsumed into Central GST (CGST). These taxes would be subsumed into State GST (SGST).

Sample calculation for a 19,500 net ton vessel:

Deductions are not available from these fixed amounts for normal trade deductions, e.g., expenses or capital allowances.

**Exemption from capital gains tax**

Relief is provided from capital gains tax (CGT) on the disposal of assets used for a continuous period of at least one year for the purpose of tonnage tax activities. Apportionments are made where the assets were not used throughout the entire period of ownership in the tonnage tax activity or where they are partly used for a tonnage tax activity and partly for a non-tonnage tax activity.

**Transfer pricing**

There are transfer pricing provisions to ensure that transactions between a company within the tonnage tax regime and related companies are at arm’s length. In addition, where a company carries on tonnage tax activities and other activities, arm’s length rules apply to ensure that a disproportionate amount of expense is
not allocated to the other activities.

Election into tonnage tax regime

In order to benefit from the tonnage tax regime, an election must be made to the Irish Revenue. An election may be made if a company becomes a qualifying company where it had not previously been a qualifying company. The election must be made within 36 months of the company becoming a qualifying company. A tonnage tax election shall take effect from the beginning of the accounting period in which it is made.

If one qualifying company in a group makes an election to enter the tonnage tax regime, all qualifying companies within that group must also enter the regime.

Once an election is made to enter the tonnage tax regime, it remains in force for 10 years. If a company opts out of the tonnage tax regime before the expiry of the 10-year period, it cannot re-enter the tonnage tax regime for a period of 10 years. A clawback of CGT relief obtained on the sale of a vessel may also occur where the company ceases to be a tonnage tax company.

Summary of the benefits of the tonnage tax regime:

- The regime has an attractive 12.5% corporation tax rate.
- A wide range of income qualifies.
- The sale of vessels and other chargeable assets used for tonnage tax activities are exempt from CGT.
- Ship management companies qualify, i.e., there is no ownership requirement.
- Shipowners and charterers qualify.
- There are no restrictions on leasing or financing to an Irish tonnage tax company.
- There are no training requirements.
- There is no vessel registration requirement.
- Election into the regime secures tonnage tax benefits for a period of 10 years and qualifying companies can re-elect to ensure that benefits continue for a further 10 years following the expiry of the previous period.

Finance Act 2006 changes

A number of amendments were introduced as a result of the Finance Act 2006. The most significant change was the proposed removal of the requirement that not more than 75% of fleet tonnage be chartered in. However, this proposal was subject to a commencement order by the Minister for Finance. Such a commencement order has not been introduced and, as such, the proposed new rule has not been adopted into Irish legislation. Therefore, the requirement remains that not more than 75% of fleet tonnage be chartered-in.

In order to enter the tonnage tax regime, forms prescribed by the Irish Revenue are required to be completed, and the following information must be included with any tonnage tax election:

- Documentation on legal status, memorandum and articles of association and certificate of incorporation of the company
- Business plans or similar documents of the company
- The name and address of each of the directors of the company
- The name and address of each of the beneficial shareholders of the company and the number and class of shares held by each
- Details of the qualifying ships owned or leased by the company
- Particulars of how the strategic and commercial management of the qualifying ships is carried on by the company in Ireland
- In the case of a group election, particulars of all the companies in the group, their respective shareholdings, and the flow of funds between all of the companies in the group

Finance Act 2013 changes

The Finance Act 2013 has not introduced any changes to the existing Irish tonnage tax regime.
Section 110 regime
Section 110 facilitates the tax efficient holding and managing of certain financial assets, commodities and plant and machinery. It was initially targeted at securitization transactions, but has since been extended to cater for a much broader range of activities, including holding and managing shipping assets.

Section 110 provides a myriad of advantages both in relation to the company which has elected to be taxed in accordance with section 110 (having met certain qualifying conditions) and to the investors owners:

- The rules are fully embedded in the Irish tax code. A tax ruling from the Irish tax authorities is not required to confirm the tax treatment.
- The section 110 company is subject to tax in Ireland, it is possible, through proper structuring, to ensure effective tax neutrality through a variety of mechanisms. For example, a corporation tax deduction is specifically allowed for the payment of profit-dependent interest by the section 110 company in certain circumstances.
- There are no thin capitalization rules to limit the deductibility of interest paid.
- There are wide exemptions from Irish withholding tax on payments of interest and other payments.
- A section 110 company is a regular Irish resident company that is subject to tax in Ireland and, as such, should be entitled to access to Ireland’s wide treaty network.

Irish and non-Irish investment funds, private equity groups and leasing companies use section 110 companies to hold transportation assets (e.g. aircraft, ships) are also able to benefit from Ireland’s tax treaty network.

Corporation tax – general
Those companies that do not opt into the tonnage tax regime are subject to the normal corporation tax regime in Ireland.

The tax rate applicable to trading profits is 12.5%. Non-trading income, e.g., investment income, is subject to Irish corporation tax at a rate of 25%.

Ireland can be an attractive location from which to finance the acquisition of vessels. If structured properly, the finance company can obtain capital allowances on the ship and a tax deduction for interest on any borrowings. Further, the profits of the finance company, assuming it is carrying on a trade, are subject to corporation tax at 12.5%. These benefits can significantly reduce the overall cost of financing.

Value-added tax
The supply, modification, repair, maintenance and hiring of seagoing vessels of a gross tonnage of more than 15 tons that are vessels used or to be used for the carriage of passengers for reward, for the purposes of a sea fishing business, for commercial or industrial purposes and rescue or assistance at sea are zero-rated for value-added tax (VAT) purposes.

Since 1 January 2010, the place of supply of leasing services by an Irish lessor to a non-Irish business customer is where the customer is established.

Stamp duty
Instruments for the sale, transfer or other disposition, either absolutely or by way of mortgage or otherwise, of any ship or any part, interest, share or property of, or in any ship or vessel, are exempt from stamp duty.

1.2 Tax relief for seafarers
A seafarer relief of €6,350 is available to individuals against their seafaring income. To obtain this relief, the seafarer must be at sea on a voyage on a seagoing ship to or from a foreign port for at least 161 days in any particular tax year.

A seagoing ship means a ship that is registered in an EU Member State and is used solely for the trade of carrying passengers or cargo by sea for reward. A mobile or fixed installation in foreign waters may be treated as a foreign port for this purpose.
Wage costs are tax-deductible for the employer.

1.3 Tax treaties
Ireland has an extensive network of 68 tax treaties, most of which are based on the Organisation for Economic Cooperation and Development (OECD) model treaty for the avoidance of double taxation.

Ireland has a tax treaty with the following countries:

Albania, Armenia, Australia, Austria, Bahrain, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Chile, China, Croatia, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Finland, France, Georgia, Germany, Greece, Hong Kong, Hungary, Iceland, India, Israel, Italy, Japan, Korea (ROK), Kuwait, Latvia, Lithuania, Luxembourg, Macedonia, Malaysia, Malta, Mexico, Moldova, Montenegro, Morocco, Netherlands, New Zealand, Norway, Pakistan, Panama, Poland, Portugal, Qatar, Romania, Russian Federation, Saudi Arabia, Serbia, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, United Arab Emirates, United Kingdom, United States of America, Uzbekistan, Vietnam, Zambia.

Treaties with Thailand and Ukraine have been signed but are not yet in force. Under changes introduced in the Finance (No. 2) Act 2008, the preferential tax treatments available where a double tax treaty is in force have been extended to where treaties have been signed but are currently not in force.

Treaties are under negotiation with Azerbaijan, Jordan and Tunisia.

1.4 Residence
A company incorporated in Ireland shall generally be regarded as resident in Ireland for tax purposes. However, this assumption of residence by reference to incorporation will not apply where:

- The company or a related company carries on a trade in Ireland and the company is ultimately controlled by persons, resident in an EU Member State or in a treaty country and is not controlled by persons not so resident.
- The company or a related company carries on a trade in Ireland, and the company is or is related to a company, the principal class of shares of which is substantially and regularly traded on one or more recognized stock exchanges in an EU Member State or treaty country.
- The company is regarded as resident in the other country under the terms of a taxation treaty between Ireland and the other country.

In order to comply with certain provisions of Irish company law (namely Sections 43 and 44 of the Companies [Amendment] Act 1999), all Irish companies must have, at all times, one of the following:

- A bond in place in the prescribed form, in force to the value of €25,000
- At least one director resident in the European Economic Area (EEA)
- A certificate from the Irish Revenue commissioners, to confirm that the company has “a real and continuous link” with one or more economic activities being carried on in Ireland

Where a company is not resident in Ireland for tax purposes by virtue of the incorporation test, the “center of management and control” of the company is an important criterion for determining whether it is subject to tax in Ireland. A company that is managed and controlled in Ireland is resident in Ireland for tax purposes and therefore subject to taxation in Ireland.

Subject to the terms of a particular double tax treaty, if a company is registered abroad but the center of management and control is in Ireland, the company will be resident in Ireland and subject to Irish tax. The center of management and control is determined on the basis of all relevant facts and circumstances.

1.5 Freight taxes
There are no freight taxes in Ireland.

1.6 Special vessel registration benefits for the shipowner
There are no special vessel registration benefits for the shipowner.
1.7 Changes to tax law anticipated in the near future
Following the introduction of the tonnage tax regime, no major changes are expected.

2. Human capital

2.1 National labor law
In the case of a ship registered in Ireland, Irish labor law applies to crew members.

2.2 Formalities for hiring personnel
There are no specific procedures that must be followed when hiring personnel other than requesting a certificate of competence.

2.3 Collective labor agreements
Normal collective labor agreements, where unionized, cover rates of pay, holiday, time off, pension and working hours.

2.4 Treaties relating to social security contributions
Social security within the EU and EEA, excluding Switzerland, is governed by EU Council regulations, which prevent double payment of contributions on the same income. In general, with the exception of short-term intergroup assignments (less than 12 months), persons resident in one Member State of the EU but employed in another Member State are subject to the social security rules in the Member State in which they are employed.

Ireland has concluded bilateral agreements with the following non-EU countries:
- Australia
- Canada (including Québec)
- Japan
- Republic of Korea
- New Zealand
- Switzerland
- United States of America

These cover social security contributions, where an individual who is resident in one contracting state is employed and working in the other contracting state. In summary, these agreements avoid double payment of contributions on the same income and allow short-term transferees to remain in their home country systems. Certain conditions need to be satisfied in order to be covered by an agreement.

It should be noted that the absence of a bilateral agreement with an EU country does not necessarily mean that appropriate co-operation is not possible. For example, there have been numerous examples of jurisdictions not listed above agreeing, on a case-by-case basis, to forego their right to apply social security taxes to the income of an individual employed in Ireland.

2.5 Manning issues with flying the Irish flag
Ireland has strict safety requirements for crewing. Irish crew is highly skilled, trained and familiar with stringent safety restrictions.

3. Corporate structure

3.1 Most commonly used legal structure for shipping activities
The most commonly used legal structure is the limited company.

3.2 Taxation of profit distribution
Dividends received from overseas by companies resident in Ireland are treated as ordinary income and taxed at the rate of either 12.5% or 25%, with relief for foreign tax suffered. Where the dividend is received from a “trading” subsidiary that is resident in the EU or in a country with which Ireland has a double tax agreement, or if not so resident is owned directly or indirectly by a publicly quoted company, the rate of applicable tax is 12.5%.

In certain circumstances, dividends received by a tonnage tax company from an overseas qualifying company form a part of the tonnage tax profits and, therefore, are not subject to the 25% tax rate.

Dividends paid by an Irish resident company are subject to withholding tax at the standard rate of income tax (currently 20%) except where the shareholder is:

- An Irish resident company, pension fund, charity or collective investment undertaking, et al.
- An individual tax resident in another EU Member State or in a territory with which Ireland has a tax treaty
- A company resident in an EU Member State or in a country with which Ireland has a tax treaty and the company is not under the control of Irish residents
- A company not resident in Ireland where the company is ultimately controlled by shareholders resident in another EU Member State or in a country with which Ireland has a tax treaty
- A company not resident in Ireland and the principal class of the shares of the company, or another company of which the company is a 75% subsidiary, is traded on a recognized stock exchange in an EU Member State or a country with which Ireland has a tax treaty

In order to qualify for the above exemptions, certain documentation has to be completed.

4. Grants and incentives

4.1 Specific and/or general subsidies for shipping companies
Funding is available for deck and engineering cadet training from the Department of Transport.

4.2 Investment incentives for shipping companies and the shipbuilding industry
The corporation tax rate is 12.5%. A tonnage tax regime is available to shipowners, charterers and ship managers (see section 1.1 for details).

4.3 Special incentives for environmental awareness
There are no special incentives for environmental awareness.

4.4 Issues with flying the Irish flag
There are no restrictions on the nationality of crew serving on Irish-flagged vessels, other than compliance with the International Convention on Standards of Training, Certification & Watchkeeping for Seafarers (STCW) 1995.

5. General information

5.1 Infrastructure

5.1.1 Major ports
- Cork
- Dublin
- Dun Laoghaire
- Foynes/Limerick (Shannon Estuary)
- Rosslare
- Waterford
5.1.2 Port facilities
The following facilities are available:
- Maintenance and repair
- Docking
- Storage
- Cranes for every size of vessel

5.1.3 Airports close to the major ports
- Cork Airport is close to Cork and Waterford Airport is close to Waterford.
- Dublin Airport is close to Dublin, Dun Laoghaire and Rosslare. The port tunnel links Dublin Port directly to a motorway that leads to Dublin Airport.
- Shannon Airport is close to Limerick.

5.1.4 Support services for the shipping industry in Ireland
The following support services for the shipping industry are readily available:
- Ship management
- Banks with a shipping desk
- Consulting firms specializing in shipping
- Maritime law services
- Insurance brokers for the shipping industry
- A centralized business unit that will deliver complete 24-hour out-of-office assistance for ship registration

5.1.5 Maritime education
The major maritime educational institution in Ireland historically was the Nautical Enterprises Centre. However, this has now evolved into an advisory and research center.
In 2004, the new National Maritime College of Ireland opened at Ringaskiddy in County Cork. The college, a public-private partnership, represents an investment of €57 million, providing state-of-the-art training facilities and accommodating 750 students. This is now the primary Irish center of maritime education.

5.2 Safety and environmental issues
5.2.1 Implementation of the International Safety Management Code on board vessels
The Irish Maritime Development Office’s (IMDO) Maritime Safety Committee prepared and adopted the International Safety Management (ISM) Code. All Irish shipping companies currently comply with the International Convention for the Safety of Life at Sea (SOLAS) requirements regarding the ISM Code.

5.2.2 Safety rules regarding manning
The safety rules regarding manning can be characterized as strict.

5.2.3 Special regulations on safety and the environment
Ireland is a signatory to all international maritime safety conventions.

5.3 Registration
5.3.1 Registration requirements
The Irish government is currently reviewing changes to the mercantile marine laws governing the Irish Ship Register. Changes to legislation are being updated in line with government policy and will facilitate an overhaul of the Irish Ship Register, bringing the administration and services up to international best practices.
Ships owned by a body corporate, established under the law of an EU Member State and which has its principal place of business in an EU Member State, or by a national of an EU Member State, may register to fly the Irish flag.
In addition, Irish-owned ships may register on a foreign register (subject to the provisions of the relevant
5.3.2 Ship registration procedure
Under current rules, before registering in the Irish Ship Register, the following conditions must be complied with:

- The owner must be qualified to own an Irish ship (i.e., a body corporate or national of an EU Member State as outlined in section 5.3.1) and must apply in writing to register the ship under the Mercantile Marine Act 1955.
- The name of the vessel must be approved.
- Evidence of title, together with a builder’s certificate, must be provided.
- The vessel must be surveyed by the marine surveyors' office.
- The vessel must be marked and carved.
- A declaration of ownership must be provided.
- The appropriate registration fee must be paid.

Where the vessel is owned by a company, the following additional information is required:

- Original certificate of incorporation of the company
- Memorandum and articles of association of the company
- A company-appointed officer to make declarations on its behalf
- A company-appointed manager

5.3.3 Parallel registration
It is expected that parallel registration will be available following the review of current legislation.

5.3.4 Requirements for officers and crew serving on vessels
At present, in order to work in various officer capacities on Irish merchant ships, it is necessary to hold a certificate of competence (CoC) issued or accepted by the Irish Department of Transport.

An Irish certificate of equivalent competence (CEC) may be issued, on application, to officers holding valid STCW certificates issued by other STCW convention states. This will generally be issued where the Irish authorities are satisfied that there are no significant differences between the standard set by Ireland and that represented by other certificates. The CEC will carry the same rights and obligations as the CoC. Like the CoC, it will require periodic revalidation and holders will be subject to statutory procedures relating to their conduct. A CEC will remain valid only as long as the original STCW certificate remains valid. For the benefit of Port State Control inspectors and employers, the original STCW certificate must always be carried with the CEC.

5.3.5 International conventions regarding registration
Most major international conventions have been ratified by Ireland.

5.3.6 Special requirements or rules regarding registration
There are no special requirements or rules regarding registration.

5.3.7 Registration fees
There is a one-off fee of €252 for registration of a vessel over 1,500 tons (€202 for a vessel under 1,500 tons) in the Irish Ship Register. This does not includesurvey fees.

5.4 General comments
IMDO
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The Minister for the Marine established the IMDO in July 2000. This indicates a strong commitment to the shipping services sector and can be interpreted as a statement of intent by the government. The IMDO (which is Ireland’s first dedicated development, promotional and marketing agency for shipping, shipping services and seafarer training) has a very broad statutory remit to promote the expansion of Irish shipping and related industries. One of its stated aims is to identify opportunities in the sector, including the “financing of new and second-hand ships, building on the proven experience of the IFSC [International Financial Services Centre].”
Isle of Man

1. Tax

1.1 Tax facilities for shipping companies

A company is resident in the Isle of Man by virtue of incorporation or if the central management and control of the company is exercised in the Isle of Man. Companies resident in the Isle of Man are subject to income tax on their worldwide income, but relief from double taxation is available although limited to the tax incurred. A nonresident company with a branch carrying on a trade in the Isle of Man is subject to income tax on the profits of the branch.

The standard rate of corporate income tax on the Isle of Man is 0%. Companies that derive income from land and property in the Isle of Man (e.g., property development, rental and letting and mining and quarrying), certain retail business and licensed Manx banks are subject to a Manx tax at 10%. Trading companies may also elect to be taxed at the 10% rate.

Annual return

Resident companies pay an annual return fee of €460 for the 2013-14 tax year.

Withholding tax

In general, there is no withholding tax on dividends, interest and royalties paid by Isle of Man resident companies. Withholding tax is imposed on Manx rents paid to nonresident companies (10%) and nonresident individuals (20%).

Capital gains tax and transfer tax

There is no tax on capital gains on the Isle of Man, nor are any transfer taxes levied.

Computation of taxable profit

Taxable profits are calculated on the profit from the statutory financial statements, subject to certain adjustments and provisions.

Expenses must be incurred wholly and exclusively for business purposes and in acquiring the company’s income.

Capital allowances (tax depreciation)

A generous first year allowance of up to 100% on plant and machinery may be claimed. Annual writing down allowances of 25% may also be claimed. The purchase of a ship and related expenditure usually qualifies for 100% first year allowances, as do certain survey costs.

Upon disposal of assets on which capital allowances have been claimed, an adjustment is made by add-back or further allowance to reflect the net cost to the company of the asset.

Relief for trading losses

Trading losses may be used to offset other income in the year in which the loss was incurred or trading income of the preceding year if the same trade was carried on. Alternatively, the losses may be carried forward without time limit for offset against future income from the same trade. Losses cannot be transferred between 0% and 10% business.

Value-added tax

Many supplies in connection with shipping are zero-rated (exempt with credit), including:

- The supply of qualifying ships (gross tonnage greater than 15 tons and not designed or adapted for recreation or pleasure)
- The supply of parts and equipment of a kind ordinarily installed or incorporated in the propulsion, navigation or communications systems, or the general structure of a qualifying ship and for the incorporation or installation in a qualifying ship
- The supply of safety equipment for qualifying ships
- The repair or maintenance of qualifying ships
- The repair and maintenance of parts or equipment of a qualifying ship provided the repair is carried out on board or the part or equipment is removed for repair and is then replaced in the same ship
- The modification or conversion of a qualifying ship provided that when so modified or converted it will remain a qualifying ship
- The supply of services under charter of qualifying ships
- Renting or hire of qualifying ships
- Handling services provided for qualifying ships subject to conditions and excluding the renting on hire of goods
- Salvage and towage services, whatever the type of ship
- Surveying or classification of qualifying ships are normally zero-rated or outside the scope of value-added tax (VAT)
- Pilotage services, whatever the type of ship

Provision of passenger transport is generally zero-rated.

1.2 Tax facilities for seafarers
Wages will not be subject to Manx tax deductions if duties are performed outside Manx waters.

1.3 Tax treaties
The Isle of Man has entered into double taxation agreements (DTAs) with Bahrain, Belgium (awaiting ratification), Estonia, Guernsey, Jersey, Luxembourg (awaiting ratification), Malta, Qatar, Seychelles and Singapore and has a longstanding DTA with the United Kingdom.

The Isle of Man has entered into tax information exchange agreements (TIEAs) with Argentina, Australia, Botswana (awaiting ratification), Canada, China, Czech Republic, Denmark, the Faroe Islands, Finland, France, Germany, Greenland, Iceland, India, Indonesia (awaiting ratification), Ireland, Italy (awaiting ratification), Japan, Lesotho (awaiting ratification), Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, Slovenia, Sweden, Switzerland (awaiting ratification), Turkey (awaiting ratification), the United Kingdom and the United States of America.

Besides the above treaties and agreements, there are specific agreements on the taxation of shipping income with Denmark, the Faroe Islands, Finland, France, Germany, Greenland, Iceland, the Netherlands, Norway, Sweden and the United States of America.

1.4 Freight taxes
No freight taxes are levied.

1.5 Tonnage tax
The Isle of Man does not operate a tonnage tax system but an annual registration fee of €1,430 applies.

2. Human capital

2.1 Formalities for hiring personnel
The formalities for hiring personnel are described in the Merchant Shipping (Masters and Seafarers) Act 1979 and the Merchant Shipping (Crew Agreements, Lists of Crew and Discharge of Seamen) Regulations 1991.

2.2 National labor law
National labor law is applicable if crew members sail in Manx waters.

2.3 Regulations on employing personnel
The Isle of Man follows all recognized international standards.

2.4 **Collective labor agreements**

*Crew agreements and contracts in general*

The Merchant Shipping (Crew Agreements, Lists of Crew and Discharge of Seamen) Regulations 1991, which apply to Manx-registered ships, require seafarers employed on those ships to be engaged on an approved agreement. This requirement does not, however, apply to masters and persons employed in construction work, oil or gas exploration work and entertainment and to members of the armed forces while on a ship.

The provisions and form of a crew agreement must be approved by the Marine Administration Department (the Department). In practice, the agreements have been standardized and if used without amendment, no further approval is required.

The Department has two standard crew agreements that are:

- For use on ships formerly operating under National Maritime Board conditions, i.e., federated ships
- For use on non-federated ships where the current non-federated contractual clauses form the basic clauses for an agreement and may stand on their own or be supplemented or even substituted with company contracts

Employers who wish to use agreements other than the standard forms, or who wish to use modified versions of such forms, will be required to submit them to the Department for approval not less than 12 days before commencement of the agreement to ensure that the seafarers are as adequately protected under these agreements as they would be under the provisions set out in the standard forms of agreement. Approval will not be given to such agreements unless they comply with International Labour Organization (ILO) Convention 22 (Seamen's Articles of Agreement) and contain the required information.

*List of the crew*

The list of crew required under the 1991 Regulations should be incorporated in the agreement. In addition to the particulars of the seafarers, there must be provisions for the insertion of rates of pay, certificates and endorsement and for the signature of each seafarer as party to the agreement. Company pay scales may be annexed to the agreement.

In addition to the crew list on board the vessel, an accurate copy of the crew list is to be kept at an address in the Isle of Man by the representative. The master is required to notify the owner/manager of any crew changes.

2.5 **Treaties relating to social security contributions**

There are no treaties regarding social security obligations. The Isle of Man is covered by reciprocal agreements with the United Kingdom that in turn cover the United Kingdom's reciprocal agreements with numerous territories to prevent double social security charges and assure benefit coverage.

2.6 **Manning issues with flying the Isle of Man flag**

There are no significant issues regarding manning when flying the Isle of Man flag.

2.7 **Major changes in shipping legislation anticipated in the near future**

In August 2012, the ILO’s Maritime Labour Convention, 2006 was ratified and is due to come into force in August 2014. This will have a significant effect on all commercial shipping as it will consolidate and update more than 65 international labor standards related to seafarers.

3. **Corporate structure**

3.1 **Most commonly used legal structure for shipping activities**

Ships are usually owned by limited companies or limited partnerships.
3.2 Taxation of profit distribution
In general, shipping profits can be distributed free of withholding tax.

4. Grants and incentives

4.1 Specific and/or general subsidies available to shipping companies
The Isle of Man government is always committed to encouraging new business to come to the Isle of Man. The Department of Economic Development can offer generous grants in certain circumstances.

4.2 Investment incentives for shipping companies and the shipbuilding industry
The government of the Isle of Man wishes to promote the continuing growth and diversification of the industrial sector. Extremely generous assistance and incentives are available.

   Capital grants
   Capital grants of up to 40% for the costs of new buildings, building improvements and new plant and machinery can be provided. While all of the grants and loans are discretionary, and are awarded only to companies satisfying certain environmental and commercial criteria, in practice, the average grants offered to projects on the island are far higher than those offered for similar projects in most European countries.

   Expansion grants
   Capital grants of up to 40% of the costs of buildings and plant and machinery can be given for subsequent investment by companies on the Isle of Man.

   Operating grants
   The Isle of Man is one of few places where operating grants are available. For example, grants of up to 40% are available for nonrecurring setting-up expenses incurred in the first year, for marketing costs for new ventures, employing consultants to advise on methods of applying microprocessing technology to manufacturing processes and for the costs of pursuing quality assurance standards, such as BS5750 (British standard of excellence in quality management).

   Training costs
   Grants of 50% are available for employers operating approved training schemes.

   Loans on favorable terms
   Loans of up to half a company’s projected working capital requirement, at modest interest rates and with capital repayment deferred for up to two years, may be offered in addition to the grants.

   Rent reductions
   Should a company with an approved project wish to rent a new factory privately, rather than build its own with grant aid, a rent allowance can be offered to reflect the grant foregone.

4.3 Special incentives for environmental awareness
No special incentives for environmental awareness are currently available.

4.4 Issues with flying the Isle of Man flag
Flying the Isle of Man flag entails:
- The right to fly the “Red Ensign” and access to the support of British consular services and naval protection worldwide
- The professional Marine Administration providing a high quality of service
- Flexibility in the requirements for registered owners including acceptance of limited partnerships
- The availability of demise registry both “in” and “out”
- Low costs and no annual tonnage dues
- Full political support for shipping
› A range of professional services designed to support shipping
› Non-flag of convenience (FOC) status

4.5 **Major changes in shipping subsidy legislation anticipated in the near future**
No major changes are currently expected in the near future.

5. **General information**

5.1 **Infrastructure**

5.1.1 **Major ports**
The major port is Douglas. The port is essentially used for passenger and freight transport to and from the island, rather than international trade.
Castletown, Peel and Ramsey are the other major ports.

5.1.2 **Port facilities**
The following port facilities are available:
› Maintenance and repair
› Docking
› Storage
› Cranes for every size of vessel (Douglas port)

5.1.3 **Airport close to the major port**
Ronaldsway, the Isle of Man airport, is 10 miles from Douglas.

5.1.4 **Support services for the shipping industry on the Isle of Man**
The following support services for the shipping industry are readily available:
› Experienced ship managers
› Banks with a shipping desk
› Consulting firms specializing in shipping
› Maritime law services
› Insurance brokers for the shipping industry

5.1.5 **Maritime education**
There are no maritime educational institutions.

5.2 **Safety and environmental issues**

5.2.1 **Implementation of the International Safety Management Code on board vessels**
Full compliance with the International Safety Management (ISM) Code is required.

5.2.2 **Safety rules regarding manning**
Safety rules can be characterized as strict, and there is a wide range of regulations covering safety-related issues.

5.2.3 **Special regulations on safety and the environment**
The Isle of Man follows the ISM Code and has fully implemented and adheres to the guidance of the International Convention for the Safety of Life at Sea (SOLAS) Chapter XI covering maritime security. This also incorporates the amendments to the International Ship and Port Facility Security (ISPS) Code.

5.3 **Registration**

5.3.1 **Registration requirements**
Manx-registered ships are British ships. They are, however, under the separate jurisdiction of the Isle of Man
Marine Administration.
The majority interest in the ship (e.g., at least 33 of 64 shares) must be owned by one of the following:

- Companies incorporated in the Isle of Man and having their principal place of business in the Isle of Man (there are no nationality requirements for ownership of such companies)
- Companies incorporated in the United Kingdom, Channel Islands and any British Dependent Territory* and having their principal place of business in any such territory
- Companies incorporated in Member States of the European Union (EU) and European Economic Area (EEA) countries and having their principal place of business in any such country. It should be noted that the company may be incorporated in any of the above territories or EU Member States and have its principal place of business in any other of the above territories or EU Member States.
- Limited partnerships established and registered in the Isle of Man in accordance with the Partnership Act 1909 and the International Business Act 1994 and in certain prescribed countries as detailed in Registry Advice Notes (RAN) 05
  - British citizens, British Dependent Territories’ citizens, British subjects and British nationals
  - Citizens of Member States of the EU and EEA countries
  - Citizens of prescribed relevant countries** as detailed in RAN 02
  - A minority interest in a ship (e.g., up to 31 shares) may be owned by nonqualified persons.

Merchant ships to be registered in the Isle of Man should be classed with one of the approved classification societies.

In addition to the above, it is a requirement that a representative person must be appointed as detailed in RAN 15.

The British Red Ensign is the flag that is normally flown on Manx ships. However, registered owners resident in the Isle of Man may, if they wish, fly on their British ships the Red Ensign incorporating the “Three Legs of Man” (the symbol of the Isle of Man).

* British Dependent Territories are:
  - Anguilla; Bermuda; British Antarctic Territory; British Indian Ocean Territory; British Virgin Islands; Cayman Islands; Falkland Island; Gibraltar; Montserrat; Pitcairn Islands; St. Helena and Dependencies; Turks and Caicos Islands.

**Prescribed countries are:
  - Australia; Bahamas; Canada; China; Hong Kong; India; Japan; Liberia; Marshall Islands; Monaco; New Zealand; Pakistan; Panama; Russia; Singapore; South Africa; Switzerland; United Arab Emirates; United States of America.

5.3.2 Bareboat charter registration

Bareboat charter registration was introduced in 1991, whereby a shipowner can demise charter register a vessel both in and out of the Isle of Man and so separate the financial and operational jurisdictions.

Advantages

Demise charter registration provides a more flexible and attractive package, regarding for example:

- Mortgaging facilities
- Manning requirements
- National laws may permit tax advantages

A shipowner may still be able to obtain subsidies if the owner of the vessel remains in the original state, although the vessel may be “flagged out” to another registry.

Demise charter registration is only possible between the Isle of Man and compatible registries, i.e., those states whose national laws permit such arrangements.
The maximum registration period is five years, but this can be renewed for an additional period. Vessels registered in the Isle of Man in this manner comply with all regulations (other than ownership nationality) as if they were on the main Isle of Man register.

5.3.3 Requirements for officers and crew serving on vessels

Every officer, unless holding a UK-issued certificate of competency, must have an Isle of Man endorsement as required by Regulation I/10 of the international Standards of Training, Certification & Watchkeeping (STCW) Convention 1995 to accompany the national Certificate of Competency.

The Isle of Man does not issue its own certificates of competency; it does, however, issue endorsements recognizing a national Certificate of Competency. Endorsements are required for all officers sailing on Isle of Man-registered vessels unless they hold a Certificate of Competency issued by the UK under STCW 95. UK-issued Certificates of Equivalent Competency are not acceptable.

Officers serving on Isle of Man-registered vessels may be of any nationality and any residency provided they are holders of Certificates of Competency issued by one of the STCW 95 “White List” countries recognized by the Isle of Man and for which it issues endorsements attesting to the recognition of such certificates.

Ratings may be of any nationality provided they have completed the basic training as required under STCW 95 in the four key elements:

1. Personal survival
2. Basic first aid
3. Basic fire fighting
4. Personal safety and social responsibilities

Each rating must have documentary evidence of this training, which can be issued by any country that is a signatory to the STCW Convention.

Every rating forming part of a watch must hold a valid Deck or Engine Room Watch Rating Certificate, as applicable. Certificates issued by the ratings home country, provided that it is a signatory to the STCW Convention, are acceptable.

In the case of ratings who do not have certificates but who can demonstrate the required competence in line with the STCW Convention, it is possible for the vessel’s master or chief engineer to make the assessment of competence and issue a provisional Isle of Man Watch Rating Certificate. A provisional certificate is valid for three months.

To ensure that all Isle of Man-registered vessels are sufficiently, efficiently and safely manned with properly trained and certified personnel, a Minimum Safe Manning Document, issued under the provisions of Chapter V/14.2 (Safety of Navigation) of SOLAS 1974, as amended, must be carried by all vessels to which Chapter I of SOLAS applies, including merchant vessels over 500 gross tonnage and commercial yachts over 500 gross tonnage.

SOLAS Chapter I does not apply to pleasure yachts, and as such, these vessels do not require a minimum safe manning document.

5.3.4 International conventions regarding registration

All major international conventions have been extended to the Isle of Man.

5.3.5 Special requirements and rules regarding registration

Survey requirements prior to registry

An owner or manager seeking to register a ship in the Isle of Man should initially make contact with the registrar to ensure there are no impediments to registry and with the principal surveyor to discuss the requirements for survey.

The requirement for a pre-registration survey will depend on the age of the vessel and its Port State Control (PSC) history. Generally, vessels under 10 years old will not require a pre-registration survey if their PSC
history is acceptable.

The requirement for a pre-registration survey on a new build will depend on the shipyard where the vessel is being built and whether the owner has ships already registered with the Isle of Man Ship Registry. Generally, new builds coming from shipyards that have delivered to Isle of Man flag requirements previously will not require a pre-registration survey.

**New building of ships**

Delegation of continuing inspection during construction may be made to approved classification societies. Some visits may be made by a surveyor from the administration to confirm compliance with the regulations and subsequent acceptance of the vessel for registration and the issue of international certificates. This will only be to a new shipyard, the first in a series of new builds or at the owner's request.

**Existing ships**

Where ships are registered in an EU Member State or an EEA country, the Isle of Man administration will issue international certificates for the unexpired period of validity of the existing certificates, subject to a satisfactory inspection of the ship by the Isle of Man surveyor and submission of copies of appropriate existing certificates.

**Certification**

The following international certificates are issued as appropriate by the administration following the satisfactory completion of surveys:

- Passenger Ship Safety Certificate
- Safety Management Certificate
- Ship Security Certificate
- Safe Manning Certificate
- Civil Liability for Oil Pollution Damage and Bunker Certificates

The following international certificates are issued by approved classification societies on behalf of the Isle of Man government, following the satisfactory completion of surveys:

- Cargo Ship Safety Construction Certificate
- International Load Line Certificate (1966)
- International Tonnage Certificate (1969)
- Safety Equipment Certificate
- Safety Radio Certificate
- All International Convention for the Prevention of Pollution From Ships (MARPOL) Certificates

The senior registrar has a requirement to visit each merchant ship on the register at least once every five years. This will normally be at the same time as a Safety Management Certificate audit.

Fees are charged by the Marine Administration for conducting surveys and inspections and the issuance of related convention certificates and, in addition, the costs of travel and subsistence associated with visiting ships are charged to shipowners or ship managers. Where a survey is delegated to another organization, the fees and costs are settled by arrangement between the shipowner or manager and that organization.

### 5.4 General comments

**Shipping regulation**

The Marine Administration was established by the Isle of Man government in 1984 — although the Isle of Man has had a long-established maritime industry since 1786 — and has its own team of experienced, professional surveyors.

The only fees charged by the Marine Administration are those relating to registration, survey and certification of ships. There is no additional tonnage tax levied on Manx-registered shipping. However, there is an annual registration fee of €1,430 payable on 1 April irrespective of the size of the vessel.
The Isle of Man Marine Administration is generally regarded by the shipping industry as progressive in outlook and works in close consultation with the shipping industry to ensure that sensible, well-balanced, effective and, moreover, workable regulations are developed.

Shipping overview
The Isle of Man has developed from a mainly British to an international shipping center. Many of the world's major owners and ship managers have companies on the island, thereby creating one of the leading ship management centers in the British Isles.

Ship management activity is supported by numerous shipping-related service providers. Consequently, the island is able to offer broad services to the owners and operations of ships worldwide.

Shipping taxation
The Isle of Man offers company legislation, a fiscal environment and a tax regime that are well suited for shipping activities.

Isle of Man ship register
The Isle of Man offers a quality, low-cost register, which has a Marine Administration that is approachable and likely to apply practical solutions while maintaining international standards. As the Isle of Man shipping register is a member of the British Red Ensign Group, the ships registered in the Isle of Man are British ships. Although Manx ships come under the separate jurisdiction of the Isle of Man Marine Administration, as British vessels, they are entitled to fly the Red Ensign.

Isle of Man commercial yacht register
Commercial yachts of 24 meters in length and more can be registered in the Isle of Man. This register has become a register of choice for the world's mega-yachts.

Any commercial yacht proposed for registry must be 24 meters in length or more and must be classed with one of the classification societies recognized by the Isle of Man. Vessels must also comply with the United Kingdom Mega Yacht Code.

Applicable legislation:
• Merchant Shipping Act 1985
• Merchant Shipping (Registration) Act 1991
• Merchant Shipping (Registration) Regulations 1996
• Merchant Shipping (Yacht in Commercial Use) Order 2002
• Merchant Shipping (Maritime Labour Convention) Regulations 2013
• Isle of Man ship registry:
• http://www.gov.im/ded/shipregistry
1. Tax

1.1 Tax facilities for shipping companies

The imposte sul reddito delle società (IRES) is the Italian corporate income tax.

Companies are subject to IRES based on their statutory income, adjusted for non-taxable revenues and/or nondeductible costs according to IRES provisions.

IRES is levied at the ordinary rate of 27.5%.

Fiscal losses determined for IRES purposes can be used without time limit to offset up to 80% of each fiscal year’s taxable basis. Start-up losses (i.e., losses generated in the first three years of activity) can be used to offset 100% of each fiscal year’s taxable basis. No loss carryback is allowed.

Companies are also subject to imposta regionale sulle attività produttive (IRAP), a regional tax on business activities, which is determined by applying a tax rate of 3.9% to the income statement “operating margin” (without deducting, however, labor costs, bad debts and accruals for risks). Financial revenues, as well as extraordinary incomes, are not taxable for IRAP purposes.

As of tax year 2005, shipping companies may opt for tonnage taxation, which applies for 10 years and is available for “qualified” vessels (those registered in the Italian international shipping register with a tonnage of at least 100 tons). If the tonnage tax regime is not elected, the ordinary regime for these vessels states that the income attributable to them is abated by a special deduction of 80%.

Furthermore, IRAP does not apply to qualified vessels.

Tonnage taxation depends on the net tonnage of the vessel and is determined as follows:

<table>
<thead>
<tr>
<th>Tonnage</th>
<th>Daily fixed income per ton (€)</th>
</tr>
</thead>
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<tr>
<td>0–1,000</td>
<td>0.0090</td>
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<tr>
<td>1,001–10,000</td>
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</tr>
<tr>
<td>10,001–25,000</td>
<td>0.0040</td>
</tr>
<tr>
<td>More than 25,000</td>
<td>0.0020</td>
</tr>
</tbody>
</table>

Tonnage taxation applies to:

- Qualified owned vessels
- Qualified bareboat chartered-in vessels
- Chartered-in (also non-qualified) vessels, but only up to 50% of the tonnage of all the employed vessels. Income from chartered-in vessels with tonnage in excess of 50% is taxed under the ordinary rules
- Italian partnerships (similar to German kommanditgesellschaft [KG] structures)
- Qualified vessels employed in national traffic

While partnerships are tax transparent entities, for qualified vessels employed in national traffic, only partners are eligible to be taxed under tonnage tax rules.

Capital gains and losses on transactions on qualified vessels are included in the above fixed income.

Shipping groups should apply this taxation to every vessel owned by group companies (the current understanding is that the law applies only to Italian companies and permanent establishments).

Under certain conditions, income from bareboat-out qualified vessels may not be subject to the tonnage tax but can be abated by 80%.

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1 This rule follows a ministerial interpretation dated 26 December 2007.
1.2 Tax facilities for seafarers
Shipping companies are exempt from the payment of social contributions and withholding tax on seafarers embarked on vessels registered in the Italian international shipping register.

1.3 Tax treaties and place of effective management
Italy has a large network of tax treaties.
The place of effective management is the main issue in the tax treaties regarding shipping companies.

1.4 Freight taxes
Freight tax does not apply in Italy.

1.5 Special vessel registration tax benefits for the shipowner
See sections 1.1 and 3.2.
Tax lease structures apply to Italian corporate taxpayers. Lessors may deduct up to a 35% depreciation rate for leased vessels.
The tax lease regime will apply once authorization is obtained from the European Union (EU) competent authorities.

2. Human capital

2.1 Formalities for hiring personnel
Italian legislation protects seafarers from discrimination on the grounds of sex, race, disability or trade union membership.
The following legislation is in force:
- Law 4 April 1977 No. 135, regarding the professionalism of a ship's agents (last modification by Legislative Decree 26 March 2010, No. 59)
- Article 29 of Law 14 June 1989 No. 234, concerning the union agreement regarding temporary deletion of a vessel from the Italian register of ships (see section 5.3.3)
- Legislative Decree 30 December 1997 No. 457, modified by Law 27 February 1998 No. 30 (last modification by Law 27 February 2011, No. 183), regarding seafarers employed on Italian vessels listed in the Italian international register (see section 5.3.3)
- International Labour Organization (ILO) conventions on seafarers implemented by Italy
- Collective labor agreement for seafarers
- Worker's Fundamental Rights Chart (Law 20 May 1970, No. 300)

2.2 National labor law
The employment of an Italian seafarer on an Italian ship is governed by Italian law.
The employment of an Italian seafarer on a ship under a foreign flag and the employment of a foreign seafarer on a ship under the Italian flag are governed by Article 8 of the European Regulation n. 593/2008 of 17 June 2008 (the so-called Regulation Rome 1 that has replaced the Convention of Rome 1980), which considers four possibilities:
1. The law fixed by contract, provided such a law grants seafarers the benefits of the alternate choice
2. The law of the country where the seafarer habitually performs work
3. The law of the country of hiring (this may be the site where the shipping company is based)
4. Other law that might have a different connection with the employment relationship

2.3 Regulations on employing personnel
No special regulations apply.
2.4 **Collective labor agreements**
Shipping is generally highly unionized. Minimum wage and other mandatory payments, free days, termination of employment, rules regarding working hours and the arrangement of national health insurance depend on matters such as trade and gross tonnage of the ship.

2.5 **Treaties relating to social security contributions**
Wages paid to seafarers working on a vessel flying the Italian flag are subject to Italian pension and social security contributions. Pension contributions should be paid to INPS (Istituto Nazionale Previdenza Sociale, the National Security Institute). Social security contributions (e.g., health insurance, maternity, accident at work, etc.) are managed by IPSEMA (L’Istituto di Previdenza per il Settore Marittimo, the Insurance Institute for the Maritime Sector).

The Treaty of Rome covers reciprocal obligations for EU Member States regarding social security benefits across the EU.

To prevent double social security taxation and ensure benefit coverage, Italy has concluded agreements with several countries that traditionally supply seafarers to foreign vessels.

In relation to social security legislation applicable in the EU, according to the European Regulation n. 883/2004, article 11, an activity as an employed person on board a vessel at sea flying the flag of a Member State shall be deemed to the social security of the said Member State. This EU Regulation also indicates that when remuneration is paid by a company residing in a different Member State, the applicable social security law will be the one related to the Member State in which the company resides, e.g., when the company resides in Italy, the Italian social security legislation will be applicable.

With regard to social security taxation for non-EU countries, it will be necessary to apply the appropriate agreement concluded between Italy and the non-EU country in order to avoid the double social security taxation.

2.6 **Manning issues with flying the Italian flag**
Advantages related to the management of a vessel in Italy depend on the opportunities offered by Law 14 June 1989 No. 234 (“bareboat charter,” see section 5.3.3) and by Law 27 February 1998 No. 30 (“Italian international register,” see section 5.3.3).

3. **Corporate structure**

3.1 **Most commonly used legal structures for shipping activities**
The most common legal structure for shipping operations is the società a responsabilità limitata (S.r.l) or società per azioni (S.p.A.).

3.2 **Taxation of profit distribution**

*Outbound dividends*

Dividends distributed to foreign parent companies are subject to a statutory 20% withholding tax, which is usually reduced under the application of tax treaties.

Dividends distributed to qualified EU parent companies are subject to a 1.375% withholding tax. Dividends paid out to Italian companies are exempt from withholding tax.

Dividends distributed to qualified EU parent companies in compliance with the requirements for the application of the Parent-Subsidiary Directive are exempt from withholding tax.

*Inbound dividends*

95% of inbound dividends distributed by non-CFC (controlled foreign corporations) companies are exempt.
4. Grants and incentives

4.1 Specific and/or general subsidies available for shipping companies
Italian legislation currently does not provide for any significant subsidies or grants for the shipping industry. The last law enacted in this area is Law 9 January 2006, No. 13, which provides that the successive budget laws can refinance the funds of the state budget. The latest finance law has not allocated any resources for this contribution, which, however, is still open for refinancing.

Furthermore, the Government provides funds for shipping companies involved in trade with the domestic islands. These subsidies are intended to offer comprehensive shipping services to inhabitants of the Italian islands. The subsidies are granted to a few identified companies on the basis of an agreement that was scheduled to remain in force until 2009 (whether it is still in force is unclear).

4.2 Investment incentives for shipping companies and the shipbuilding industry
On 27 June 2002, Directive CE No. 1177/2002, implemented by the Budget Law 2008, was issued regarding financial support of up to 6% of the contract value for the support of the following types of vessels:

- Container ships
- Chemical carriers
- Oil tankers
- Liquefied natural gas (LNG) carriers

The successive budget laws can refinance the funds of the state budget. The latest finance law has not allocated any resources for this contribution, which, however, is still open for refinancing.

4.3 Special incentives for environmental awareness
See section 5.2.3.

4.4 Issues with flying the Italian flag
Besides the advantages that come from Italy being a Member State of the EU, flying the Italian flag does not entail any specific advantages or disadvantages.

4.5 Major changes in shipping subsidy legislation anticipated in the near future
No major changes are anticipated.

5. General information

5.1. Infrastructure

5.1.1 Major ports
Italy has a vast network of ports of which the most important are:

- Ancona, Augusta, Bari, Brindisi, Cagliari, Civitavecchia, Genoa, Gioia Tauro, La Spezia, Livorno, Marina di Carrara, Naples, Palermo, Piombino, Ravenna, Salerno, Savona, Taranto, Trieste, Venice.

Besides the main Mediterranean hub Gioia Tauro, Taranto has been operational with a container terminal since September 2001 and is expected to increase its terminal activity in the next few years.

- Ferry services are operational on both the west and east coast of the country in the following ports: Ancona; Brindisi; Cagliari; Civitavecchia; Genoa; Livorno; Naples; Olbia; Palermo; Porto; Savona

- In the cruise business, the main ports are: Ancona; Civitavecchia; Genoa; Livorno; Naples; Palermo; Savona; Venice.

5.1.2 Port facilities
The following facilities are available in all major ports:

- Maintenance and repair
5.1.3 **Airports close to the major ports**

Airports close to major ports are:

- Capodichino (Naples)
- Ciampino (Rome)
- Cristofo Colombo (Genoa)
- Galileo Galilei (in Pisa) (Livorno)
- Leonardo da Vinci-Fiumicino (in Rome) (Civitavecchia)
- Linate (Milan)
- Malpensa (Milan)
- Marco Polo (in Venice) (Tessera)
- Punta Raisi (Palermo)
- S. Eufemia (in Lamezia Terme) (Gioia Tauro)

5.1.4 **Support services for the shipping industry**

The following support services are readily available:

- Banks with a shipping desk
- Consulting firms specializing in shipping
- Maritime law services
- Insurance brokers for the shipping industry
- Classification societies (RINA, BV, GL) recognized by the Italian flag Administration

Genoa and Naples have the largest concentration of maritime services and expertise in Italy.

5.1.5 **Maritime education**

There are various maritime educational institutions in Italy. The most important are:

- The University of Genoa, Maritime and Transport Economy and Maritime Engineering
- The University of Naples “Federico II,” Maritime Engineering
- The University of Trieste, Maritime Engineering

5.2 **Safety and environmental issues**

5.2.1 **International and national rules**

Under Italian law, the following rules apply to ships registered in the country:

- International Convention for the Safety of Life at Sea (SOLAS), including the International Safety Management Code
- International Convention for the Prevention of Pollution From Ships (MARPOL)
- International Convention on Load Lines (LL)
- International Convention on Standards of Training, Certification & Watchkeeping for Seafarers (STCW)
- 1969 Brussels Convention to minimize marine pollution and the related 1971 Brussels Convention to institute an international fund
- Law 31 December 1982 No. 979 to prevent sea pollution
- Legislative Decree 27 July 1999 No. 271 to ensure safety and health of seafarers on board ships
- Legislative Decree 6 November 2007, n. 193 for food hygiene. The violations mentioned in this decree have been modified to “illicit administrative actions” in Legislative Decree 30 December 1999 No. 507

5.2.2 **Safety rules regarding manning**

According to Legislative Decree 24 March 2003, n. 53 (see section 5.2.3), the safety rules regarding
manning can be considered strict.

5.2.3 Special regulations on safety and the environment
Italy has taken measures to implement Directive 2009/16/CE, concerning port state control, by means of Legislative Decree 24 March 2011, n. 53.

Law 7 March 2001 No. 51, modified by Law 1 August 2002 No. 166 and Law 9 January 2006, n.13, introduced new rules to prevent oil pollution, providing incentives to demolish single-hull tankers of more than 20 years of age. The legislative measure, moreover, encourages the utilization of the vessel traffic system and the Global Maritime Distress and Safety System to improve maritime traffic safety.

5.3 Registration

5.3.1 Registration requirements
To get on the Italian register, a ship must be owned by an Italian or an EU entity (individual or company). New buildings or ships previously registered in a non-EU register can be registered in Italy by non-EU entities, provided that such an entity has a permanent establishment in Italy and the management of the ship is entrusted to an Italian or EU entity.

5.3.2 Ship registration procedure
Registration is granted upon presentation to the local authorities of (i) a document constituting proof of ownership (builder’s certificate or bill of sale), (ii) documentation relating to requirements mentioned in section 5.3.1 above, (iii) a tonnage certificate and (iv) a deletion certificate (if the ship was previously registered in a foreign register).

5.3.3 Parallel registration
Both “flagging in” and “flagging out” are possible under Laws No. 234/1989 and No. 30/1998.
Ships registered in a foreign register and bareboat chartered to an Italian (or EU) entity can be temporarily registered in the Italian international register. Furthermore, an Italian ship can be bareboat chartered to a foreign entity and be temporarily suspended (but not deleted) from the Italian register in order to be temporarily registered in a foreign register. The above requires government authorization, which is granted on the basis of both satisfactory guarantees being provided to creditors and an agreement with the unions.
Such a flag-out does not affect mortgages registered on the ship. However, it affects the number of Italian seafarers on board the vessel.

5.3.4 Requirements for the officers and crew serving on vessels
Seafarers on Italian ships must be Italian or EU citizens.
Different rules apply to ships registered in the Italian international register and to ships bareboat chartered in accordance with Law No. 234/89.
In both cases, the number of non-EU seafarers on board has to be negotiated with the unions.

5.3.5 International conventions regarding registration
There are no international conventions in force in Italy regarding the registration of ships.

5.3.6 Special requirements/rules relating to registration
No special requirements apply.
Japan

1. Tax

1.1 Tax facilities for shipping companies

1.1.1 General corporate tax rule

In general, shipping companies are subject to taxation under the ordinary corporate tax regime, which includes corporation tax, local inhabitants' tax and enterprise tax. The current effective tax rate (the sum of the aforementioned taxes) is approximately 38%, and the current effective tax rate will be reduced to approximately 36%, effective for tax years beginning on or after 1 April 2014.

1.1.2 The Japanese tonnage tax system

The Japanese tonnage tax system was introduced on 17 July 2008, as an entirely new taxation system for shipping companies, the intention being to substantially increase the number of Japanese-flagged vessels and Japanese crews.

Under the system, income derived from international shipping activities conducted by Japanese-flagged vessels with certain operational requirements can qualify for an alternative tax treatment to the general rules described above. The taxable basis under this system is calculated by reference to the qualifying daily net tonnage of each ship operated by the shipping company per the table below. In order to qualify, shipping companies had to apply for approval to the Ministry of Land, Infrastructure, Transport and Tourism (MLIT) under the Maritime Transportation Act before 31 March 2014. The tonnage tax system is applicable to the local inhabitants' tax and enterprise tax of the qualifying company.

For Japanese-flagged vessels

<table>
<thead>
<tr>
<th>Total net tonnage</th>
<th>Deemed profit per day per 100 net tons (JPY)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 1,000</td>
<td>120</td>
</tr>
<tr>
<td>1,001 - 10,000</td>
<td>90</td>
</tr>
<tr>
<td>10,001 - 25,000</td>
<td>60</td>
</tr>
<tr>
<td>Over 25,000</td>
<td>30</td>
</tr>
</tbody>
</table>

To apply the tonnage tax system for the income derived from international shipping activities conducted by Japanese-flagged vessels, shipping companies had to submit certain applications to their tax offices by 30 March 2014, and attach certain schedules to their tax returns during the applicable periods.

Generally, the tonnage tax system should then apply continuously for the five years immediately following approval.

In addition, in cases where approval under the Maritime Transportation Act is withdrawn during the applicable period, the normal corporate tax regime would apply, and thus, the amount already treated as non-taxable income under the tonnage tax system would be added back to the normal taxable income of shipping companies at the time of withdrawal.

1.1.3 2013 tax reform

Under the 2013 tax reform, income derived from international shipping activities conducted by Japanese-flagged vessels and semi-Japanese-flagged vessels can qualify for the Japanese tonnage tax system. Semi-Japanese-flagged vessels are defined as non-Japanese-flagged vessels with certain operational requirements held by corporations conducting international shipping activities under the Maritime Transportation Act.

To apply the new tonnage tax system for the income derived from international shipping activities conducted by Japanese-flagged vessels and semi-Japanese-flagged vessels, shipping companies must receive approval
from 1 April 2013 to 31 March 2014, for certain schedules from MLIT. The taxable basis of semi-Japanese-flagged vessels is calculated by the shipping company per the table below.

For semi-Japanese-flagged vessels

<table>
<thead>
<tr>
<th>Total net tonnage</th>
<th>Deemed profit per day per 100 net tons (JPY)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 1,000</td>
<td>180</td>
</tr>
<tr>
<td>1,001 - 10,000</td>
<td>135</td>
</tr>
<tr>
<td>10,001 - 25,000</td>
<td>90</td>
</tr>
<tr>
<td>Over 25,000</td>
<td>45</td>
</tr>
</tbody>
</table>

1.2 **Tax facilities for seafarers**
In general, a Japanese seafarer is subject to individual income tax at the standard progressive rate, with a current maximum rate of 50% (including national and local tax). However, certain daily allowance payments, based on the labor agreement, as well as certain medical stipends, are exempt for individual income tax purposes. Also, the maximum rate will rise from 50% to 55% in 2015.

1.3 **Tax treaties and place of effective management**
Japan has ratified tax treaties with more than 62 countries. Most treaties have special articles for international shipping income.

According to domestic Japanese tax rules, a corporate body is deemed to be resident in Japan if it is registered (incorporated) in Japan. Under most of Japan’s tax treaties, a corporate body’s income derived from shipping operations is generally subject to profits tax in the place of residence (incorporation) instead of the place of effective management.

In addition to these tax treaties, Japan also has reciprocity rules with certain foreign jurisdictions under which Japan may grant exemptions for shipping income earned by such foreign resident companies.

1.4 **Freight tax**
There are no freight taxes levied in Japan.

1.5 **Consumption tax (Japanese value-added tax)**
Shipping companies should be treated as normal corporations for Japanese consumption tax purposes, and be subject to consumption tax at the rate of 5%. This tax rate is scheduled to be increased pursuant to a two-phase schedule: phase one from 5% to 8% on 1 April 2014, and phase two from 8% to 10% on 1 October 2015. Domestic transportation fees are considered to be taxable income, while international transportation fees are considered to be exempt income.

1.6 **Special vessel registration benefits for the shipowner**
Registration and license tax is reduced with respect to registration of ownership of a vessel in Japan.

2. **Human capital**

2.1 **Formalities and regulations for employing personnel**
In general, the following conditions have to be met and standards have to be respected in order to hire personnel:
- Equal employment opportunities for men and women
- No age discrimination
- Working hour limitation
- Period of labor contract
2.2 National labor laws
The Labor Standards Law and the Seaman Law apply to crew members of registered ships in Japan.

2.3 Labor union law
There is a major collective labor agreement, which regulates the minimum wage and working conditions, among other things, between all Japanese seafarers’ unions and employers, comprising most of Japan’s shipping companies.

2.4 Treaties relating to social security contributions
There are treaties relating to social security contributions (the International Social Security Agreement) with 15 countries, including the United Kingdom and the United States. Separately, treaties with two other countries are currently in the process of implementation.

2.5 Manning issues with flying the Japanese flag
Under Japanese law, to qualify for a seafarer license and title, it is necessary to pass a national examination and finish a training program designated by MLIT. According to The Current State of Japanese Shipping, as drawn up by the Japanese Shipowners’ Association (JSA), it is generally regarded as very expensive to employ Japanese crews.

3. Corporate structure

3.1 Most commonly used legal structures for shipping activities
A majority of shipping companies adopt the joint stock corporation (kabushiki-kaisha) as their legal structure.

3.2 Taxation of profit distribution
Dividends distributed by domestic corporations to domestic and foreign companies are generally subject to a 20.42% withholding tax (a 2.1% surtax is levied on 20% of the withholding tax rate) until 31 December 2037. The tax rate will be 20% thereafter. However, withholding tax on dividends distributed to foreign companies may be reduced by applicable income tax treaties.

4. Grants and incentives

4.1 Specific and general subsidies available to shipping companies
There are some subsidies available for shipping companies in Japan. For instance, the government subsidizes companies that ship daily necessities to isolated islands.

4.2 Investment incentives for shipping companies and the shipbuilding industry
There are some major incentives for shipping companies for tax purposes, such as a special depreciation rate available for ships and a deferral of capital gains arising from the replacement of ships. Also, some incentives, such as the special depreciation regime, may be available to certain shipbuilding companies.

4.3 Issues with flying the Japanese flag
Generally, the cost of flying the Japanese flag is higher than in other countries. JSA stated on its website that this is due to the high rates of registration tax and fixed assets tax, the requirement of employing Japanese crews, which are expensive, and strict regulations for vessels and equipment.

4.4 Major changes in shipping subsidy legislation anticipated in the near future
No changes are noted.

5. General information

5.1 Infrastructure

5.1.1 Major ports
The major international (container) ports are:
- Kawasaki
- Kobe
- Nagoya
- Osaka
- Tokyo
- Yokohama

5.1.2 Port facilities
The following support facilities are usually available in major ports in Japan:
- Maintenance and repair
- Docking
- Storage
- Cranes for every size of vessel

5.1.3 Airports close to the major ports
- Central Japan International Airport is close to the port of Nagoya.
- Kansai International Airport is close to the ports of Osaka and Kobe.
- Narita International Airport is close to the port of Tokyo.
- Tokyo International Airport (Haneda) is close to the ports of Tokyo, Kawasaki and Yokohama.

5.1.4 Support services for the shipping industry
The following support facilities for the shipping industry are usually available in Japan:
- Banks with a shipping desk
- Consulting firms specializing in shipping
- Maritime law services
- Insurance brokers for the shipping industry

5.1.5 Maritime education
The major maritime educational institutions are:
- Kobe University
- National college(s) of marine technology
- Tokai University (Tokyo)
- Tokyo University of Marine Science and Technology
The universities and colleges provide specialized courses in maritime science, technology and engineering and oceanography.

5.2 Safety and environmental issues

5.2.1 Implementation of the International Safety Management Code
All passenger ships that sail internationally and all oil tankers with a total weight exceeding 500 tons are required to implement the International Safety Management (ISM) Code. Other domestic vessels that are not obliged to implement the ISM Code are also strongly requested to comply with the Code on a voluntary
5.2.2 Safety rules regarding manning
Japanese safety regulations, such as the Labor Standard Law and the Seaman Law, are generally considered to require the maintenance of a high standard.

5.2.3 Special regulations on safety and the environment
Japan is a party to the International Convention for the Prevention of Pollution from Ships (MARPOL), which regulates the standards for construction of vessels and facilities on a technological basis and the International Convention for the Safety of Life at Sea (SOLAS), which regulates the security of life at sea.

5.3 Registration

5.3.1 Registration requirements
The maritime authority requires all Japanese ships weighing 20 tons or more and able to sail on their own to be registered, and defines Japanese ships as follows:
- Ships owned by the government of Japan or a Japanese public office
- Ships owned by a Japanese national
- Ships owned by a corporation established under Japanese law (i.e., kabushiki-kaisha, godo-kaisha, goshi-kaisha and gomei-kaisha) and more than two-thirds of whose representatives are Japanese nationals
Also, the maritime authority stipulates the rights and obligations of Japanese ships.

5.3.2 Ship registration procedure
An owner of a ship that meets the requirements in Japan applies to register for each local authorization after completing the registration at the Legal Affairs Bureau.

5.3.3 Parallel registration
Parallel registration is not permitted.

5.3.4 Requirements for officers and crew serving on vessels
The captain and the chief engineer of a Japanese ship must be Japanese nationals. Minimum education and professional qualifications are required for officers and crew. In order to become a navigation officer, ship pilot or ship officer, it is necessary to pass a national exam.

5.3.5 International conventions regarding registration
There are no international conventions in force in Japan regarding the registration of ships.

5.3.6 Special requirements and rules relating to registration
There is no information available on any other special requirements or rules regarding registration other than the requirements and rules stated above.

5.4 General comments
The JSA has a website at http://www.jsanet.or.jp/e/index.html, where useful shipping-related information is available in English.
Luxembourg

1. Tax

1.1 Tax facilities for shipping companies

Tax rate

Luxembourg does not have a tonnage tax regime. Thus, a Luxembourg shipping company, as defined by the Maritime Act of 1990 as amended in 1992, 1994 and 2006, is subject to corporate income tax (CIT) and municipal business tax (MBT). CIT ranges from 20% to 21%, depending on the level of taxable income. MBT ranges from 6.75% to 12%, depending on the municipality in which the shipping company is established. Income derived from the operation and leasing of seagoing vessels used in international traffic is, however, exempt from MBT. CIT is increased by a contribution to the employment fund of 7% of the CIT due. Thus, the maximum nominal tax rate applicable to income derived by a Luxembourg shipping company from the operating and leasing of seagoing vessels used in international traffic amounts to 22.47%.

General minimum tax

A new minimum tax for all taxpayers subject to CIT (except certain holding companies subject to a different minimum tax) has been introduced as of 2013. The tax will range from €500 to €20,000 (plus a contribution to the employment fund, hence raising the range from €535 to €21,400) depending on the balance sheet total as at the financial year’s closing date.

Investment tax credit

A Luxembourg company may benefit from an income tax credit for investment in certain qualifying assets, i.e., the investment tax credit. The credit is deductible from the CIT due by the company and may thus contribute to a substantial reduction of the effective tax rate applicable to income derived by a Luxembourg shipping company from the operation and leasing of seagoing vessels.

The investment tax credit comprises two parts:

- A complementary investment tax credit computed on the difference between the net book value of the qualifying assets as of the end of a relevant fiscal year and the average book value of the qualifying assets as of the end of the five preceding fiscal years, i.e., the complementary investment:
  - The complementary investment tax credit granted is 12% of the complementary investment.
- A global investment tax credit computed based on the acquisition price of the qualifying assets acquired during the relevant fiscal year:
  - The global investment tax credit granted is 7% of the investments up to €150,000 and 2% of the exceeding amount of investments.

Investments qualify for the investment tax credit if they meet a certain number of conditions, notably:

- The investment must be in tangible fixed assets that are depreciated over at least three years.
- The assets acquired must be new or previously owned, when demonstrated that an old vessel has not benefited from the investment tax credit in the past.
- The investment must be physically operated in a European Union (EU) Member State or in the European Economic Area (EEA), which comprises EU Member States, Iceland, Liechtenstein and Norway. In the case of an investment used abroad, this investment may only qualify for the investment tax credit to the extent that the investment is used in an establishment located in Luxembourg.

The last two conditions do not need to be fulfilled in relation to seagoing vessels operated in international traffic by shipping companies. In the case of the investment in used seagoing vessels, however, the shipping company must demonstrate that the vessel did not benefit from the investment tax credit in the past.

The investment tax credit is also available under certain conditions for qualifying assets financed by leasing. In the case of seagoing vessels used in international traffic and financed by leasing, only the lessee may claim the investment tax credit. The unused tax credit may be carried forward for 10 years.
Tax treatment of capital gains on the sale of vessels

Capital gains arising from the transfer or disposal of assets are considered as ordinary profits, taxable at standard income tax rates.

Under certain conditions, capital gains realized by a Luxembourg shipping company on the transfer of seagoing vessels used in international traffic may, however, be rolled over by reinvesting the proceeds from the transfer into newly acquired fixed assets. Such newly acquired fixed assets do not necessarily need to be of the same kind; they can consist of real estate, located in Luxembourg, depreciable fixed assets or shareholdings in Luxembourg or foreign companies. Both the vessel and the new replacement assets need to be invested in a Luxembourg business. Thus, the taxation of capital gains realized upon the disposal of seagoing vessels used in international traffic may be deferred.

Provisions for large-scale repair and maintenance work to vessels

In principle, provisions for losses or debt recorded by a Luxembourg company are only deductible for income tax purposes if they are determined precisely and cover expenses that are triggered in the fiscal year in which the provision is recorded. As a consequence, provisions for large-scale repair and maintenance work may be disallowed. In the case of a Luxembourg shipping company, tax authorities, however, usually accept provisions for large-scale repair and maintenance work as fully tax deductible in the year they are booked.

Depreciation rules

A shipping vessel can be depreciated by using the straight-line (or linear) depreciation method or, subject to a certain number of conditions, the declining balance (or accelerated depreciation) method.

Depreciation of a vessel is based on the useful life of the vessel. Where the declining balance method is used, the depreciation rate may not exceed three times the straight-line depreciation rate (e.g., 25% in the case of a depreciation period of 12 years) or 30%.

A shipping business making eligible investments aiming to protect the environment and the rational use of energy, as well as the equipment of working places for disabled persons, may elect for an accelerated tax amortization of the eligible investments during the year of acquisition and the four following fiscal years. The accelerated depreciation may not exceed 80% of the acquisition cost.

Carrying forward of losses

Losses incurred during previous accounting periods, which have not yet been set off against the taxable income of the current accounting period, may be carried forward indefinitely.

There is no carryback of losses available under Luxembourg tax law.

Indirect tax

The value-added tax (VAT) package rules that entered into force on 1 January 2010 modified how the place of supply of the hiring of vessels is determined. These rules have been further modified as of 1st January 2013. From 1st January 2013, the suppliers performing this type of operation must determine the place of supply as follows:

- The “short-term” hiring of vessels (i.e., continuous possession or use of the vessels throughout a period of not more than 90 days) shall be the place where the means of transport is actually put at the disposal of the customer.

- The “long-term” hiring of vessels (i.e., continuous possession or use of the vessels throughout a period of more than 90 days) supplied to a VAT taxable person shall be the place where the client has established his business, or if the services are provided to a fix establishment at the place of this fixed establishment. In absence of establishment or fixed establishment the place shall be the place where the taxable person has a permanent address or usually resides. To the contrary, the long-term hiring of vessels supplied to a non-VAT taxable person shall be the place where the customer is established, has his permanent address or usually resides. However, the place of long-term hiring of a pleasure boat to a non-Vat taxable person shall be the place where pleasure the boat is actually put at disposal of the customer, where this service is actually provided by the supplier from his place of business or a fixed establishment situated in that place.
For the following supplies, when they are deemed to be located in Luxembourg, a VAT exemption applies:

- Supplies of goods or services in relation to vessels for the navigation on the high seas used for carrying travelers for consideration or the exercise of commercial, industrial or fishing activities, or for rescue or assistance at sea, or onshore fishing except the supply of ship’s provisions in case of vessels used for inshore shipping.

The supplies that can benefit from this VAT exemption are, for example, the transformation, repair, maintenance, charter and lease of ships used under the conditions as stated above. The service providers are, however, subject to administrative obligations such as VAT registration, VAT returns and the issuing of compliant invoices.

1.2 Tax facilities for seafarers

The allocation of taxation right begins by determining whether any double tax treaties have been concluded between Luxembourg and the country of residence of the seafarer (if any).

If the taxation right belongs to Luxembourg, the following applies:

- Luxembourg resident crew members are subject to the common Luxembourg taxation regime for individuals. The Luxembourg shipping company has to withhold tax and social security contributions on the salary payments.

- The remuneration paid to nonresident crew members employed by a Luxembourg shipping company in international maritime traffic is subject to a 10% flat tax rate in Luxembourg. This flat tax rate applies to 90% of their gross remuneration, less a lump sum deduction of €1,800 per month or €72 per day.

1.3 Tax treaties and place of effective management

Luxembourg has concluded double tax treaties with the following countries:

- Armenia, Austria, Azerbaijan, Bahrain, Barbados, Belgium, Brazil, Bulgaria, Canada, China, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hong Kong, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Malaysia, Malta, Mauritius, Mexico, Moldova, Monaco, Mongolia, Morocco, Netherlands, Norway, Panama, Poland, Portugal, Qatar, Romania, Russian Federation, San Marino, Singapore, Slovak Republic, Slovenia, South Africa, South Korea (ROK), Spain, Sweden, Switzerland, Thailand, Trinidad and Tobago, Tunisia, Turkey, United Arab Emirates, United Kingdom, United States of America, Uzbekistan, Vietnam.

In addition, Kazakhstan, Macedonia, Seychelles and Tajikistan can be newly mentioned.

Following treaty negotiations, treaty drafts have been initialed with Albania, Argentina, Botswana, Brunei, Cyprus, Croatia, Egypt, Guernsey, Isle of Man, Jersey, Kuwait, Kyrgyzstan, Laos, Lebanon, New Zealand, Oman, Pakistan, Saudi Arabia, Serbia, Seychelles, Sri Lanka, Syria, Taiwan, Ukraine and Uruguay.

The double tax treaties were concluded in compliance with the Organisation for Economic Co-operation and Development model treaty, which provides that “profits from the operation of ships in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.”

Under Luxembourg tax law, the place of effective management is the place where the management decisions are taken and where control over the affairs of a company is carried out. With reference to Luxembourg jurisprudence, the place of effective management is thus, in principle, deemed to be where the board of directors or the management board, as well as the shareholder meetings, convene.

In a constantly evolving international environment, these criteria may, however, not be sufficient in the eyes of a foreign taxing authority to establish the place of effective management in Luxembourg, and additional substance may be required. In the case of a fully operational shipping company duly registered in Luxembourg, sufficient substance should exist.

Should no tax treaty apply, a foreign tax credit is available under Luxembourg domestic law for foreign source income that has been subject to an equivalent income tax abroad. The maximum tax credit may not exceed
the Luxembourg CIT chargeable on the foreign income. Any foreign tax that may not be credited against CIT is deductible as an expense when computing taxable income.

1.4 **Freight taxes**
No freight taxes are levied in Luxembourg.

1.5 **Special vessel registration benefits for the shipowner**
The registration of vessels in Luxembourg does not provide particular tax benefits for the shipowner.

1.6 **Major changes to tax law anticipated in the near future**
No further major changes are anticipated in the current legislation.

2. **Human capital**

2.1 **Formalities and regulations for employing personnel**
There is no condition of nationality for crew members to be fulfilled when employing personnel. The master (subject to the relevant qualifications) of a Luxembourg-flagged ship has to be a citizen of the EU. However, the Minister of Economy and Foreign Trade (hereafter, Minister) may grant exemptions under certain circumstances.

From the start of the employment, crew members must have a written employment contract. The contract must state the identity of both parties, the start date and place of employment, whether the contract is for a limited or unlimited term, job description, wages, social security regime applicable, etc. All seafarers must undergo a medical check before boarding.

2.2 **Labor law**

2.2.1 **National labor law**
Any employment contract between a shipowner and a crew member for intended or current service on board a ship flying the Luxembourg flag qualifies as a maritime employment contract, subject to the provisions of the Maritime Act.

The law ensures that crew members employed on a Luxembourg-flagged ship will receive a satisfactory level of social security benefits.

2.2.2 **Collective labor law**
Most ships flying under the Luxembourg flag benefit from a collective bargaining agreement.

In accordance with Luxembourg law on collective bargaining agreements, shipowners may, in the common interest of the crew on board their ships flying the Luxembourg flag, conclude a collective bargaining agreement with a national representative trade union that can fairly claim to be representative of the crew members, either by direct affiliation or by a structural or contractual link with a trade union representing seafarers.

A collective bargaining agreement determines:
- The quality of the parties
- The professional and territorial field of application
- The date when the agreement comes into force and its duration
- The working conditions, which comprise:
  - Hiring and dismissal
  - Working hours
  - Supplementary work
  - Wage level
  - Complementary provisions that are more favorable to the salaried than the statutory regulations
2.3  Social security regulations

2.3.1  International social security regulations
Luxembourg is subject to the EU Regulations, which provide coordination among the social security systems of EU countries. These regulations also apply to EEA countries and Switzerland.

In addition, Luxembourg has entered into bilateral social security agreements with countries outside the EU, and most of these agreements include clauses on seafarers from:
- Bosnia-Herzegovina;
- Brazil;
- Canada;
- Cape Verde;
- Chile;
- Croatia;
- India;
- Macedonia;
- Moldavia;
- Morocco;
- Moldova;
- Quebec;
- Montenegro;
- Serbia;
- Tunisia;
- Turkey;
- United States.

Two new bilateral social security agreements have been signed by Luxembourg, respectively, with Argentina and Uruguay. They are expected to enter into force in the near future.

2.3.2  Luxembourg social security regulations
The crew members employed on a Luxembourg-flagged ship must be affiliated with the Luxembourg social security scheme if one of the following is true:
- They are Luxembourg nationals.
- They are nationals of a country that has a bilateral social security agreement with Luxembourg.
- They are residents of Luxembourg or an EU country.

If none of the above conditions is met, the owner of the Luxembourg-flagged ship must guarantee social protection to personnel working on his or her ship. In this respect, the shipowner must subscribe to an insurance program covering benefits such as health, unemployment, retirement and disability.

The Luxembourg authorities may waive these obligations if the shipowner can prove that the crew members benefit from social security protection in their respective country of residence equivalent to the Luxembourg social security scheme.

For crew members employed by a Luxembourg employer and working on board a ship with a foreign flag, the Luxembourg social security system does not apply.

2.4  Manning advantages or disadvantages of flying the Luxembourg flag
The main tax advantage when flying the Luxembourg flag is explained in section 1.2. Moreover, crew members of ships flying the Luxembourg flag are also covered by Luxembourg labor law and an advantageous social care system, unless diverging provisions are imposed by treaty (e.g., the treaty with India).

3.  Corporate structure

3.1  Most commonly used legal structures for shipping activities

Operational vehicles
A Luxembourg shipping company as defined by the Maritime Act of 1990 as amended in June 1994, must be understood as referring to any person or legal entity, whether of Luxembourg or foreign nationality, whose business is the buying and selling, the chartering in and out, and the management of seagoing ships, as well as the financial and commercial operations that relate directly or indirectly to such activities.

Common activities typical for Luxembourg shipping companies include maritime transport and non-transport activities, such as dredging, drilling and pipeline-laying.

The regime does not limit in any way the choice of the legal form of the company. Generally, most operating shipping companies are incorporated as joint-stock companies (i.e., Société Anonyme or S.A., Société à responsabilité limitée or S.à r.l., and Société en Commandite par Actions or S.C.A.).

Luxembourg companies are in general taxable at CIT amounting to 22.47% and MBT carrying from 6.75%.
(rate for Luxembourg City) to 12% depending on the municipality where the company is established. The taxable base is calculated on the business profits after the deduction, among others, of general expenses, depreciation installments, financial charges, provision for necessary or large-scale repairs and carried-forward tax losses. Investment tax credits will reduce the CIT.

Luxembourg shipping companies operating in international traffic are not subject to MBT on qualifying income. The effective applicable tax rate for qualifying shipping companies will therefore in most cases be 22.47%.

Finally, Luxembourg companies are liable for net worth tax (NWT) amounting to 0.5% of the adjusted net asset value. However, NWT may be reduced up to the CIT if certain conditions are fulfilled.

Groups of companies

A Luxembourg company or the Luxembourg permanent establishment of a nonresident company may, under certain conditions, be fiscally integrated or consolidated with its Luxembourg subsidiaries. The tax consolidation allows the affiliated subsidiaries to combine their respective tax results with the tax result of the parent company of the consolidated group.

Other conditions notwithstanding, tax consolidation is only available if the Luxembourg parent (company or permanent establishment) owns directly or indirectly at least 95% of the capital of its subsidiaries (the holding threshold may be reduced to 75% in exceptional situations). Moreover, the Luxembourg subsidiaries must be resident joint-stock companies that are fully subject to tax. In the case of a permanent establishment of a nonresident company, the nonresident company must be a joint-stock company fully subject to a tax comparable to Luxembourg CIT.

Investing and financing vehicles

Besides the favorable tax regime of operating shipping companies, Luxembourg offers diversified investment vehicles and/or structures to different types of potential financial investors, for both direct and indirect (via an intermediary holding company in Luxembourg or abroad) investments, as shown below.
Luxembourg holding company

Investments in shipping companies may be structured using a Luxembourg resident holding company (société de participations financières (SOPARFI)), which is a fully taxable company. It benefits from the parent-subsidiary exemption and the double tax treaties signed by Luxembourg. The aim of a SOPARFI is holding participations and providing financing to its subsidiaries and related parties.

The SOPARFI structure is, in principle, used to reduce or even eliminate the taxation of profits distributed by the shipping company and capital gains realized on the transfer of a shareholding in a shipping company to the extent that the conditions of the Luxembourg participation exemption are met.

- The SOPARFI is:
  - A Luxembourg joint-stock company or a qualifying corporate entity fully subject to tax in Luxembourg
  - A Luxembourg permanent establishment of an entity that is resident in another EU state and is covered by Article 2 of the European Community (EC) Parent-Subsidiary Directive
  - A Luxembourg permanent establishment of a joint-stock company resident in a state with which Luxembourg has entered into a tax treaty
  - A Luxembourg permanent establishment of a joint-stock company or cooperative company resident in an EEA state other than an EU state
  - The SOPARFI owns at least 10% of the share capital of the shipping company, or the acquisition cost of the shareholding is at least €1.2 million in the case of a dividend distribution or €6 million in the case of a capital gain realized upon the transfer.
  - The SOPARFI holds the minimum participation in the shipping company for at least 12 months. The 12-month period does not need to be completed at the time of the distribution of the dividends if the SOPARFI commits itself to hold the minimum participation for the required period.
  - The shipping company is a resident joint-stock company or other qualifying entity fully subject to tax, a nonresident joint-stock company fully subject to a tax comparable to Luxembourg CIT or an entity resident in an EU Member State that is covered by Article 2 of the EC Parent-Subsidiary Directive.
  - Expenses in direct relation to the participation holding are only tax deductible to the extent that they exceed the tax exempt income coming from the participation.

The exemption for dividends also applies to dividends on participations held through qualifying fiscally transparent entities. Certain restrictions may apply, however, with respect to the dividends received and the capital gain realized.

As of 1 January 2013, a SOPARFI is subject to a minimum taxation of €3,210 (including a contribution to the employment fund). This minimum taxation is applicable anytime the CIT calculated on the taxable income of the SOPARFI is below €3,210 and is treated as an advanced payment for CIT of the following years insofar such CIT exceeds for a given year the amount of minimum CIT payable for that year. Tax losses incurred for those years when the minimum taxation is applicable can be carried forward and used to offset future taxable profits. This rule is applicable to SOPARFIs holding financial assets (participations, securities, cash) exceeding 90% of the total assets.

At the beginning of 2011, the Luxembourg tax authorities issued two administrative circulars in order to provide guidance on transfer pricing considerations applicable to intra-group financing activities. These circulars provide guidance on how to determine an arm's length price to be realized by an intra-group financing company. An advance pricing agreement on the annual remuneration realized on intra-group financing transactions may be obtained to the extent the intra-group financing companies meet certain substance criteria in Luxembourg and effectively bear the risks related to the financing transactions.

Private asset management company

In 2007, a new law on private asset management vehicles (Société de gestion de patrimoine familial [SPF]) was implemented by the Luxembourg authorities to replace the former holding 29 company. The SPF is a vehicle benefiting from a preferential tax regime that is intended for private wealth and asset management of individuals by the passive holding of shares or other financial instruments.
According to the tax regime, the SPF is not subject to CIT, MBT or NWT. Furthermore, the distributions of a SPF are exempt from withholding tax (WHT). However, the SPF is subject to the subscription tax at a rate of 0.25% on the total of the paid-up capital, the share premium and the amount of the debt exceeding eight times the sum of the paid-up capital and share premium as of 1 January. For SPFs, the subscription tax is capped at €125,000.

No capital duty applies on incorporation (except a registration duty of €75).

*Investment company in risk capital*

The investment company in risk capital (société d'investissement en capital à risque [SICAR]) was created in 2004 and is a dedicated vehicle for private equity and venture capital investments. It can be set up as a limited partnership or as a corporate company. The SICAR is approved and supervised by the Commission for the Supervision of the Financial Sector (CSSF), but it is subject to few restrictions. It may have a flexible investment policy with no diversification rules or leverage restrictions.

The following conditions have to be fulfilled for a company to qualify as a SICAR:

- It is set up with a share capital of at least €1 million.
- Its purpose is to invest in securities representing risk capital.
- Investment in the SICAR is only possible for institutional investors, professional investors and any other well-informed investor as defined by the law (e.g., investing a minimum capital of €125,000) (see also SIF below).
- The articles explicitly provide that the company is subject to the SICAR law.

The tax treatment differs depending on the legal form of the SICAR (i.e., tax transparent partnership or non-transparent corporate company). If the SICAR is set up as a corporate company, it is subject to CIT and MBT. However, the SICAR benefits from a favorable tax treatment for income derived from transferable financial assets. Income derived from these assets is exempt from CIT and MBT. Moreover, the SICAR benefits from the Luxembourg participation exemption and from the double tax treaties concluded by Luxembourg.

In addition, the SICAR is not liable for subscription tax or NWT and is subject to a fixed registration duty of €75 payable upon incorporation.

Dividends distributed by a fully taxable Luxembourg company to a SICAR may benefit from the Luxembourg parent-subsidiary WHT exemption.

Dividends distributed by a SICAR are exempt from WHT.

*Securitization company*

Securitization companies can take the form of regulated investment funds managed by a management company or companies that, depending on their activities, may or may not be regulated. These vehicles are available for securitization transactions in the broadest sense and are not subject to NWT. They are subject to CIT and MBT. However, commitments to investors (dividend and interest payments) are deductible from the tax base.

*Undertakings for collective investments*

Luxembourg also offers various investment funds, such as:

- Unincorporated co-ownership of assets (Fonds commun de placement [FCP])
- Investment company with variable capital (Société d'investissement à capital variable [SICAV])
- Investment company with fixed capital (Société d'investissement à capital fixe [SICAF])

All are subject to a very favorable tax regime. The funds need to be authorized by the CSSF. These entities are subject to subscription tax levied on their total net asset value, excluding investments in other Luxembourg investment funds. Distributions made by these funds are not subject to WHT. Undertakings for collective investments (UCI) set up under Part II of the Luxembourg law on undertakings for collective investment have a proven track record for the structuring of Luxembourg-based, open- and closed-ended shipping funds.

Specialized investment funds (SIFs) are more lightly regulated investment funds for “well-informed
investors.” In this context, a “well-informed investor” is one of the following:

- An institutional investor
- A professional investor
- Any other type of investor who has declared in writing that he or she is a well-informed investor, and either invests a minimum of €125,000 in the fund or has an appraisal from a bank, an investment firm or a management company (from a European country), certifying that the investor has the appropriate expertise, experience and knowledge to adequately understand the investment made in the fund.

SIFs are subject to significantly simplified rules for setting up fund structures, such as hedge funds, real estate funds and private equity funds, and represent a proven vehicle for the structuring of Luxembourg-based shipping funds. Investment funds in the form of SIFs are not subject to any Luxembourg taxes on capital gains or income. They are subject only to a subscription tax at an annual rate of 0.01% calculated on the quarterly net asset value of the fund, excluding investments in funds already subject to the subscription tax. Distributions by SIFs are not subject to WHT.

Range of investment vehicles

Islamic finance investment structures

As Islamic finance is much more focused on assets and lending to businesses, the shipping industry could become an important sector for the Islamic finance industry (vessels being by nature Sharia-compliant investments).

Luxembourg has a long experience with Islamic finance, hosting numerous Sharia-compliant investments funds. The Luxembourg Stock Exchange was also the first-ever European stock exchange to list and trade sukuk (bonds) in 2002. The Government encourages Islamic companies and financial institutions to set up operations in Luxembourg.

In that respect, the Luxembourg Tax Authorities released guidance clarifying the tax treatment applicable to instruments of Islamic finance (in particular cost-plus financing Murabaha and leasing structures Ijarah). This will reinforce the repatriation mechanism of Luxembourg’s Sharia-compliant financing instruments, as well as structuring capacities.

In addition, the CSSF has signed, over the past few years, cooperation agreements and memorandums of understanding, or “MoU,” with a significant number of supervisory authorities that have an Islamic finance orientation, reinforcing the position of Luxembourg as a leading Islamic finance center.

Impact of AIFMD

The Directive 2011/61/EU on alternative investment fund managers (AIFMD) was transposed into Luxembourg national law on 12 July 2013.

The purpose of AIFMD is “to provide for an internal market for alternative investment fund managers (AIFM) and a harmonised and stringent regulatory and supervisory framework for the activities within the Union of all AIFMs.”

1 Point 4 of the recital of the AIFM Directive.
AIFMD regulates AIFM managing regulated or non-regulated alternative investment funds (AIF), and may require that such an AIFM be authorized by the CSSF for this specific function. AIFs may be established as a SOPARFI, a SICAR, a SIF or a UCI Part II. However, the definition of an AIF expressly excludes securitization vehicles from the scope of AIFMD.

3.2 Taxation of profit distribution
Dividends paid by a Luxembourg shipping company are, in principle, subject to a statutory WHT rate of 15%, unless a reduction or exemption provided for by a double tax treaty or the Luxembourg parent-subsidiary exemption applies.

Under the Luxembourg parent-subsidiary exemption, dividends may be exempt if the following conditions are met:

- The recipient holds directly, or through a qualifying fiscally transparent entity, for at least 12 months at least 10% of the share capital of the shipping company, which must be a fully taxable resident joint-stock company or other qualifying corporate entity, or the shareholding owned by the recipient in the shipping company had an acquisition cost of at least €1.2 million. The holding period requirement does not need to be completed at the time of the distribution if the recipient commits itself to eventually hold the minimum participation for the required 12-month period.
- The recipient satisfies one of the following additional requirements:
  - It is a fully taxable resident joint-stock entity.
  - It is an entity resident in another EU Member State and is covered by Article 2 of the EC Parent-Subsidiary Directive.
  - It is a joint-stock company resident in Switzerland that is fully subject to tax in Switzerland without the possibility of exemption.
  - It is a Luxembourg permanent establishment of an entity that is resident in another EU Member State and is covered by Article 2 of the EC Parent-Subsidiary Directive.
  - It is a joint-stock company resident in a state with which Luxembourg has entered into a tax treaty and is subject to a tax comparable to the Luxembourg corporate income tax, or it is a Luxembourg permanent establishment of such a company.
- It is a joint-stock company resident in an EEA Member State and is subject to a tax comparable to the Luxembourg CIT, or it is a Luxembourg permanent establishment of such a company.

4. Grants and incentives

4.1 Specific and/or general subsidies available to shipping companies
Luxembourg provides a large range of general grants and incentives, either tax- or non-tax- related. Those are all available to Luxembourg shipping companies should the company comply with the qualifying conditions.

4.2 Investment incentives for shipping companies and the shipbuilding industry
A Luxembourg shipping company or shipping business is entitled to obtain general investment tax credits as discussed under section 1.1.

4.3 Special incentives for environmental awareness
The rates for the global investment tax credit, as described in section 1.1, are increased from 7% to 8% and from 2% to 4% for certain investments intended to protect the environment.

Moreover, the Government is actively supporting activities that foster the protection of the environment and the rational use of energy. Aid in the form of a capital grant or an interest allowance may be available in the case of investments made to improve environmental standards and the saving of energy.

An additional incentive is granted to businesses investing in environmental or energy-saving initiatives in the form of a special depreciation rate. Here, a maximum accelerated depreciation rate of 80% of the eligible investment is permitted to companies in the year of investment.
4.4 **Advantages or disadvantages of flying the Luxembourg flag**
There is no further advantage or disadvantage in flying the Luxembourg flag. More generally, Luxembourg is currently encouraging any new qualifying investment, which would diversify the Luxembourg economy and foster research and development and innovation.

4.5 **Major changes in shipping subsidy legislation anticipated in the near future**
No major changes are anticipated.

5. **General information**

5.1 **Infrastructure**

5.1.1 **Major ports**
The major port located in Mertert gives access to cargo ships (up to 110m length) from the Rhine. Luxembourg thus has direct access to the port in Rotterdam. For smaller ships, it is connected to other ports in France through the Canal de l’Est and the Canal de la Marne.

5.1.2 **Port facilities**
The following facilities are available:
- Maintenance and repair
- Docking
- Storage
- Logistics — direct access to multimodal transportation services (Eurohub)

5.1.3 **Airport close to the major port**
The international airport of Luxembourg is about 30km from the port of Mertert and is one of Europe's major cargo hubs.

5.1.4 **Support services for the shipping industry**
The following support services for the shipping industry are readily available:
- New secured internet portal of the Luxembourg administration open to professionals of the shipping industry
- Banks with a shipping desk
- Consulting firms specializing in shipping
- Maritime law services
- Insurance brokers for the shipping industry

5.1.5 **Maritime education**
Maritime education is provided by the Commission of Maritime Affairs, which is part of the Ministry of Transport.

5.2 **Safety and environmental issues**

5.2.1 **Implementation of the International Safety Management Code on board vessels**
The majority of the shipping companies respect the International Safety Management (ISM) Code on board, which is compulsory for all vessels.

5.2.2 **Safety rules regarding manning**
The safety rules regarding manning are strict. In fact, every ship seeking registration in Luxembourg must be inspected by the inspection authority of an EU Member State or by the Luxembourg Commission of Maritime Affairs.

5.2.3 **Special regulations on safety and the environment**
The law includes a number of provisions designed to guarantee safety standards on board all ships flying the Luxembourg flag:

- Insurance: the shipowner must provide the Commission of Maritime Affairs with evidence of adequate third-party insurance, covering all categories of risk associated with operating a ship.
- International treaty conditions: no ship flying the Luxembourg flag may set to sea if it is not in compliance with the safety conditions set out in international treaties ratified by Luxembourg.
- Vessels are subject to regular technical inspection. The following classification societies have been authorized: American Bureau of Shipping, Bureau Veritas, Det Norske Veritas, Germanischer Lloyd, Lloyd’s Register of Shipping, NKK and RINA.
- Age limit: no ship more than 15 years old may be registered in Luxembourg for the first time.

5.3 Registration

5.3.1 Registration requirements

Requirements for registration of ships

The law provides for the compulsory registration of ships flying the Luxembourg flag in order to establish the ships’ legal status and to provide a single basic record for the registration of property rights and real rights.

All ships of at least 25 tons and that are less than 15 years old that are carrying out commercial shipping activities can be registered in Luxembourg. The Minister is authorized to deviate from the age limit provided that the ship has undergone significant design changes and it conforms to the standards applicable to new ships laid down in the international conventions to which Luxembourg is a party.

Only ships that are majority-owned (more than 50%) by individuals who are nationals of an EU Member State or by companies whose place of management is in an EU Member State can be registered with the Luxembourg Shipping Register.

All, or a significant part, of the management of the ship must be carried out from Luxembourg. This significant part of the management is not defined in the law, which means that the fulfillment of this requirement is left to the Minister’s interpretation. In practice, some companies have set up the necessary structures in Luxembourg; others have signed management contracts with accredited shipping management companies.

Requirements for registration of shipping companies

- Registration: the law provides for the compulsory registration of shipping companies with the Luxembourg competent authorities before the commencement of any activities.
- Commercial activity: a shipping company will have a commercial activity consisting of the purchase, sale, freighting, chartering and management of vessels, as well as related financial and commercial operations.
- No capital duty: the capital duty was abolished effective 1 January 2009 (only a lump sum registration duty of €75 is due for some transactions).

There are no legal restrictions with regard to the nationality or the residence of the shareholder(s) of a Luxembourg shipping company. Its share capital may be denominated in any currency (including the euro).

5.3.2 Ship registration procedure

For the purpose of requesting the entry of a vessel in the Luxembourg Shipping Register, an application should be sent to the Minister. The application must be submitted by the owner, by the charterer (in the case of bareboat registration) or by the operator of the ship in whose name the ship is to be entered in the register.

The application for registration, together with the authorization of the Minister (or his or her delegate), shall be presented to the registrar of mortgages within 30 days of the granting of authorization of the registration of the ship.

The Commissioner of Maritime Affairs will forward the registration certificate to the registrar of mortgages,
who shall issue it to the declarant, in return for a receipt, at the time of formal entry in the register. The period of validity of the certificate may not exceed two years, and the actual duration shall be shown in the register. The registrar of mortgages shall forward without delay a copy of the registration certificate to the Commissioner of Maritime Affairs.

A provisional certificate, valid for a maximum of one year, may be issued for a ship that is still under construction or in cases where it has not proved possible to supply all the information required by the application for registration.

The issue of a registration certificate is evidence that the vessel is authorized to fly the Luxembourg flag.

5.3.3 Parallel registration
Parallel registration is not possible.

5.3.4 Requirements for officers and crew serving on vessels

Command of vessels
The command of a vessel flying the Luxembourg flag shall be entrusted to a national of an EU Member State who is the holder of a diploma awarded by a school of navigation that is recognized by Luxembourg. Exemption from this nationality requirement may be granted by a specific authorization of the Minister, particularly where the needs of commerce or of seafaring justify such exemption, or else in light of the origin of the ships that are applying for registration.

Crewmen’s qualifications
All seafarers’ diplomas and certificates recognized in an EU Member State shall be likewise recognized in Luxembourg, provided that they are in accordance with the standards set out in the International Convention on Standards of Training, Certification & Watchkeeping for Seafarers of 1978.

Composition of the crew
A certificate of safe manning, attached to the registration certificate, will be issued by the Commissioner of Maritime Affairs.

The master or the officer on duty will enter the names, addresses and ranks of the members of the crew in the ship’s log.

5.3.5 International conventions regarding registration
All of the International Maritime Organization’s (IMO) international conventions regarding registration have been adopted.

5.3.6 Special requirements and rules relating to registration
Registration duties vary from €0.50 to €1 per ton, depending on the age and tonnage of the ship.

Registration of maritime mortgages is exempt from all duty, except for a nominal amount, which goes toward the payment of the mortgage registrar’s salary.

Furthermore, all acts of conveyance or transfer inter vivos of a vessel, or a vessel under construction, are exempt from all pro rata transfer and registration fees.

For all ships, an annual registration fee of €2,000 will be payable. An additional fee (€0.75 to €1.00 per ton for the first year and €0.40 to €0.65 per ton for subsequent years) will be payable based on the size and the age of the ship.

Vessels registered in Luxembourg are subject to public control by the Commission of Maritime Affairs. Prior to registration in Luxembourg, vessels must undergo a survey carried out by a recognized classification society. Services provided or unexpected surveys carried out by the Commission are free of charge.

5.4 General comments
Commission of Maritime Affairs
The Luxembourg Commission of Maritime Affairs is actively participating in a quality management system leading to International Organization for Standardization 9001: 2000 certification. In 2004 and 2005, the Commission of Maritime Affairs was the only public administration to participate in a national quality management competition and to obtain a distinction.

Further, Luxembourg participated in the IMO Flag State audit scheme (self-assessment form) in July 2000 and is a volunteer for the new audit scheme.

In 2002, the Luxembourg fleet ranked among the first 10 countries to benefit from the American Qualship 21 label. Luxembourg is also on the White List of the Paris Memorandum of Understanding.

All shipping industry-related information (e.g., the law, the registration procedures, application forms) can be found on the homepage of the Commission of Maritime Affairs (Commissariat aux Affaires Maritimes) at: www.maritime.lu.

Further details, including an overview of all member companies can be found at: www.cluster-maritime.lu.
Malaysia

1. Tax

1.1 Tax facilities for shipping companies

1.1.1 Malaysian resident shipping companies

Pursuant to the Malaysian Income Tax Act 1967 (MITA), shipping companies that are tax-resident in Malaysia are subject to Malaysian corporate income tax on their worldwide income. The corporate income tax rate in Malaysia is generally 25\% \textsuperscript{1}. Tax relief may be available for income taxes suffered overseas on income that is also taxed in Malaysia, provided certain conditions are met.

Note that Malaysian resident shipping companies meeting certain conditions will qualify for certain tax exemptions on their shipping income (see section 1.5).

1.1.2 Nonresident shipping companies

A nonresident person carrying out sea transport in Malaysia is subject to Malaysian income tax only on gross income derived from Malaysia. “Gross income derived from Malaysia” is defined as the total of all sums first receivable by the operator for transporting, by sea, passengers or cargo embarked or loaded in Malaysia into ships owned or chartered by the operator, except sums so receivable in respect of passengers or cargo:

- Brought to Malaysia, whether by the operator or otherwise, solely for transfer:
- From one ship or aircraft to another
- From a ship to an aircraft
- From an aircraft to a ship
- So embarked or loaded into such a ship if the call of that ship at a port in Malaysia for that embarkation or loading is a “casual call” (usually where there have been or will be no further calls within a 24-month period before or after the casual call)

Unless an “acceptable certificate” is produced to the Inland Revenue Board (IRB), a nonresident shipping company’s statutory taxable income for a particular year will be deemed to be 5% of the gross income derived from Malaysia (as previously defined) for the relevant period. Such statutory taxable income (i.e., 5% of the gross income derived from Malaysia) will be subject to tax at prevailing Malaysian corporate income tax rates.

Where within three years (or any such further period as may be allowed by the IRB) after the commencement of a particular year the shipping company produces an acceptable certificate to the IRB, then the Malaysian tax liability or tax loss for that year will be computed based on a proportion of the world income or world loss as reflected in the acceptable certificate. An acceptable certificate is a certificate issued by a foreign tax authority and produced to the IRB, in which the amounts specified have been computed by methods not substantially different from those provided for in Malaysian tax legislation for the computation of analogous figures for a similar business carried on by a resident.

1.1.3 Labuan shipping companies

A shipping company can also be set up in Malaysia’s international banking and financial center of Labuan. Labuan is part of Malaysia but has an independent regulatory climate and also provides for a preferential tax regime for Labuan entities carrying on a “Labuan business activity.”

Where a Labuan shipping company carries on a Labuan business activity, it will be taxed under the Labuan tax regime. The Labuan tax regime is set out in the Labuan Business Activity Tax Act of 1990 (LBATA) . Under the LBATA, a Labuan entity carrying on a Labuan business activity is subject to tax at preferential rates for such activities. “Labuan business activity” means a “Labuan trading” or a ”Labuan non-trading activity”\textsuperscript{2}

\textsuperscript{1} It was proposed during the 2014 Malaysian Budget announcement on 25 October 2013 that the top corporate income tax rate be reduced to 24% with effect from the year of assessment 2016. This proposal has not yet been enacted into law.

\textsuperscript{2} Both Labuan “trading” and “non-trading activities” are further defined in the LBATA.
carried on, in, from or through Labuan in a currency other than the Malaysian currency by a Labuan entity with nonresidents or with another Labuan entity. Shipping operations constitute a Labuan trading activity provided that the aforementioned conditions are met and that such operations are carried out in Labuan or outside Malaysia. Labuan trading activities are subject to tax at 3% of net audited profits or, upon election, a flat tax of MYR20,000 (approximately €4,500) per annum. Note that activities other than Labuan business activities are not eligible to be taxed under the LBATA and would instead be taxed under the MITA.

1.2 Tax facilities for seafarers
Depending on their level of income, persons exercising employment in Malaysia (including seafarers) may be subject to what is known as a “Monthly Tax Deduction” scheme, under which part of the seafarer’s monthly cash wages would be deducted as an advance tax toward their annual tax liability. The amounts deducted would be based on a table prepared by the tax authorities, which in turn is based on the amounts earned by the relevant individual. It is important to note that the Monthly Tax Deduction scheme generally applies to all persons employed in Malaysia, not just seafarers.

The income of an individual employed on board a ship used in a business operated by a Malaysian tax-resident company who is a registered owner of a ship under the Merchant Shipping Ordinance 1952 (MSO) is exempt from Malaysian tax. In this context, “ship” means a seagoing ship other than a ferry, barge, tugboat, supply vessel, crew boat, lighter, dredger, fishing boat or other similar vessel.

1.3 Tax treaties and place of effective management
Malaysia has a well-established tax treaty network, and the Malaysian government is constantly looking to further improve its tax treaty network. Malaysia’s shipping and air transport treaty network is particularly strong; for example, Malaysia does not have a comprehensive income tax treaty with the US, but it has concluded a limited treaty with the US specifically covering shipping and air transport operations.

The wording of the shipping and air transport article in Malaysia’s treaties varies. Therefore it is important for each treaty to be reviewed in detail before it is relied upon.

Overall, it should be noted that there is a lack of official guidance (e.g., public rulings) in Malaysia on tax treaty interpretation – consequently, each case must be evaluated on its own facts. Labuan companies, in particular those that enjoy the preferential LBATA tax regime, have been specifically excluded from certain tax treaties concluded by Malaysia.

1.4 Freight taxes
Malaysia does not have a freight tax regime. In practice, some shipping companies have been known to refer to the income tax imposed on nonresident shipping operators (as described in Section 1.1) as a “freight tax,” although technically this tax is an income tax imposed under the income tax laws of Malaysia.

1.5 Special vessel registration benefits for the shipowner
In certain cases, the registration of a ship in Malaysia by a Malaysian tax resident can provide tax exemptions. Pursuant to Section 54A of the MITA, the statutory income of a Malaysian resident company would enjoy a tax exemption if it carries on the business of:

1. Transporting passengers or cargo by sea on a Malaysian ship
2. Letting out on charter a Malaysian ship owned by the company on a voyage or time charter basis

For this purpose, a Malaysian ship is defined as a seagoing ship registered as such under the MSO, other than a ferry, barge, tugboat, supply vessel, crew boat, lighter, dredger, fishing boat or other similar vessel.

Where the conditions in Section 54A are met, effective from the year of assessment 2016, the statutory shipping income of the company from the Malaysian ship(s) would qualify for a 70% tax exemption. Prior to the year of assessment 2016, the statutory income from Malaysian ships would be fully exempt from Malaysian corporate income tax (please see discussion below). Non-shipping income (such as interest income) and income from non-Malaysian ships will continue to be fully subject to corporate income tax at prevailing rates.
Changes in the tax exemption regime for income from Malaysian ships

Prior to the year of assessment 2012, the MITA provided that the statutory income of a Malaysian resident company earned from Malaysian ships under conditions 1) and 2) above would be fully exempt from tax. The tax law was then changed to reduce the tax exemption to 70%. The change in law was effected through the Finance Act 2012, which was published on 9 February 2012. Based on the Finance Act 2012, the change in law was to take effect from the year of assessment 2012. However, due to intense lobbying from the shipping industry, the Malaysian government had agreed to extend the full tax exemption to the years of assessment 2012 and 2013. This extension was legislated via the Income Tax (Exemption) (No. 2) Order 2012. The Ministry of Finance via its letter dated 29 October 2013 to the Malaysian Shipowners’ Association has further extended the full tax exemption for a further two years, i.e., to the years of assessment 2014 and 2015. An exemption order will be issued to formalize this.

The changes made to Section 54A via the Finance Act 2012 are generally as follows:

- The income tax exemption is reduced from 100% to 70% of statutory income.
- The balance of 30% of statutory income is deemed to be total income, which is subject to tax.
- The income derived from each Malaysian ship shall be treated as income from a separate and distinct business source – capital allowances (i.e., tax depreciation) and tax losses from one ship cannot be used to set off profits from another ship.
- Any unabsorbed capital allowances of a Malaysian ship shall be carried forward to subsequent years of assessment to be set off against the adjusted income of the same ship only and not other ships.
- Any current year adjusted loss in respect of a Malaysian ship shall not be available as a deduction against any other income (for example, interest income or income from non-Malaysian ships).
- Any unabsorbed losses from a Malaysian ship for a year of assessment shall be carried forward to subsequent years of assessment to be set off against exempt income from that ship only. Any losses from a Malaysian ship cannot be used against future taxable income even from the same ship, essentially resulting in the tax benefit of the loss being disregarded.

Certain transitional rules were also prescribed.

With this change in law, it appears that even where a Malaysian shipping company only owns Malaysian ships, effective from the year of assessment 2016, the company would be in a tax-payable position as long as one of its ships is profitable.

1.6 Major changes to tax law anticipated in the near future

At this time, no relevant major changes are anticipated in the near future. However, it is not always possible to anticipate future changes to the tax law.

2. Human capital

2.1 Formalities and regulations for employing personnel

The domestic legislation governing the recruitment of seafarers is contained within the MSO (Part III Master and Seamen).

From a tax perspective, where an employer is employing individuals who are carrying on employment in Malaysia, there are various tax registration and administration requirements. Further, the employer may need to comply with the Monthly Tax Deduction laws, discussed in Section 1.2.

2.2 National labor law

The seafarers serving on board Malaysian ships are governed by the MSO. Malaysian labor law is governed by the Employment Act 1955 for employment in Peninsular Malaysia and by the Labour Ordinance, Sabah and Sarawak for employment in Sabah and Sarawak (East Malaysia). These labor laws are only applicable to a person who is engaged in any capacity on any vessel registered in Malaysia.
and who:
• Is not an officer certified under the Merchant Shipping Acts of the UK as amended from time to time
• Is not the holder of a local certificate as defined in Part VII of the MSO
• Has not entered into an agreement under Part III of the MSO

2.3 Collective labor law
Collective agreements are governed by the Industrial Relations Act 1967 and the Trade Unions Act 1959.

2.4 Treaties relating to social security contributions
Malaysian workers and permanent residents employed under a contract of service or apprenticeship and earning a monthly wage of MYR3,000 (approximately €670) or less must compulsorily register and contribute to the Social Security Organization (SOCSO) regardless of employment status, i.e., whether it is permanent, temporary or casual in nature.

2.5 Manning advantages or disadvantages of flying the Malaysian flag
The income of an individual from being employed on board a ship used in a business operated by a Malaysian tax-resident company that is a registered owner of a ship under the MSO is exempt from Malaysian tax. (See section 1.2 for the definition of “ship” in this context.)

3. Corporate structure

3.1 Most commonly used legal structure for shipping activities
The most commonly used legal structure for shipping companies is a private limited liability company (Sendirian Berhad [Sdn. Bhd.], where the company is incorporated under the Malaysian Companies Act 1965).

The tax rates imposed on shipping companies operating in Malaysia are discussed in section 1.1.

3.2 Taxation of profit distribution
Malaysia does not impose any form of dividend withholding tax. Further, with effect from 1 January 2008, Malaysia has adopted what is known as the “single tier” system of corporate taxation. Under the single tier system, there are no tax costs or impediments to a company paying dividends. Note that from the corporate law and accounting perspectives, dividends may only be paid out of profits.

4. Grants and incentives

4.1 Specific and/or general subsidies available to shipping companies
See section 1.5 for information on the tax exemption that is available to Malaysian-resident shipping companies operating Malaysian ships.

4.2 Investment incentives for shipping companies and the shipbuilding industry
In Malaysia, tax incentives are offered to entities involved in “promoted activities.” Shipbuilding was previously listed as a promoted activity where the shipbuilding operations were carried on in certain designated “promoted areas” in Malaysia, but it is no longer listed as a promoted activity. Incentives available for promoted activities include Pioneer Status, which is a partial or full tax exemption, and Investment Tax Allowances, which represents additional tax depreciation claims on qualifying assets.

Malaysia has also introduced the concept of a “pre-packaged” tax incentive — under this prepackaged system, an investor can make a request for special incentives that are out of the ordinary (for example, a longer-than-usual Pioneer Status period). Such requests are evaluated by the authorities on a case-by-case basis. Some
of the factors considered by the authorities when evaluating such requests are the level of capital investment in Malaysia, employment opportunities that will be created in Malaysia, knowledge transfer to Malaysia and the multiplier effect to the economy.

4.3 **Special incentives for environmental awareness**
Malaysia has introduced certain tax incentives relating to environmental awareness, but these incentives generally apply to all qualifying persons and are not limited to the shipping industry.

4.4 **Advantages or disadvantages of flying the Malaysian flag**
See the discussion above on tax exemption available to Malaysian resident shipping companies operating Malaysian ships.

4.5 **Major changes in shipping subsidy legislation anticipated in the near future**
No major changes are anticipated. However, it is not always possible to anticipate future changes to the law.

5. **General information**

5.1 **Infrastructure**

5.1.1 **Major ports**
The major ports are:
- Bintulu Port ([www.bpa.gov.my](http://www.bpa.gov.my))
- Northport, Port Klang ([www.pka.gov.my](http://www.pka.gov.my))
- Port of Tanjung Pelepas ([www.ptp.com.my](http://www.ptp.com.my))
- Westports, Port Klang ([www.pka.gov.my](http://www.pka.gov.my))
- Penang Port ([www.penangport.gov.my](http://www.penangport.gov.my))

5.1.2 **Port facilities**
The following facilities are available:
- Maintenance and repair
- Docking
- Storage
- Cranes for every size of vessel

5.1.3 **Airports close to the major ports**
The following airports are near major ports:
- Kuala Lumpur International Airport (Port Klang)
- Kuching International Airport (Bintulu Port)
- Sultan Ismail International Airport, Senai (Port of Tanjung Pelepas)
- Penang International Airport (Penang Port)

5.1.4 **Support services for the shipping industry**
The following support services for the shipping industry are available:
- Banks with a shipping desk
- Consulting firms specializing in shipping
- Maritime law services
- Insurance brokers for the shipping industry

5.1.5 **Maritime education**
Maritime education is available at various institutions, including the following:
- Maritime Academy of Malaysia (ALAM) ([www.alam.edu.my](http://www.alam.edu.my))
5.2. Safety and environmental issues

5.2.1 Implementation of the International Safety Management Code
Shipping companies are required to comply with the requirements of the International Safety Management (ISM) Code. The Malaysian government issues two documents for shipping companies that comply with the ISM Code: the document of compliance (DOC) and the safety management certificate (SMC). These documents are issued after the shipping companies pass an audit performed by the appropriate authority.

5.2.2 Safety rules regarding manning
Malaysia has relatively strict safety rules regarding manning. Most of the maritime legislation (particularly on safety issues) is set out in the MSO. The Board of the Marine Department has authorized internationally recognized classification societies to conduct audit and certification of Malaysian-registered vessels and managing companies for compliance with the code.

In addition, Malaysia is in compliance with the International Convention on the Standards of Training, Certification & Watchkeeping for Seafarers (STCW) 1978.

5.2.3 Special regulations on safety and the environment
Malaysia is a party to all major international conventions on safety and pollution prevention.

5.3 Registration

5.3.1 Registration requirements
The registration of ships is governed by the MSO. Under Section 11 of the MSO, a ship is registered as a Malaysian ship if it is owned by a Malaysian citizen or a corporation that meets the following conditions:

1. It is incorporated in Malaysia.
2. The principal office of the corporation is in Malaysia.
3. Management of the corporation is mainly in Malaysia.
4. A majority (normally more than 51%) of the directors and shareholding (including voting shares) of the corporation is held by Malaysians, free from any trust or obligation.

Notwithstanding Section 11 of the MSO, a Malaysian ship can be registered under the Malaysian International Shipping Registry (i.e., the Labuan registry) only if the majority of the shares (including voting shares) are not held by Malaysian citizens.

5.3.2 Ship registration procedure
The ports of registry in Malaysia are Kuching, Kota Kinabalu, Labuan, Penang and Port Klang. Before a ship can be registered, the ship's name has to be approved. The application for ship name can be made at any port of registry office. Upon the approval of the name, application to register a ship can be made at any port of registry office.

For further details, see: marine.gov.my/jlmeng/Contentdetail.asp?article_id=319&category_id=1&subcategory_id=23&subcategory2_id=7

5.3.3 Parallel registration
Parallel registration (both traditional and international ship registry) is not permitted.

5.3.4 Requirements for officers and crew serving on vessels
There is no restriction on the nationality of the crew to be employed on board Malaysian ships. Foreign
Seafarers may sail in any capacity on Malaysian ships as long as they meet the standards laid down in the STCW 1978 regulations as amended.

In accordance with the provisions of Regulation I/10 of STCW 95, Malaysia has signed Memoranda of Undertaking to recognize certificates of competency (COCs) with the following countries: Australia, Bangladesh, Belgium, Belize, Brazil, Brunei Darussalam, China, Croatia, Egypt, Finland, Germany, Ghana, Honduras, Hong Kong, India, Indonesia, Ireland, Japan, Latvia, Liberia, Luxembourg, Maldives, Myanmar, New Zealand, Pakistan, Panama, Papua New Guinea, Philippines, Poland, Romania, St. Vincent and the Grenadines, Singapore, South Africa, South Korea (ROC), Sri Lanka, Thailand, Ukraine, United Kingdom, Vanuatu and Vietnam.

(Note: the list of countries that have signed a Memorandum of Undertaking with Malaysia will be updated from time to time on www.marine.gov.my.)

Foreign officers or engineers in possession of valid foreign COCs from the above-mentioned countries are allowed to serve on Malaysian ships as long as their certificates are appropriate to the capacity in which they are employed. No prior approval is required, but owners of vessels are required to apply for a seafarer identity and certificate of recognition (COR) to allow holders of the foreign certificates to serve on Malaysian ships.

The validity of a COR shall not be longer than one year. If the validity of the COC is less than one year, the validity of the COR will expire on the same day the COC expires. When applying for a COR, the validity of the COC must not be less than six months for the application to be accepted and processed.

5.3.5 International conventions regarding registration
Malaysia follows the best practice of international ship registration, i.e., the United Nations Convention on the Law of the Sea (UNCLOS), 1982, and the United Nations Convention on Conditions for Registration of Ships and Her Majesty's Stationery Office (HMSO) UK Act. In addition, Malaysia is also a party to all major international conventions on safety, pollution prevention and liability and compensation (see Section 5.2.3).

5.3.6 Special requirements and rules relating to registration
For further information on ship mortgages, survey requirements and costs, please refer to www.marine.gov.my/jlmeng/index.asp.

5.4 General comments
For further information, please refer to:
• Marine Department Malaysia (www.marine.gov.my)
• Malaysian Shipowners’ Association (www.masa.org.my)
Malta

1. Tax

1.1 Tax facilities for shipping companies

No income tax is charged on income derived from shipping activities by a licensed shipping organization provided that all registration fees and tonnage taxes have been paid and that, in the year to which the exemption applies, separate accounts were kept, clearly distinguishing the payments and receipts by the shipping organization with respect to shipping activities.

Similarly, no income tax is charged on any gains arising from the liquidation, redemption, cancellation or any other disposal of shares, securities or any other interest. This includes goodwill held in any licensed shipping organization with restricted objects owning, operating, administering or managing a tonnage tax ship while it was a tonnage tax ship.

Shipping activity is defined as the international carriage of goods or passengers by sea or the provision of other services to or by a ship as may be ancillary thereto or associated therewith, including the ownership, chartering or any other operation of a ship engaged in all or any of the above activities or as otherwise may be prescribed.

Any income derived by a ship manager from ship management activities is deemed to be income derived from shipping activities and is exempt from income tax under the Income Tax Act provided that:

- The company keeps proper accounts relating to its shipping activities.
- The ship manager has paid to the Registrar-General an annual tonnage tax to be determined as follows:
  1. For any tonnage tax ship registered under Parts II or IIA of the Merchant Shipping Act, an amount equivalent to 25% of the annual tonnage tax payable for the particular ship on the basis of the rates stipulated in the First Schedule to the Merchant Shipping Act
  2. For any other ship not referred to in paragraph (1.) above, an amount equivalent to 25% of the annual tonnage tax calculated by reference to the rates stipulated in the First Schedule to the Act that would have been payable had the ship been registered under Parts II or IIA of the Act
- At least two-thirds of the tonnage of the ships to which the ship manager provides ship management activities is managed from the territory of the European Community (EC).
- The tonnage of the ships for which the ship manager provides ship management activities meets any of the following conditions:
  1. At least 60% of said tonnage is registered under an EC flag.
  2. The percentage of said tonnage that is EC flagged immediately after the ship manager begins to operate an additional ship is not less than the percentage of the ship manager's tonnage which was EC flagged on the later of 11 June 2009 or one year from the day on which the ship manager began to operate.
  3. The percentage of said tonnage that is EC flagged has not decreased over a period of three years or such lesser period in which the ship manager was in existence if said ship manager was in existence for a period of less than three years. Provided that where the requirements of paragraphs (2.) or (3.) are not fulfilled, the provisions of the particular paragraph shall still be deemed to be satisfied where it is proven to the satisfaction of the Registrar-General that a commitment exists to increasing or at least maintaining under the flag of one of the European Union (EU) Member States the share of tonnage under such flags in respect of which ship management activities were being provided on the later of 11 June 2009 or one year from the day on which the ship manager began to operate.

Income derived by a licensed shipping organization from the sale or transfer of a tonnage tax ship or from the disposal of the right to a ship that, when delivered or completed, would qualify as a tonnage tax ship is exempt from tax.

Profits derived from the financing of the operations of licensed shipping organizations or the financing of any tonnage tax ship are also exempt from income tax.
An organization qualifies as a shipping organization if it engages in one or more specified activities and if it obtains a license from the Registrar-General to enable it to carry on such activities. The following are the specified activities:

- The ownership, operation (under charter or otherwise), administration and management of a ship or ships registered as a Maltese ship under the Merchant Shipping Act and the carrying on of related financial, security and commercial activities
- The ownership, operation (under charter or otherwise), administration and management of a ship or ships registered under the flag of another state and the carrying on of related financial, security and commercial activities
- The holding of shares or other equity interests in Maltese or foreign entities that are established for any of the purposes stated in the law and the carrying on of related financial, security and commercial activities
- The raising of capital through loans, the issuance of guarantees or the issuance of securities by a company if the purpose of such activity is to achieve the objects of the shipping organization itself or for other shipping organizations within the same group
- The carrying on of such other activities within the maritime sector that are prescribed in regulations

A shipping organization may be established as a limited liability company (public or private), a foreign corporate body that has established a place of business in Malta or another type of entity specified in the law.

No duty is payable in respect of any instrument connected with or involving:

- The registration of a tonnage tax ship under Part II and Part IIA of the Merchant Shipping Act and other registrations relating to a tonnage tax ship made under said parts
- The issue or allotment of any security or interest of a licensed shipping organization or the purchase, transfer, assignment or negotiation of any security or interest of any licensed shipping organization or other company as above
- The sale or other transfer of a tonnage tax ship or any share thereof
- The registration of any mortgage or other charge over or in relation to any ship or licensed shipping organization, any transfer or discharge thereof, any receipt relative thereto and any assignments granted in connection therewith
- The assignment of any rights and interests or the assumption of obligations in respect of any ship or share thereof

Ships that are registered in Malta are bound to pay registration fees and tonnage taxes as per the extract from the first schedule of the Merchant Shipping Act reproduced below.

- The fee on registration and the annual fee for all ships shall be as follows:
- Section A

<table>
<thead>
<tr>
<th>Ship</th>
<th>Fee on registration</th>
<th>Annual Tonnage tax</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Basic fee</td>
</tr>
<tr>
<td>(i) Ships less than 24 meters in length overall</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Fishing vessels of category A, B and C</td>
<td>€ 70</td>
<td>€ 25</td>
</tr>
<tr>
<td>b. Commercial yachts</td>
<td>€ 115</td>
<td>€ 150</td>
</tr>
<tr>
<td>c. Pleasure yachts less than 50 gross tonnage</td>
<td>€ 115</td>
<td>€ 25</td>
</tr>
<tr>
<td>(ii) All other ships less than 24 meters in length overall</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d. Less than 50 gross tonnage</td>
<td>€ 115</td>
<td>€ 25</td>
</tr>
<tr>
<td>e. Of 50 gross tonnage or more</td>
<td></td>
<td>€ 150</td>
</tr>
</tbody>
</table>
Subject to the provisions of Article 7(4) of the Merchant Shipping Act, when there is a change in the particulars or category of a registered ship and the new applicable fee payable on registration or annually is higher than that already payable, the provisions of Article 19(7) of this Merchant Shipping Act for laid up vessels shall apply mutatis mutandis.

The rates per net tonnage payable on registration and annual tonnage tax when referred to in Section A:

- **Section B**

<table>
<thead>
<tr>
<th>Ship of net tonnage (NT)</th>
<th>Fee on registration</th>
<th>Annual tonnage tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exceeding 2,500</td>
<td>€625</td>
<td>€1,000</td>
</tr>
<tr>
<td>2,500 to 8,000</td>
<td>€625 plus 25 cents for every NT in excess of 2,500 NT</td>
<td>€1,000 plus 40 cents for every NT in excess of 2,500 NT</td>
</tr>
<tr>
<td>8,000 to 10,000</td>
<td>€2,000 plus 7 cents for every NT in excess of 8,000 NT</td>
<td>€3,200 plus 19 cents for every NT in excess of 8,000 NT</td>
</tr>
<tr>
<td>10,000 to 15,000</td>
<td>€2,140 plus 7 cents for every NT in excess of 10,000 NT</td>
<td>€3,580 plus 14 cents for every NT in excess of 10,000 NT</td>
</tr>
</tbody>
</table>
Reduction or increase on the rates per NT on registration and annual tonnage tax, when referred to in section A:

- **Section C**

### Age of ship

<table>
<thead>
<tr>
<th>Exceeding</th>
<th>Not exceeding</th>
<th>Reduction of fee on registration %</th>
<th>Reduction or increase on annual tonnage tax %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Years</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0</td>
<td>5</td>
<td>50</td>
<td>-30</td>
</tr>
<tr>
<td>5</td>
<td>10</td>
<td>25</td>
<td>-15</td>
</tr>
<tr>
<td>10</td>
<td>15</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>20</td>
<td>-</td>
<td>+5</td>
</tr>
<tr>
<td>20</td>
<td>25</td>
<td>-</td>
<td>+10 Subject to minimum increase of € 1,500</td>
</tr>
<tr>
<td>25</td>
<td>30</td>
<td>-</td>
<td>+25</td>
</tr>
<tr>
<td>Equal to or exceeding 30</td>
<td>-</td>
<td>+50</td>
<td></td>
</tr>
</tbody>
</table>

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#### 1.2 Tax facilities for seafarers

Employees who wholly or mainly work outside Malta are generally eligible for favorable tax treatment (15%) but seafarers employed by Maltese companies are not.

#### 1.3 Tax treaties

Malta has one of the most extensive networks of tax treaties. Most Maltese treaties follow the Organisation for Economic Co-operation and Development (OECD) model treaty and include an article on international transport.

Malta has tax treaties with the following countries: Albania, Australia, Austria, Bahrain, Barbados, Belgium, Bulgaria, Canada, China, Croatia, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Finland, France, Georgia, Germany, Greece, Guernsey, Hong Kong, Hungary, Iceland, India, Ireland, Isle of Man, Israel, Italy, Jersey, Jordan, Kuwait, Latvia, Lebanon, Libya, Lithuania, Luxembourg, Malaysia, Mexico*, Montenegro, Morocco, Netherlands, Norway, Pakistan, Poland, Portugal, Qatar, Romania, Russian Federation, San Marino, Saudi Arabia, Serbia, Singapore, Slovakia, Slovenia, South Africa, South Korea (ROK), Spain, Sweden, Switzerland, Syria, Tunisia, Turkey, United Arab Emirates, United Kingdom, United States of America, and Uruguay.

*Not yet ratified by Mexico and the Russian Federation, respectively.
Malta has also signed treaties with the following countries that have yet to come into force:

- Liechtenstein
- Ukraine

Malta has also signed protocols with the following countries that have yet to come into force:

- Barbados
- Belgium

In addition, Maltese ships calling at US ports benefit from an exemption between Malta and the US, exempting shipping and air operations from income tax.

Similarly, Maltese ships trading in Greece benefit from an exemption from taxes on their earnings by way of reciprocity. In addition to the double-taxation agreements, Malta has concluded agreements on maritime transport with China, Cyprus, Germany and the Russian Federation, providing various benefits to Maltese-registered ships calling at such ports.

Malta also has a reciprocal fleet agreement with the US on the carriage of empty containers in the US coast-wide trade, exempting ships sailing under the Maltese flag from the fees under the Jones Act.

1.4 Freight taxes

Profits arising from the carriage of passengers, mail, livestock or goods shipped in Malta by ships owned or chartered by nonresidents are deemed to accrue in Malta and are therefore subject to taxation in Malta. This does not apply if the country of citizenship of the shipowner extends a similar exemption to Maltese shipowners. The exemption also applies to goods that are brought to Malta solely for transshipment.

1.5 Special vessel registration benefits for the shipowner

Complete tax exemption is granted to licensed shipping organizations exclusively operating Maltese ships of over 1,000 NT engaged in the international carriage of goods and passengers and other ancillary services, provided that all registration fees and tonnage taxes are paid.

1.6 Changes to tax law anticipated in the near future

On 25 July 2012, the European Commission opened an investigation into the Maltese tonnage tax system.

2. Human capital

2.1 Formalities for hiring personnel

There are no particular formalities with respect to the employment of the crew on board. A contract of employment in the form of a crew agreement must be made between the master and seafarers and signed in the presence of a shipping master.

In Maltese ports, the terms of the agreement should preferably be endorsed by a Maltese shipping officer and in foreign ports, by a registrar or Maltese consular officer. An agreement can be made for a single voyage or, if the voyage is less than one year, it may be extended over two or more voyages.

Maltese companies that manage ships from Malta are required to obtain a work permit for their employees working in Malta.

2.2 National labor law

Crew members of Maltese ships are subject to the provisions of the Merchant Shipping Act and ancillary regulations, including the Maritime Labour Convention, 2006 (MLC), which came into force on 20 August 2013.

2.3 Regulations on employing personnel

When employing personnel, the provisions of the law and the regulations concerning the competence of officers and seafarers must be observed.
2.4 Collective labor agreements
Operators of ships sailing under the Maltese flag have concluded collective labor agreements with the General Workers' Union, which is the International Transport Workers' Federation (ITF) affiliate trade union. The Maltese law that regulates employment conditions does not apply to crews on seagoing vessels.

The principal Maltese employment law is the Employment and Industrial Relations Act and ancillary regulations. A contract for an indefinite period of time may be terminated by the employee by giving notice without giving any reasons and by the employer on grounds of redundancy. Employees whose employment is terminated on grounds of redundancy alone are entitled to re-employment if the post formerly occupied by them becomes available again within a period of one year from the date of termination of employment.

As of 1 January 2014, the national minimum wage was increased to €165.68.

Employees are entitled to a period of at least four weeks of leave a year, and the normal working time frame is a 40-hour week.

2.5 Treaties relating to social security contributions
To prevent the double payment of social security contributions, Malta has concluded five social security totalization agreements – with Australia, Canada, the Netherlands, New Zealand and the United Kingdom.

Furthermore, Malta has a totalization agreement with all EU Member States through Regulation (EC) No 883/2004 and Implementing Regulation (EC) No 987/2009, as amended by subsequent Regulations.

2.6 Manning issues with flying the Maltese flag
Manning requirements are considered strict and compare well with international standards.

3. Corporate structure

3.1 Most commonly used legal structures for shipping activities
The most commonly used legal structure for the operation of shipping activities is the body corporate (company). Any person, whether Maltese or not, may form a body corporate in Malta under the Companies Act.

3.2 Taxation of profit distribution
Malta operates a full imputation system whereby the shareholder receiving a dividend allocated to the immovable property account, Maltese taxed account and foreign income account is entitled to receive a credit of the tax paid by the company and is therefore not subject to further full taxes. Any dividends paid out of gains or profits of the ship are exempt from income tax when distributed to the company shareholders as dividends. Furthermore, Malta does not levy any withholding tax on dividends paid by a company registered in Malta to its nonresident shareholders.

3.3 Tax refunds
Upon a distribution of profits by way of dividend, shareholders of companies registered in Malta may claim refunds of tax on profits that have been allocated to the Maltese taxed account and foreign income account. Shareholders may claim one of the following refunds of tax:

*Six-sevenths refund*

This type of refund may be claimed if:

- The interest derived by the Maltese company is *not* classified as “passive interest or royalties.”
- No double tax relief has been claimed.

Passive interest or royalties is defined in Article 2 of the Income Tax Act as “interest or royalty income which is not derived, directly or indirectly, from a trade or business, where such interest or royalties have not suffered any foreign tax, directly, by way of withholding, or otherwise, at a rate of tax which is less than 5%.”

*Five-sevenths refund*
This type of refund may be claimed if:

- The income out of which profits have been distributed is classified as passive income or royalties, or the distributions of dividends are received from a participating holding company that does not satisfy the anti-abuse provisions.
- No double tax relief has been claimed.

**Two-thirds refund**

If the Maltese company has opted to claim relief from double taxation, a refund of two-thirds of the tax paid in Malta may be claimed.

This type of refund enables the Maltese company to claim a flat-rate foreign tax credit (FRFTC). The FRFTC is a credit that is not granted for tax actually paid abroad but is computed by reference to specific computational rules. The FRFTC is calculated at a deemed fixed rate of 25% of the net income or gains receivable (in this case, of the net dividend) by the company resident in Malta before any deductions or payments whatsoever are made from said income or gains.

The FRFTC applies if certain conditions are met:

- Income and capital gains are received by a company registered in Malta.
- The recipient can produce documentary evidence that such income and capital gains fail to be allocated to the foreign income account, but excluding profits resulting from dividends paid out of the foreign income account of another company resident in Malta.
- The company is specifically empowered to receive the FRFTC against profits allocated to the foreign income account. The recipient must have documentary evidence confirming this requirement as well. A certificate issued by a certified public accountant and auditor is considered to be satisfactory documentary evidence for this purpose.

4. **Grants and incentives**

4.1 **Specific and/or general subsidies available to shipping companies**

There are no subsidies for shipping companies.

4.2 **Investment incentives for shipping companies and the shipbuilding industry**

The Malta Enterprise Act grants incentives in the form of tax credits and enterprise support for qualifying activities, such as repair, overhaul or maintenance of pleasure crafts, certain yachts and engines or equipment incorporated or used in these vessels.

4.3 **Special incentives for environmental awareness**

There are no specific incentives for environmental awareness.

4.4 **Issues with flying the Maltese flag**

The Maltese flag has been upgraded to the White List of the Paris Memorandum of Understanding (MoU) and Tokyo MoU, thereby lessening the controls on ships flying the Maltese flag. The Maltese flag was also listed on the Low Risk Ship List of the Paris MoU.

There are no issues regarding subsidies and grants connected to flying the Maltese flag.

4.5 **Major changes in shipping subsidy legislation in the near future**

No major changes are expected in the near future.

5. **General information**

5.1 **Infrastructure**
5.1.1 Major ports
Malta's major ports are:
- Port of Marsaxlokk
- Port of Valletta

5.1.2 Port facilities
The following facilities are available:
- Maintenance and repair:
  The Maltese companies that offer maintenance and repair facilities are Bezzina Ship Repair Yard, Cassar Ship Repair, Palumbo Malta Shipyard Limited and Manoel Island Yacht Yard.
- Docking:
  The Maltese companies that offer docking facilities are Bezzina Ship Repair Yard Limited, Cassar Ship Repair Limited, Manoel Island Yacht Yard Limited and Valletta Gateway Terminals Limited.
- Storage:
  The Maltese companies that offer storage facilities are Alpha Oil Services & Trading Limited, Malta Freeport Terminals Limited, Oil Tanking Malta Limited, Salvo Grima (Freeport Operations) Limited and Valletta Gateway Terminals Limited.
- Cranes for every size of vessel:
  These are offered by Cassar Ship Repair Limited, Malta Freeport Terminals Limited and Valletta Gateway Terminals Limited.

5.1.3 Airport close to the major ports
The Malta International Airport is about 15 minutes from the Port of Valletta and about 10 minutes from the Port of Marsaxlokk.

5.1.4 Support services for the shipping industry
The following support services for the shipping industry are readily available:
- Consulting firms specialized in shipping
- Maritime law services
- Insurance brokers for the shipping industry

Although the Maltese banks do not have specialized shipping desks, some Maltese banks are equipped to deal with shipping companies' requirements.

5.1.5 Maritime education
The major maritime educational institutions in Malta are:
- The International Maritime Law Institute (IMLI)
- The Malta College of Arts, Science & Technology (MCAST) Maritime Institute

5.2 Safety and environmental issues
5.2.1 Implementation of the International Safety Management Code on board vessels
Ship operators of ships registered under the Maltese flag, which were required to comply with the International Safety Management (ISM) Code by 1 July 1998, have done so (according to the then Malta Maritime Authority [now part of Transport Malta]). Most of the ship management companies, and some ship operators of Maltese-registered ships, have International Organization for Standardization (ISO) 9000 certificates.

5.2.2 Safety rules regarding manning
The safety rules regarding manning may be characterized as quite strict. Most of the maritime legislation (particularly on safety issues) is set out in the Merchant Shipping Act and in regulations made under the same Act.
5.2.3 Special regulations on safety and the environment

There are no trading restrictions for the registration of vessels. However, ships 15 years of age and over but under 20 years old, must pass an inspection by an authorized flag state inspector before or within a month of provisional registration; ships 20 years of age or more, but not yet 25 years old, must pass an inspection by an authorized flag state inspector prior to being provisionally registered. Trading ships 25 years of age and over are not registered.

5.3 Registration

5.3.1 Registration requirements

The registration of a ship-owning company is an uncomplicated and inexpensive matter and can be effected very quickly.

The following details would be required for a company to be registered:

- Name of the company
- Details of shareholders and directors (name, address, passport number/registration number [in the case of a body corporate])

The minimum share capital is €1,200 (US$1,690), of which 20% must be paid prior to registration. All types of vessels, from pleasure yachts to oil rigs, may be registered, provided that they are wholly owned by Maltese citizens or a Maltese body corporate. However, ships under six meters long are not subject to registration under the Merchant Shipping Act. Ships that are registered under the Authority for Transport in Malta Act not exceeding 24 meters in length are exempt from the registry. Consequently, ships not exceeding 24 meters in length do not enjoy the rights and privileges of a Maltese ship and are not recognized as such.

5.3.2 Ship registration procedure

A vessel is first registered provisionally under the Maltese flag for a period of six months (extendible to one year), during which period all documentation must be finalized. The requirements stipulated by the Guide to Ship Registration issued by Transport Malta for provisional registration are:

- An application for registration by the owner or an authorized representative and, where applicable, application for a change in the ship's name
- Proof that the body of persons can own a Maltese ship
- Appointment of a resident agent where the owners thereof are not Maltese
- Where applicable, a copy of the ship's international tonnage certificate
- A declaration of ownership made before the registrar by the owner or an authorized representative
- Evidence of seaworthiness, and in the case of trading vessels, confirmation of class
- Where applicable, request for the administration for the authorization of the issuance of the ship's and the company statutory certificates
- Application for Minimum Safe Manning Certificate, where applicable
- Payment of initial and annual registration fees
- Application for a Ship Radio Station License

The following documents must be submitted during provisional registration:

- A builder's certificate, if the vessel has not been registered elsewhere; otherwise, a bill of sale or any other document for registry
- A cancellation of registry certificate from the last country of registry, showing the vessel to be free from encumbrances or otherwise
- Where a ship was registered in a country that is a signatory to the International Convention for the Safety of Life at Sea, a copy of the last updated Continuous Synopsis issued by the administration where the ship was last documented
- A certificate of survey and a copy of the international tonnage certificate certifying that the vessel has been surveyed in accordance with Maltese regulations
• Evidence that the vessel has been marked in accordance with the law
• At least one crew list

5.3.3 Parallel registration
Maltese law provides for the bareboat charter registration of foreign-registered ships under the Maltese flag. Vessels so registered enjoy the same rights and privileges and have the same obligations as any other ship registered in Malta.

Bareboat charter registration shall apply for the duration of the bareboat charter or until the expiry date of the underlying registration, whichever is shorter, but in no case will it exceed a period of two years. Registration may be extended. For a foreign vessel to be bareboat charter registered with the Maltese registry, the ship must:
• Be bareboat chartered to Maltese citizens or to a Maltese body corporate
• Not be a Maltese ship, but it must be registered in a compatible registry
• Not have been registered in another bareboat registry

Maltese law also provides for the bareboat charter registration of Maltese ships under a foreign flag as long as the ship is registered as a Maltese ship under the Merchant Shipping Act and the bareboat charter registry where the ship is to be registered is a compatible registry.

5.3.4 Requirements for the officers and crew serving on vessels
Malta has acceded to the International Maritime Organization (IMO) Convention on Standards of Training, Certification & Watchkeeping for Seafarers, 1978 (STCW 1978). Maltese ships are subject to the provisions of the Merchant Shipping Act and ancillary regulations concerning the competence of officers and seafarers. Certificates of competence are issued on examination. Foreign certificates issued under the terms of the Convention STCW 1978 are recognized where they have been granted by examination.

5.3.5 International conventions regarding registration
Malta has adopted practically all major IMO conventions, including the:
• Civil Liability Convention of 1992 (CLC 92)
• Convention on Tonnage Measurement of Ships (Tonnage 69)
• International Regulations for Preventing Collisions at Sea (COLREG 72)
• International Fund for Compensation for Oil Pollution Damage (Fund 92)
• Convention on the International Mobile Satellite Organization (INMARSAT)
• International Convention for the Prevention of Pollution From Ships, 1973 as modified by the Protocol of 1978 (MARPOL73/78)
• International Convention for the Safety of Life at Sea as modified by the Protocols of 1978 and 1988 respectively (SOLAS 74/78/88)
• International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 78 as modified by the Protocol of 1995 (STCW 78/95)
• International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (Bunker 01)
• International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001 (AFS 01)
• International Convention on Maritime Search and Rescue, 1979 (SAR 1979)
• Convention on Facilitation of International Maritime Traffic, 1965 (FAL 1965)
Malta has also adopted the major International Labour Organization (ILO) conventions, including the:

- Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8)
- Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16)
- Seamen’s Articles of Agreement Convention, 1926 (No. 22)
- Officers’ Competency Certificates Convention, 1936 (No. 53)
- Medical Examination (Seafarers) Convention, 1946 (No. 73)
- Certification of Able Seamen Convention, 1946 (No. 74)
- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- Seafarers’ Identity Documents Convention, 1958 (No. 108)
- Minimum Age Convention, 1973 (No. 138)
- Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147), including Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976
- Seafarers’ Hours of Work and the Manning of Ships Convention, 1996 (No. 180)

5.3.6 Special requirements and rules relating to registration

Flag state inspections are carried out regularly by inspectors appointed by the Maltese authorities throughout the world. The inspections are in addition to the regular statutory surveys conducted by classification societies and are carried out only on the specific instructions of the directorate. There are no additional charges for these inspections, except when the vessel has to undergo a second or subsequent inspection to ascertain whether reported deficiencies have been corrected, and when a vessel is inspected prior to provisional registration.

Regarding mortgages, the registration, transfer and discharge of mortgages may be effected immediately upon presentation of the relevant documents to the registrar of ships.
1 Tax

1.1 Tax facilities for shipping companies
There are no specific tax facilities for shipping companies in Mexico.

The corporate tax rate is 30% for 2014. Taxable income is commonly determined on an accrual basis, and taxpayers are allowed to deduct most expenses that are strictly necessary to the business provided that formal statutory requirements are met.

In accordance with current tax provisions, the tax depreciation rate applicable to vessels is 6%.

Mexican entities are obliged to share a portion of their annual profits with their employees. In general terms, the basis for determining the corresponding profit sharing of the year is the taxable income for income tax purposes, without a deduction for the profit sharing and no use of net operating losses. The applicable profit sharing rate is 10%.

As of 1 January 2014, the Flat Rate Business Tax (FRBT) was repealed and is no longer an alternative minimum tax.

In general terms, the lease of vessels by foreign companies to Mexican companies could be subject to 5% withholding tax to the extent that certain requirements are fulfilled, such that the vessel has a permit to be commercially exploited in Mexico and is used directly by the lessee to transport goods and personnel.

Value-added tax (VAT) is also imposed on some goods and services at rates of 0% or 16%.

1.2 Tax facilities for seafarers
There are no special tax facilities for seafarers in Mexico.

1.3 Tax treaties and place of effective management
Mexico has concluded international treaties to avoid double taxation with a series of countries. Those that are in force are those with the following countries:

Argentina, Australia, Austria, Bahrain, Barbados, Belgium, Brazil, Canada, Chile, China, Czech Republic, Denmark, Ecuador, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Japan, Kuwait, Latvia, Lithuania, Luxembourg, Netherlands, New Zealand, Norway, Panama, Poland, Portugal, Qatar, Romania, Russia, Singapore, Slovak Republic, South Africa, South Korea, Spain, Sweden, Switzerland, Ukraine, United Kingdom, United States, Uruguay.

*Treaty to avoid double taxation with respect to international traffic.

Notwithstanding the fact that Mexico follows the Organisation for Economic Co-operation and Development (OECD) model regarding international traffic, it reserves the right to impose tax on source profits derived from the provision of accommodation. However, in several tax treaties, the rule in place is used. Through the OECD commentaries to the Model Tax Convention, Mexico also reserves the right to tax profits from internal traffic from the carriage of passengers or cargo taken on board at one place in a country for discharge at another place in the same country.

It should be pointed out that Mexico has also concluded agreements for the exchange of information for tax purposes with various countries, such as the Bahamas, Bermuda, Costa Rica, Jersey, Cook and Guernsey Islands and Netherlands Antilles.

1.4 Freight tax
No freight tax applies in Mexico.

1.5 Special vessel registration tax benefits for the shipowner
If the owner is a foreign resident, a reduced withholding tax rate may apply for granting the use of the vessel
Changes to tax law anticipated in the near future
See section 4.5.

2. Human capital

2.1 Formalities for hiring personnel
Mexican labor law establishes that the workers on any kind of ship or vessel are defined as the captains, deck and engine officers, hostesses and accountants, radio telegraphists, boatswains, dredgers, deckhands and cooks, as well as any other person considered a worker under Mexican maritime laws and regulations and, in general, all persons performing any kind of job for a shipowner, shipper or freighter related to assembly, shipping or freight.

Work conditions are to be stipulated in writing. Each party (employer and worker) shall keep a copy of such documentation, another copy shall be submitted to the port authority or to the closest Mexican consulate and a fourth copy shall be submitted to the job inspection office of the respective country.

No labor relationship is deemed to exist in the event of stowaways entering into an agreement with the captain of the ship to pay for their fare through personal services, or with Mexican citizens on board who are being repatriated at the request of a consulate.

2.2 National labor law
Mexican labor law applies to all Mexican-flagged vessels.

2.3 Regulations on employing personnel
Mexican labor law establishes generally accepted rules for employees (for example, an eight-hour working day and vacation days).

2.4 Collective labor agreements
There are different unions related to the shipping industry in Mexico for:
- Captains
- Officers and engineers
- Seafarers
- Cooks and stewards
- Stokers
- Other ship occupations

Generally, the terms of such agreements are based on the labor law.

The income tax rate for individuals was increased as of 2014, and depending on the amount of salary, it could be up to 35%. The employee's rate of social security contribution is 2.775% of the comprehensive salary, which is withheld by the employer from wages. The employer's contribution rate is approximately 36.15% (without considering job hazards, which raise the rate). The maximum annual contribution for employees is approximately €880, and for employers, it is €5,306 per employee. The work performed in this type of industry is considered very risky. Therefore, the applicable percentage for job hazard is the highest.

The National Shipping Industry Chamber (CAMEINTRAM) has proposed that these rates be reduced.

2.5 Treaties relating to social security obligations
Social security agreements have been entered into with Spain and Canada.

2.6 Manning issues with flying the Mexican flag
Vessels with a Mexican flag must be manned by Mexican seafarers.
3. Corporate structure

3.1 Most commonly used legal structure for shipping activities
The most common legal entity type used is the corporation of variable capital (S.A. de C.V.). The Sociedad de Responsabilidad Limitada (S. de R.L.) is also very common, mostly for subsidiaries of US companies, which may serve as a disregarded entity for US tax purposes.

Another widely used legal structure is the use of an investment promotion corporation (S.A.P.I.). This legal entity type has become very popular in recent years due to its flexibility and corporate governance features, which reflect market practices and common contractual arrangements used by investors. This type of entity was created to give companies the ability to protect their equity and encourage the participation of other shareholders and investors, and thereby achieve economic growth. Regarding the fiscal point of view, in general terms, the entities built under this kind of structure are subject to the same taxes as any corporation.

Recent modifications to the Mexican Corporations Act include the removal of certain requirements for the establishment of these legal structures. Due to the above, there is currently not a minimum amount of capital stock required, provided that the amount established by each corporation is stated in its bylaws. Also, the duration of the corporation can be stated as indefinite in a previously mentioned document.

The average tax rate for shipping companies is as explained in section 1.1. Many foreign companies consider granting the use of vessels to Mexican companies. Rendering services through time charter agreements is also common.

3.2 Taxation of profit distribution
Dividends paid to foreign shareholders or any individuals are subject as of 2014 to withholding tax. A 10% tax is levied as a withholding tax on the shareholder of the distributing company. This withholding tax will be imposed on distributions of dividends paid to Mexican individuals as well as to foreign residents. Dividends between Mexican resident entities are not subject to tax at the shareholder level.

Moreover, if the company paying the dividend does not have sufficient “net after-tax profit account” (CUFIN) to cover the dividend, the dividends are taxed at the corporate level at a rate of 30% on a grossed up basis. Income tax paid on distributed profits per the paragraph above may be credited against corporate income tax in the year the dividend is paid and in the following two years.

3.3 Chambers and organizations in Mexico
There are currently three main supporting organizations in Mexico for the shipping industry.

The Mexican Association of Shipowners (AMANAC) groups the principal Mexican shipping companies, port terminals, port service providers and integral port administrations. Its main objective is to be an organ of consultation and collaboration with the Mexican government for the execution and design of policies, programs and tools in order to encourage the growth of the industry.

CAMEINTRAM, on the other hand, aims to serve and protect the common interests of its members when it comes to achieving the strengthening of the Mexican merchant or the specific activity in relation to certain members of the Chamber.

The National Shipowners’ Association (ANANAC) was created to represent the shipping Agents before the authorities, unions and third parties and, at the same time, contribute to accomplishment of their main activities. ANANAC also provides specialized services to its members.

4. Grants and incentives

4.1 Specific or general subsidies available to shipping companies
The special excise tax on production and services derived from acquiring maritime fuel can be credited against any federal tax in Mexico. However, in order to apply such credit, certain formal requirements issued
by the Mexican Tax Administration Service (SAT) should be fulfilled; for example, acquiring the fuel from
authorized stations.

4.2 Investment incentives for shipping companies and the shipbuilding industry
No investment incentives are available.

4.3 Special incentives for environmental awareness
There are no special incentives for environmental awareness in Mexico.

4.4 Issues with flying the Mexican flag
There are no issues regarding grants and incentives associated with flying the Mexican flag. Mexican-flagged
vessels are allowed to be commercially exploited in Mexico, while foreign vessels can also be used in Mexico,
but only when such vessels obtain temporary permits (every three months).

4.5 Major changes in shipping subsidy legislation in the near future
There is great interest in increasing subsidies and grants to companies in the Mexican shipping industry, as
well as a push toward the tonnage tax regime to be implemented for most domestic corporations that form
part of the shipping industry in Mexico. However, no such plans have yet been implemented.

4.6 Tax incentive on new employees hired
There is no incentive currently available relating to new employees hired.

5. General information

5.1 Infrastructure

5.1.1 Major ports
The major ports are:
Altamira; Ciudad Del Carmen; Coatzacoalcos; Ensenada; Lazaro Cardenas; Manzanillo; Mazatlan; Progreso;
Puerto Vallarta; Salina Cruz; Tampico; Topolobampo; Tuxpan; Veracruz.

5.1.2 Port facilities
The port services are classified as:
- Services to ships to carry out their internal navigation operations, such as piloting, towing and anchorage
- Overall services to ships, such as victualling, supplying drinking water, fuel, communication, electricity,
garbage or waste collection and disposal of wastewater
- Handling services for the transfer of goods and merchandise, such as loading, unloading, consignment,
storage, stowage and hauling within the port

5.1.3 Airports close to the major ports
There are airports close to the major ports. They differ regarding distance, but in general they are well-
connected to highways or roads.

<table>
<thead>
<tr>
<th>Major port</th>
<th>Closest airport</th>
<th>Distance (approx.)</th>
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<tbody>
<tr>
<td>Altamira, Tampico</td>
<td>Tampico International Airport</td>
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<tr>
<td>(Tamaulipas)</td>
<td>(IATA: TAM, OACI: MMTM)</td>
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<tr>
<td>Ciudad Del Carmen</td>
<td>Ciudad del Carmen International Airport</td>
<td>3km</td>
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<tr>
<td>(Campeche)</td>
<td>(IATA: CME, OACI: MMCE)</td>
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</tbody>
</table>
5.1.4 Support services for the shipping industry
The following support services for the shipping industry are available:

- Consulting firms specializing in shipping
- Maritime law services
- Insurance brokers for the shipping industry

5.1.5 Maritime education
A number of programs exist that provide maritime education in schools, such as in Mazatlán, Mexico City, Tampico and Veracruz. Personnel who provide training in maritime education must be registered with the Ministry of Public Education.

5.2 Safety and environmental issues

5.2.1 Implementation of the International Safety Management Code on board vessels
The International Safety Management (ISM) Code has been implemented by some shipping companies in Mexico.

5.2.2 Safety rules regarding manning
The Mexican authorities periodically carry out audits regarding safety rules.

5.2.3 Special regulations on safety and the environment
Mexico is a party to certain international conventions regarding water pollution (e.g., the International Convention for the Prevention of Pollution from Ships or MARPOL).
5.3 Registration

5.3.1 Registration requirements
According to the Mexican Navigation Act, in order to fly the Mexican flag on a vessel, it is necessary to register the vessel (to obtain a license) before the competent authority at the request of the owner of the vessel. Only Mexican individuals and corporations are entitled to obtain a license for a vessel to fly the Mexican flag.

The certificate of the license should contain, among other items, the name of the ship, the license number, the port and the name of the owner.

5.3.2 Ship registration procedure
It is necessary to file a request with the National Maritime Public Registry, which will register the vessel in a special section of the Registry.

To obtain the ship registration, the request must include:
- Name and domicile of the person who makes the request
- The original documentation or a certified copy of the deed of incorporation, power of attorney for the legal representative, an invoice for the purchase of the property and a safety certificate for navigation
- The name of the ship
- A copy of the documentation in evidence of payment of the legal rights
- A sworn statement that the applicant is Mexican

5.3.3 Parallel registration
Parallel registration is not possible in Mexico.

5.3.4 Requirements for the officers and crew serving on vessels
The officers and crew serving on vessels registered in Mexico must be of Mexican nationality, should not obtain another nationality and should be able to exercise their civil rights. They also have to prove their practical and technical capabilities according to the Convention on Standards of Training, Certification & Watchkeeping (STCW).

5.3.5 International conventions regarding registration
There are certain international conventions with respect to the license and the registry of the vessel. Information on these can be found at the CAMEINTRAM website, http://www.cameintram.org.

5.3.6 Special requirements and rules relating to registration
Duties have to be paid in order to register the ship.

5.4 Other comments
Fees, taxes and social security quotes may be considered somewhat burdensome in Mexico, which mostly affects the domestic industry in relation to foreign competitors. Furthermore, there have been comments that the Mexican government has not granted enough tax incentives in order to reduce the aforementioned charges and to encourage the development of the national industry. Nevertheless, it is believed that the shipping industry in Mexico has grown significantly over the last few years.
1. Tax

1.1 Tax facilities for shipping companies

The following tax facilities are available to shipping companies:

- Tonnage-based taxation
- Accelerated depreciation
- Regressive depreciation
- Investment deduction
- Zero rating for value-added tax (VAT) purposes
- Recovery of Dutch VAT incurred on costs
- Wage cost deduction

Corporate income tax

Tonnage-based taxation

Introduction

As of 1996, the Netherlands has incorporated a special tax facility in its tax laws for shipping enterprises. This law provides for the calculation of taxable profits of shipping enterprises engaged in seagoing shipping business on the basis of the net registered tonnage of their vessels, instead of taxation on their actual operating results. This tonnage-based taxation is optional and can significantly reduce the effective tax burden of these companies.

Conditions for applying the calculation of taxable profit based on tonnage

In order to apply the tonnage-based taxation, a shipping company should meet the following conditions:

- The shipping enterprise is liable for Dutch income tax or corporate income tax (CIT).
- The shipping enterprise operates own vessels for:
  - The international transportation of people or goods overseas
  - The transportation of people or goods overseas for the purpose of the exploration or exploitation of natural resources at sea
  - The exploration of the sea bed
  - Cable-laying and pipe-laying activities at the sea bed
  - Tackle and lifting activities at sea
  - Dredging services at sea
  Or
  - Towing and support services at sea

“Own vessels” include seagoing vessels of which the beneficial ownership (or co-ownership) is in the hands of the shipping enterprise, and seagoing vessels which, though not owned or co-owned by the shipping enterprise, have been chartered bare from a third party (bareboat charter in). Seagoing vessels owned by the shipping enterprise but chartered bare to a third party (bareboat charter out) do not qualify as own vessels.

The shipping enterprise is engaged in the exploitation of these own vessels. Operation is understood to mean that the shipping enterprise takes care of at least 30% of the management of own vessels.

The tonnage tax regime may also be applicable if a shipping enterprise does not own a vessel but performs the entire crew and technical management of a vessel for the owner.

The vessels fly a European Union (EU) or a European Economic Area (EEA) flag (Iceland, Liechtenstein and Norway). This is only required for own vessels (and, therefore, for bareboat chartered in vessels as well).
There are several exemptions to the flag requirement available. One exemption is at the national level; if the percentage of owned, tonnage-taxed vessels flying an EU or EEA flag for the Netherlands as a whole has not decreased as compared to the preceding period, then the flag requirement does not apply. This exemption applies for 2014. This means that in 2014 with respect to vessels that are newly added to the fleet, the shipping company may be eligible for the Dutch tonnage tax regime, irrespective of the flag the vessel flies. Dutch companies starting a shipping business in 2014 that are eligible for the tonnage tax regime can also benefit from the exemption of the flag requirement. In combination with another flag exemption, a company setting up a new tonnage tax regime business in 2014 would not be required to fly an EU or EEA flag.

Profits earned by vessels engaged in dredging services at sea come within the scope of the tonnage-based taxation, provided that these activities are predominantly (i.e., at least 50%) executed at sea (i.e., the transport part of the dredging activities may qualify for the tonnage tax regime). Hence, dredging vessels mainly used in inland waterways and ports do not qualify for tonnage-based taxation. No flag requirement exemption is applicable for dredging vessels (hence, it is always mandatory to fly an EU or EEA flag).

Profits earned by vessels engaged in towing and support services at sea to qualifying seagoing vessels also come within the scope of the tonnage-based profit calculation. No flag requirement exemption is applicable for vessels engaged in towing and support activities (hence, it is always mandatory to fly an EU or EEA flag).

Profits earned on activities directly related to the qualifying operation of seagoing vessels, such as shipbroking, stevedoring and comparable activities, also come within the scope of the tonnage-based profit calculation.

*Election for the tonnage-based profit calculation*

In case the aforementioned conditions are satisfied, a shipping company can opt for tonnage-based taxation. A shipping enterprise qualifying for the tonnage-based taxation should make the election in the first year in which the shipping enterprise earns taxable profit from shipping operations (for example, a newly incorporated company engaged in shipping). The ruling, which may be appealed, is issued by the tax inspectors concerned. The election then, in principle, applies for 10 years, after which it can be reversed (back to the ordinary tax system) or continued for another 10 years. In the year of the election, the difference between the book value and the fair market value of the assets relating to the shipping activities (i.e., any hidden reserves on the vessels) is determined and set as a tax-claimed reserve for the 10-year period. If the shipping enterprise fails to comply with the conditions for tonnage-based taxation within the 10-year period, this tax-claimed reserve must be included in its taxable base (at the general tax rate for 2014 mentioned below). If, after the 10-year period, the shipping enterprise no longer complies with the conditions, the tax-claimed reserve will be waived without any taxation.

*Calculation of the taxable tonnage-based profit*

Taxable profit based on tonnage is calculated on the basis of the amounts per day that the vessel is exploited, as set out below. If shipping enterprises only own a part of a seagoing vessel, they will be taxed only for the tonnage attributable to themselves.

<table>
<thead>
<tr>
<th>Total net tonnage</th>
<th>Income per day per 1,000 net tons (€)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 1,000</td>
<td>9.08</td>
</tr>
<tr>
<td>1,001-10,000</td>
<td>6.81</td>
</tr>
<tr>
<td>10,001-25,000</td>
<td>4.54</td>
</tr>
<tr>
<td>25,001-50,000</td>
<td>2.27</td>
</tr>
<tr>
<td>More than 50,000</td>
<td>0.50</td>
</tr>
</tbody>
</table>

The reduced rate of €0.50 per day per 1,000 net tons for vessels of at least 50,000 net tons is only applicable for vessels that:
• Are registered under a flag after 31 December 2008
Or
• In the five years preceding the election for the tonnage-based profit calculation, were flying a non-EU or EEA flag

To make the tonnage tax regime beneficial for ship management activities, the taxable profit based on the table as set out above may be decreased by 75% with respect to a shipping enterprise that does not own a vessel but performs the entire crew and technical management of a vessel for the owner (and, consequently, tonnage-based taxation is applied).

The taxable amount, which is calculated by applying the above table, is taxed at the general CIT rates. In 2014, the tax rates are as follows:
• Taxable income up to €200,000 is taxed at 20%.
• Taxable income over €200,000 is taxed at 25%.

**Accelerated depreciation**

Shipping companies that qualify for the tonnage-based taxation but do not opt for tonnage-based taxation may apply for accelerated depreciation of the vessels. This means that an annual depreciation rate of 20% of the initial cost, less the residual value, can be applied. Accelerated depreciation is only possible if the shipping business is profitable. If the shipping company suffers a loss, part of the 20% figure cannot be used. The remainder will be added to the 20% for the next year.

**Regressive depreciation**

If a shipping company does not opt for tonnage-based taxation, the shipping company may apply depreciation at a regressive rate on seagoing vessels. The regressive depreciation rate depends on the life of the vessel and the residual value. The maximum rate for regressive depreciation is 12.1% of the book value for a new vessel.

**Investment deduction**

Investment incentives in the Netherlands are granted at the request of the taxpayer and are available for shipping companies that do not opt for the tonnage-based taxation. A percentage of the total amount invested during a financial year can be deducted from taxable income. The investment deduction applies if between €2,300 and €306,931 (figures for the year 2014) is invested in relevant assets during a year. The size of the deduction depends on the amount of the investment and could be as much as 28% of the total amount invested.

**VAT**

**Zero rating for VAT purposes**

The supply and the leasing of seagoing vessels (excepting yachts used for recreational purposes) are zero-rated (exempt with input VAT recovery credit) for VAT purposes.

The supply of goods (e.g., equipment to be used on board) and services (e.g., repair services) to outbound seagoing vessels is in most cases zero-rated if supplied to:
• Commercial seagoing vessels
• Vessels used for rescue or assistance at sea
• Vessels used for coastal fishing with the exception of ship's provisions
• Warships with a harbor or anchorage berth outside the Netherlands as their destination

In addition, services related to the cargo transported by these seagoing vessels (e.g., loading and unloading) are VAT zero-rated in most cases.

The VAT zero rate also applies to international passenger transport carried out with seagoing vessels. A reduced rate (currently 6%) applies to domestic passenger transport.

**Place of supply rules**
Supplies of services (including services to outbound seagoing vessels) are in principle not subject to Dutch VAT if the business recipient of the service is established outside the Netherlands. However, supplies of services to outbound seagoing vessels by nonresident taxable persons to a Dutch business recipient are in principle subject to Dutch VAT, but again, VAT is zero-rated in most cases.

**Commercial Cruising Vessels**

The supply and leasing of yachts that do not meet the criteria for seagoing vessels, but that are used commercially for passenger transport purposes and meet certain other criteria, can also be VAT zero-rated under the Commercial Cruising Vessels (CCV) tax facility. In that case, CCVs are regarded as seagoing vessels for Dutch VAT purposes.

If a yacht qualifies as a CCV, the Dutch VAT zero-rate can also apply to supplies and services related to the construction and exploitation of the CCV.

**Recovery of Dutch VAT incurred on costs**

In principle, businesses can recover Dutch VAT incurred on costs. However, for certain types of costs (e.g., private use of business assets, such as company cars), only a partial recovery is possible, whereas for some other types of costs (e.g., food and drinks used in hotels and restaurants), no recovery is possible at all.

Nonresident shipping companies that do not transport supplies subject to VAT in the Netherlands can file a refund claim for Dutch VAT incurred on costs at the Dutch Tax Office for nonresidents (for businesses established outside the EU) or at the local tax office in their own EU country (for businesses established in another EU Member State).

### 1.2 Tax facilities for seafarers

**Wage cost deduction**

Under the wage cost deduction regulation, shipping companies that act as withholding agents for payroll tax purposes can, on certain conditions, deduct 40% of the wages of the Dutch-resident tax-paying seafarers from the total amount of payroll tax and national insurance contributions to be remitted to the Tax and Customs Administration. The wage cost deduction of 40% is also applicable for non-Dutch-resident seafarers who are residents of an EU country or a country that is a member of the EEA. It is not required that the Dutch-, EU- or EEA-resident seafarer be liable for wage tax or national insurance contributions in the Netherlands in order to apply the wage cost deduction. Please note that the effect is limited, because a Dutch-, EU- or EEA-resident seafarer working on board a vessel flying the Dutch flag will in practice (almost) always be liable for wage tax or national insurance contributions in the Netherlands.

If the seafarer is not a Dutch, EU or EEA resident but is liable for wage tax in the Netherlands, or even only liable to pay national insurance contributions, the deduction is 10% of the wages.

The facility only applies to vessels flying the Dutch flag that are operated mainly at sea. In principle, vessels used for the international overseas transport of goods or persons are regarded as sea vessels. In addition, so-called sailing CCVs are also regarded as sea vessels. As a consequence, the wage tax facility can be applied in more situations.

Vessels used for pilotage services, sailing boats, tugboats used in harbors, dredging vessels without their own propulsion or without cargo space and fishing boats (commercial fishery) are excluded from the facility.

**New work-related costs scheme**

As of 1 January 2011, the system of tax-free employment benefits and allowances was replaced by the work-related costs scheme. There are transition arrangements still in place. In 2011, 2012, 2013 and 2014, the employer can choose whether to apply the old system of tax-free employment benefits and allowances or the work-related costs scheme. As of 2015, the work-related costs scheme will be mandatory (according to the current state of legislation).

For seamen, the provision of meals and lodging on board sea vessels is tax-free within the new work-related costs scheme. During the first year (2011), some modifications were made to this new work-related cost
scheme by the Dutch Ministry of Finance. Also, in 2013, some modifications to the work-related costs scheme were announced (the expectation is that these modifications will be published by the government in the course of 2014). Moving forward, an investigation into the impact that the work-related costs scheme will have on the employment conditions of shipping companies is recommended.

The wage tax levied on the work-related costs is a final levy, fully for the account of the employer, and as a result, not to be withheld on the gross wage of the employee. The employer bears the costs of a final levy of 80% to be paid on all work-related costs. Every employer is entitled to a tax-free, work-related costs budget of 1.5% (2014) of the total wage bill. The 80% final levy only applies on the amount in excess of this tax-free budget. If the employer designates certain employment benefits and allowances as work-related costs, then the employer can make use of specific exemptions and special valuation rules.

As previously mentioned, the shipping company has to determine for itself, on the basis of the current employment conditions, what the impact of the work-related costs scheme would be on its business. If the work-related costs scheme has an adverse impact, then the shipping company has until 2015 to adjust its employment conditions, such that the payroll tax to be paid (the final levy of 80%) remains as low as possible. It is important to check not only existing contracts, but also employment contracts with new employees.

1.3 Tax treaties and place of effective management

The Netherlands has concluded tax treaties with more than 90 countries (including a tax agreement with the former Netherlands Antilles). The Netherlands has also concluded tax information exchange agreements (TIEAs) with 29 countries. Most of the tax treaties are based on the Organisation for Economic Co-operation and Development (OECD) model treaty for the avoidance of double taxation. Below is an overview of the countries involved in Dutch tax treaties:

Albania, Argentina, Armenia, Aruba, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Brazil, Bulgaria, Canada, China, Croatia, Cuba, Curacao, Czech Republic, Denmark, Egypt, Estonia, Ethiopia, Finland, France, Georgia, Germany, Ghana, Greece, Hong Kong, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Kuwait, Latvia, Lithuania, Luxembourg, Macedonia, Malaysia, Malta, Mexico, Moldova, Morocco, New Zealand, Nigeria, Norway, Oman, Pakistan, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saudi Arabia, Singapore, Slovak Republic, Slovenia, South Africa, South Korea (ROK), Spain, Sri Lanka, St. Maarten, Suriname, Sweden, Switzerland, Taiwan (ROC), Thailand, Tunisia, Turkey, Uganda, Ukraine, United Kingdom, United States, Uzbekistan, Venezuela, Vietnam, Yugoslavia*, Zambia, Zimbabwe.

*The provisions of the Netherlands-Yugoslavia double tax avoidance treaty are treated as remaining in force between the Netherlands and Bosnia-Herzegovina, Montenegro and Serbia.

Besides the aforementioned treaties, there are specific agreements on the taxation of shipping income with the following countries:

Argentina, Bermuda, Estonia, Greece, Hong Kong, Isle of Man, Latvia, Lithuania, Mexico, Panama, Venezuela.

In most tax treaties, the place of effective management is an important criterion for determining whether a company is subject to tax in the Netherlands. If a company is registered abroad, but the place of effective management of the shipping activities is in the Netherlands, the shipping activities will be subject to tax in the Netherlands. The place of effective management is determined based on the actual facts with respect to managerial activities. All managerial aspects are taken into consideration.

1.4 Freight taxes

Although freight taxes do not apply in the Netherlands, they do apply in some countries with which the Netherlands has concluded tax treaties. It is not yet clear whether all of the tax treaties grant relief from freight tax. It can be argued that freight taxes are taxes to which a specific treaty can apply. This could result in a total or partial exemption from freight tax. If freight tax is not covered in the relevant tax treaty, an
exemption may still apply on the basis of the levying country’s national law. Some countries that levy freight
taxes also grant relief under national rules. In some cases, the rules state that shipowners resident in an EU
Member State, for example, are not required to pay freight tax. The Netherlands is often listed as a country
whose shipowners are exempt. If no exemption applies, freight tax can only be seen as a cost, resulting in a
deduction of 25% (general CIT rate for 2014, as mentioned in 1.1) of the amount of freight tax. Obviously,
relief is more beneficial than a deduction.

1.5 Special vessel registration benefits for the shipowner
Registration can be an important factor affecting whether seafarers are covered by social security and
the aforementioned wage tax facilities. Under the new tonnage tax legislation, in principle, EU or EEA flag
registration is a requirement for the application of the tonnage tax facility. Registration is usually not a
requirement for other income tax facilities.

2. Human capital

2.1 Formalities for hiring personnel
In the Netherlands, Dutch shipowners have to meet specific requirements for hiring seafarers based on the
Maritime Shipping Manpower Services Regulations (Regeling Arbeidsvoorzieningen Zeescheepvaart). These
regulations stipulate that a Dutch shipowner may not hire foreign seafarers for employment on board vessels
(e.g., captain, officer or naval technician) unless they have a certificate of registration with the Maritime
Employment Office (Arbeidsbureau Maritiem). The term “foreign seafarers” is understood to mean seafarers
who:
• Do not live in the Netherlands or in any other EU country
• Live in an EU country where the freedom of movement for workers does not apply
• Do not have a work permit
Or
• Have not worked for at least two years in the Dutch shipping industry under a Dutch collective labor
agreement, provided that the last employment was not longer than three years ago
Maritime law, therefore, requires a Dutch captain, in principle. However, the success of the shipping policy in
the Netherlands has led to a substantial growth of the Dutch fleet and to a shortage of Dutch captains. As
a consequence, regulations have been adopted that provide exemptions for the requirement. Nevertheless,
foreign captains and first officers must have sufficient knowledge of Dutch maritime law and are required,
for example, to possess the necessary certificates showing maritime education and maritime experience.

2.2 Regulations on employing personnel
Under the Maritime Crews Act (Zeevaartbemanningswet), each vessel has to have a crew certificate issued
by the Minister of Infrastructure and the Environment. This crew certificate specifies the minimum number
of crew members and their duties on board the vessel (besides the captain and the shipowner). The
manager of the vessel has to file an application for a crew certificate with the Minister of Infrastructure and
the Environment for each individual ship. A crew policy for the specific vessel has to be enclosed with the
application. This crew policy is a proposal by the ship manager and consists of the desired minimum number
of crew members (besides the captain) with their specific duties.

A vessel has to be manned according to the crew certificate. Under some conditions, an exemption may apply
for no more than six months.

The crew certificates must be published in a public register. The issued or withdrawn shipping certificates and
the issued exemptions are registered in the Central Register of Crew Information.

Under the Maritime Crews Act, the ship manager has to keep a list of at least the education, experience,
professional skills and medical fitness of each crew member of every vessel they manage. The Maritime
Crews Act sets professional requirements for the knowledge and skills needed for a position or activity on board a vessel. All those working on board who are subject to the provisions of the Maritime Crews Act must have a shipping certificate for the specific work involved.

Based on the Health Care Insurance Act, each insured person older than 18 years has to pay a nominal premium. Besides that, an income-related premium of 7.1% for the year 2012 applies regarding onshore personnel, up to a certain maximum amount. Employers have to compensate their employees for the income-related contribution. This compensation is part of the employees’ (onshore personnel) taxable income. Seafarers do not have to pay the income-related contribution. As a consequence, employers do not have to compensate them.

2.3 Collective labor agreements

The minimum requirements for collective labor agreements (CLAs) consist of the following.

Term of contract

An employment contract can be agreed to with the seafarer for a fixed or indefinite period and for one or more journeys. The contract has to be in writing.

The fixed-term contract can be terminated by one of the parties by giving notice in writing. This is only possible when the seafarer is on board the vessel in a port where the vessel is moored. It is illegal to terminate an employment contract without the permission of the Department of Legal Affairs of the Central Organization for Work and Income (sector Juridische Zaken van de Centrale Organisatie Werk en Inkomen).

Wages

In principle, a specific wage can be agreed upon in an individual wage agreement. However, if the employment is agreed between an employer established in the Netherlands and a seafarer who is a resident of the Netherlands, the wage cannot be less than the minimum wage set by the legal minimum wage and minimum holiday pay supplement for the merchant service. This minimum wage is reviewed every six months (as of 1 January and 1 July each year). In cases where minimum wage regulations apply, the seafarer is also entitled to a holiday allowance of 8% of the annual wage. This holiday allowance can be reduced if the normal wage is three times the minimum wage.

Leave entitlements

A seafarer is entitled to a minimum of 30 days' leave per annum (if the employment contract has been in force for one year), regardless of age, but depending on the number of consecutive working years with the same employer. The leave days have to be divided in such a way that after three years the seafarer has used up the leave entitlement. The employer is obliged to allow the employee 15 successive calendar days' leave.

Working hours

The maximum number of working hours on board vessels flying the Dutch flag is regulated by law, currently the Working Hours Act (Arbeidstijdenwet).

Retirement

Participation in the Pension Fund for the Merchant Service is mandatory in some cases for seafarers on board a Dutch-registered vessel. Based on the Pension Act, participation in the Pension Fund for the Merchant Service is mandatory for seafarers between the ages of 21 and 65 who:

- Are Dutch
- Are not Dutch but are a resident of:
  - The Netherlands
  Or
  - A country with which the Netherlands has a social security treaty, with the exception of the United States

Specific CLAs

In CLAs, the legal minimum requirements for labor agreements on some specific points can be departed from.
in favor of the seafarer. These CLAs often apply to all labor agreements within the scope of the CLA.

2.4 Treaties relating to social security contributions
There are some specific international rules that apply to seafarers. As of 1 May 2010, the European Economic Community (EEC) Regulation No. 883/2004 is in force. In this regulation, the general rule is that a seafarer working on board a vessel flying the flag of an EU country should be insured in the same country. However, it could influence the social security position of seafarers engaged in cross-border work. Provided that certain conditions are met, one can apply for transitional provisions.

2.5 Manning issues with flying the Dutch flag
One of the major advantages of flying the Dutch flag is the wage cost deduction for seafarers (see section 1.2).

3. Corporate structure

3.1 Most commonly used legal structures for shipping activities
Most companies operate as a private limited liability company, or Besloten Vennootschap (BV). The liability of the shareholders of a BV is limited to their interest in its share capital. The BV is independently liable for tax.

If the shipping enterprise opts for the Dutch tonnage tax regime, the shipping enterprise may nonetheless benefit from the Dutch participation exemption. The Dutch participation exemption exempts income, such as dividends, capital gains, as well as capital losses, realized with respect to a qualifying participation held by the Dutch shareholder. Among other requirements, the shipping enterprise should at least hold 5% of the nominal paid-up share capital of a company with capital divided into shares, and the participation is not considered to be held as a portfolio investment.

The structure of a Dutch permanent establishment or branch of a foreign company is also commonly used. If a tax treaty is applicable (see section 1.3), a branch office structure can result in substantial tax savings for shipping companies.

The limited partnership is a commonly used legal structure for private individuals and corporations when participating in a ship finance structure. Participants in a limited partnership can take advantage of the Dutch tonnage tax regime. A closed limited partnership is regarded as transparent for Dutch tax purposes. This means that the participants can directly profit from, for example, the tax deduction.

3.2 Taxation of profit distribution
Tax treaties usually regulate profit distributions and allow for a reduction of, or exemption from, withholding tax. Dividends received from participants that qualify for the participation exemption are exempt from CIT. Not only are dividends received from a qualifying shareholding exempt, but so are any capital gains on the disposal of a qualifying shareholding.

4. General information

4.1 Infrastructure

4.1.1 Major ports
The major ports are:
- Rotterdam (largest European port)
- Amsterdam
- Vlissingen
- Moerdijk
- Terneuzen
• Delfzijl and Eemshaven
• Dordrecht

4.1.2 Port facilities
The following facilities are readily available:
• Maintenance and repair
• Docking
• Storage
• Cranes for every size of vessel
• Multi-core pipelines

4.1.3 Airports close to the major ports
The following airports are close to major ports:
• Rotterdam The Hague Airport (Rotterdam)
• Schiphol (Amsterdam)

4.1.4 Support services for the shipping industry
The following support services for the shipping industry are available:
• Banks with a shipping desk
• Consulting firms specializing in shipping
• Maritime law services
• Insurance brokers for the shipping industry

4.2 Registration
4.2.1 Registration requirements
Dutch law identifies three types of seagoing vessels:
• Merchant ships
• CCVs
• Pleasure crafts

Article 311 of the Commercial Code (Wetboek van Koophandel) sets forth the requirements for qualifying as a Dutch vessel.

The main conditions for flying the Dutch flag are as follows:
• The ship has to be owned by one or more:
• Private individuals who have the nationality of an EU Member State, of a state that is part of the EEA, of Switzerland or who are considered equivalent to EU subjects on the basis of EU law
• Companies or other legal entities subject to the laws of an EU Member State, the laws of some of the countries or areas as mentioned in Article 299 of the EC Treaty, the laws of other countries that are part of the EEA or the laws of Switzerland
• Private individuals or legal entities that have the right of free establishment on the basis of a treaty of the EU with another state
• The owner should have an establishment or branch (as set forth in Dutch legislation) in the Netherlands and manage the ship from the Netherlands through one or more private individuals who have the authority to act on behalf of the owner in all matters regarding the ship, its captain and other crew members. A substitute with full powers should be appointed for cases of absence.

In the case where the management has been transferred to a company as referred to above, the owner does not have to establish an office in the Netherlands, provided the owner elects domicile at the Dutch office of the company managing the vessel.

A vessel that is not used for commercial purposes is a Dutch ship if it is owned by a private individual or legal entity as referred to above, and a private individual in the Netherlands has sufficient power of attorney to act
promptly on behalf of the owner if required.

Merchant ships and CCVs can be registered as a Dutch ship in two different ways, namely by standard (full ownership) registration (4.2.2) or by registration as a bareboat charterer (4.2.3). Dutch ships are registered in the shipping register in Rotterdam.

4.2.2 Standard registration procedure
The standard registration of seagoing vessels requires the owner to produce:

- A signed statement of the owner of the vessel in which he or she states that to his or her best knowledge, the vessel can be registered as a seagoing vessel
- A statement issued on behalf of the Minister of Infrastructure and the Environment proving that the owner complies with the provisions of Article 311 of the Commercial Code
- A certificate of deletion from the former register if the ship was previously registered abroad; should the former register not be willing to honor the application for deletion, such information should be contained in the Dutch register

4.2.3 Registration as a bareboat-chartered vessel
The second option for registering a seagoing vessel in the Netherlands is as a bareboat-chartered vessel. A seagoing vessel that is registered outside the Netherlands may be registered in the Dutch Bareboat Register under the following conditions:

- The bareboat charterer (natural person or company) is resident in the EU, EEA, Switzerland or one of the overseas areas (by agreement).
- The bareboat charterer manages a shipping company with a head or branch office established in the Netherlands under Dutch law.
- The day-to-day operation of this shipping company (including nautical, technical and manning operations) is in the hands of one or more natural persons who are authorized to represent the bareboat charterer in all affairs concerning the management of the ship and those on board.
- The person or persons responsible for the day-to-day operation of the ship must be available at all times. If they are not available, a substitute authorized to deal with all matters relating to the management of the ship and those on board may deputize for them.
- The bareboat charterer accepts all responsibilities for ship and crew arising from bareboat registration as a Dutch vessel.
- The owner and/or bareboat charterer agrees unconditionally, and in writing, to fly the Dutch flag.
- No conflict in law may exist or arise between the state of registration and the Netherlands regarding registration as a bareboat charterer.

4.2.4 Required information
The following data and documents concerning the vessel must be available at all times at the owner's office or at the bareboat charterer's head or branch office in the Netherlands:

- Position of the vessel
- Technical maintenance records
- Names, positions and certificates of competence of all crew members on board the vessel
- All data on the crew, in accordance with Chapter 3 of the Maritime Crews Act
- Individual and/or collective employment contracts of all crew members on board the vessel
- If applicable, names of passengers or other persons on board the vessel
- If dangerous or hazardous goods are being transported, all details of the cargo in accordance with Chapter VII of the International Convention for the Safety of Life at Sea (SOLAS) 1974 as amended and related legislation

4.2.5 Requirements for officers and crew serving on vessels
Under the Maritime Crews Act, the captain should have the nationality of a state of the EU or EEA, with
limited exceptions. The vessel must have a valid manning document issued by the authority stated in the law. The crew should at least consist of qualified staff to fulfill the positions as stated on the crew certificate.

4.2.6 International conventions
The international convention regarding registration is the:


Other relevant conventions, *inter alia*, include the:

- International Convention on Standards of Training, Certification & Watchkeeping for Seafarers (STCW) 1978, as revised in 2010
- SOLAS, 1974, as amended
- International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocols of 1978 and 1997 relating thereto (MARPOL 73/78/97)
- International Convention on Tonnage Measurement of Ships, 1969
- International Convention on Load Lines, 1966
- Bonn Agreement for cooperation in dealing with pollution of the North Sea by oil and other harmful substances, 1983, as amended
- International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (BUNKER 2001)
- Maritime Labour Convention, 2006, as ratified in 2012
New Zealand

1. Tax

1.1 Tax facilities for shipping companies

Shipping companies are treated like any other company and are subject to the standard tax laws of New Zealand. The current company tax rate is 28%.

Where a ship owned or chartered by any nonresident carries outside New Zealand any goods or passengers shipped or embarked in New Zealand, 5% of the gross passage or carriage fee is deemed to be gross income derived by the nonresident from New Zealand. Merchandise, goods, livestock, mail or passengers shipped or embarked at any port in New Zealand are deemed to be carried outside New Zealand from that port regardless of the fact that the ship may call at other ports before finally leaving New Zealand.

Most of New Zealand's double tax agreements (DTA) provide that income will be exempt for shipping operations of other jurisdictions. In addition, the Inland Revenue Department may grant an exemption (in whole or in part) from this income tax liability, where it is satisfied that there is a reciprocal arrangement for New Zealand shippers with the nonresident shipper's country of residence. In this regard, the shipping income tax exemption of that other country must be of substantially the same nature as that in New Zealand. New Zealand has entered into exemption arrangements with the following countries:

Barbados, Bermuda, Brazil, Greece, Israel, Liberia, Netherlands Antilles, New Caledonia, Panama, Papua, New Guinea, Tonga, Vanuatu.

Requests for the shipping income tax exemption can be made to the Commissioner of Inland Revenue. Requests should be accompanied by confirmation from the nonresident shipping operator's home jurisdiction that, in corresponding circumstances, that jurisdiction would not tax the profits of a New Zealand resident shipping operator in that jurisdiction.

Nonresident shipping operators may ship or embark cargo in New Zealand for delivery to other ports in New Zealand provided that certain conditions are met (outlined in the Maritime Transport Act 1994). The income derived from the transport of domestic cargo is specifically deemed to be derived from New Zealand and is accordingly assessable for income tax in New Zealand.

Goods and services tax

New Zealand has a consumption tax called the goods and services tax (GST), levied at 15%. This is incorporated into the total price of all goods and services provided in New Zealand. Where a shipping company is registered for GST, it can claim back the GST incurred on acquisitions of goods and services (an input tax credit) where the imported goods are acquired for the purpose of making taxable supplies. A zero rating of GST applies to exported services (such as international transportation) and goods supplied as consumable stores intended for use on a foreign-going ship. However, this is a particularly complex area as it applies to the shipping industry, and specific advice should be obtained.

Depreciation

Depreciation rates in New Zealand are generally very low, around 10% diminishing value (DV) for vessels. A concessionary depreciation rate of 12% DV on secondhand shipping vessels has now been removed. There are, however, different depreciation rates for special purpose vessels. These rates compare unfavorably to other shipping nations as reported in Shipping Review 2000, a publication issued by the New Zealand government.

1.2 Tax facilities for seafarers

Seafarers are classified as normal wage earners. Pay as you earn (PAYE) gives effective tax deductions at the appropriate rate for all employees. A nonresident shipping operator must deduct PAYE from salary

\footnote{Note that the exemption arrangement with Hong Kong was replaced with a full DTA from 1 April 2012.}
and wages paid to employees when the employees are present in New Zealand. PAYE may not have to be deducted if the Inland Revenue Department is satisfied that the employee is or will be exempted or provided with relief from New Zealand tax, either because the employee is present for fewer than 92 days in an income year (1 April to 31 March) or by the operation of a DTA. PAYE is required to be deducted unless the Inland Revenue Department approves otherwise.

1.3 Tax treaties and place of effective management
New Zealand has a network of 37 double tax treaties with its main trading and investment partners aimed at reducing tax impediments to cross-border trade and assisting tax administration. These treaties generally comply with the Organisation for Economic Co-operation and Development (OECD) model treaty. Under the treaties, profits from ships are generally taxable in the country where the ship is registered. New Zealand currently has treaties with the following countries:

Australia, Austria, Belgium, Canada, Chile, China, Czech Republic, Denmark, Fiji, Finland, France, Germany, Hong Kong, India, Indonesia, Ireland, Italy, Japan, Malaysia, Mexico, Netherlands, Norway, Philippines, Poland, Russian Federation, Singapore, South Africa, South Korea (ROK), Spain, Sweden, Switzerland, Taiwan (ROC), Thailand, Turkey, United Arab Emirates, United Kingdom, United States of America.

The place of effective management determines a country’s primary right under most DTAs to tax shipping companies’ profits from international operations. The profits of international shipping companies that trade in many states should be taxed in only one of the states, the place where the effective management of the company is.

New Zealand views “effective management” as the place where the key management and commercial decisions that are necessary for the conduct of the entity's business are in substance made.

1.4 Freight taxes
There are no special freight taxes in New Zealand.

1.5 Special vessel registration tax benefits for the shipowner
Registration entails no special tax benefits for the shipowner, although it does impose the domestic laws of New Zealand on the owner of the vessel and affords the protection of the New Zealand government.

1.6 Changes to tax law

Double tax agreement with Papua New Guinea
The DTA between New Zealand and Papua New Guinea was signed on 29 October 2012. For dividend payments arising in New Zealand and Papua New Guinea, the DTA introduces a withholding tax of 15%. The withholding tax rates on interest and royalties are both set at 10%. The DTA is not yet in force, but will apply for income years beginning on or after 1 April 2014.

Double tax agreement with Vietnam
The DTA between New Zealand and Vietnam was signed on 5 August 2013. For dividend payments arising in New Zealand and Vietnam, the DTA introduces a withholding tax between 5%-15% depending on the percentage of shares held. The withholding tax rates on interest and royalties are both set at 10%. The DTA is not yet in force, but will apply for income years beginning on or after 1 April 2014. The DTA is not yet in force.

Double tax agreement with Japan
The new DTA between New Zealand and Japan signed on 10 December 2012, replaces the 1963 DTA. It came into force on 25 October 2013. The withholding tax rate on dividends remains set at 15%, but under new provisions it will in many cases be possible to have this reduced to 0% (if certain criteria are met). The withholding tax rate on interest is set at 10%, and in cases of financial institution lenders, reduced to 0%, and the withholding tax on royalties is set at 5% (previously no treaty limitation on domestic taxation of 15%). For income where tax is withheld and with respect to other taxes, the DTA will apply from 1 January 2014. For all
income where tax is not withheld, the DTA applies for income years beginning on or after 1 April 2014.

**Tax information exchange agreements**

New Zealand has expanded its bilateral tax information exchange agreements (TIEA) network and signed 21 TIEAs with Anguilla, Bahamas, Bermuda, the British Virgin Islands, the Cayman Islands, the Cook Islands, Curacao, Dominica, Gibraltar, Guernsey, the Isle of Man, Jersey, the Marshall Islands, the Netherlands Antilles, Niue, Sint Maarten, St. Christopher and Nevis, St. Vincent and Grenadines, Samoa, the Turks and Caicos Islands and Vanuatu. The TIEAs with the Cayman Islands, the Cook Islands, Curacao, Gibraltar, Guernsey, the Isle of Man, Jersey, the Netherlands Antilles, Niue, Samoa and Sint Maarten are currently in force. The rest are not yet in force, and a specific timeline has not been given by the government. These agreements allow for the full exchange of information between New Zealand and the relevant state to manage and enforce domestic tax law.

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**2. Human capital**

**2.1 Formalities for hiring personnel**

The hiring of personnel in New Zealand is primarily governed by the Employment Relations Act 2000 (ERA), which provides that parties to an employment relationship must deal with each other in good faith. The ERA is intended to encourage such good faith in all aspects of the employment relationship, but particularly in relation to bargaining.

All employees recruited following the enactment of the ERA on 2 October 2000 must have a written employment agreement. This may be a collective agreement if the employer is a party to a collective, or it may be an individual employment agreement. The ERA details content that must be included in these agreements and procedures that must be followed when hiring personnel. From 1 April 2011, all New Zealand employers are able to use the 90-day trial period for new employees. However, the trial periods are voluntary, and must be agreed in writing and negotiated in good faith as part of the employment agreement.

New minimum wage rates for adults, new entrants and transfers came into effect on 1 April 2013 under the Minimum Wage Order 2012. The minimum wage rate is NZ$13.75 per hour for adults (increased from NZ$13.50 per hour) and NZ$11.00 for new entrants and new trainees (increased from NZ$10.80).

Leave provisions are encapsulated in the Holidays Act 2003 (the Act). This Act outlines information regarding the rights and responsibilities of employees and employers in the workplace. It also includes transitional provisions from the previous Holiday Act 1981 to the current Act. The Act broadly covers minimum legal entitlements to annual holidays, public holidays, sick leave and bereavement leave.


**2.2 National labor law**

New Zealand's labor laws apply to all New Zealand-flagged vessels.

**2.3 Regulations on employing personnel**

In some instances, employees are recruited by the employer directly, while sometimes they are recruited through a recruitment company acting on behalf of the employer. Positions are generally advertised in the country's main newspapers and on the internet. A position description is commonly developed to provide a detailed understanding of the role and the specifications. After reviewing all candidates, short-listed candidates are interviewed face to face in almost all cases. It is important that the recruiter and interviewer are aware of the grounds for discrimination set out in the Human Rights Act so as not to discriminate against
any of the candidates. Psychometric testing is often carried out. When an offer of employment is to be made to a new employee, the employer must ensure it complies with the procedures detailed in the ERA.

2.4 Collective labor agreements
There has been an increase in the number of unions since the introduction of the ERA because only unions are empowered to negotiate collective employment agreements. In comparison, individuals can be represented in negotiations for an individual employment agreement by representatives of their choice. Union membership is voluntary, but collective bargaining is promoted by the ERA as it puts measures in place to encourage people to join unions and sets out good faith requirements in relation to collective bargaining.

All collective agreements must be in writing and must include the following matters:

- A coverage clause
- A clause dealing with the rights and obligations of the employees and employer if the work of any of the employees were to be contracted out or the business or part of the business of the employer concerned were to be transferred or sold
- An explanation of the services available for the resolution of employment relationship problems
- A clause providing how the agreement can be varied
- The date on which the agreement expires or an event on the occurrence of which the agreement is to expire

Every worker is entitled to receive minimum wage from their employer, notwithstanding anything to the contrary in any employment agreement. The Minimum Wage Act 1983 and Minimum Wage Orders set the rates. The latest update to the rates was effective from 1 April 2013.

Hours and days are negotiable between the employer and the employee at the time of employment. Leave provisions are governed by the Act 2003.

- Annual leave — After 12 months of continuous service with the company, every employee is entitled to not less than 4 weeks' paid annual leave.
- Special leave — After six months of continuous service with the company, every employee is entitled to five days' paid special leave (sick, domestic, bereavement leave) per year. However, this can be increased to a more generous amount should the employer wish to do so, for example, to 8 or 10 days' special leave.
- Public holidays — Every employee is also entitled to the 11 New Zealand public holidays, provided that they fall on days on which the employee would ordinarily work. If employees work on a public holiday, they are entitled to be paid time and a half for that day and receive a paid day in lieu.

Dismissal based on poor performance, disciplinary matters or redundancy must be both substantially justified and procedurally fair. The rules for issuing warnings and dismissing employees are well established in New Zealand case law. As noted, from 1 April 2011, all employees are able to use the 90-day trial period to all employees, provided that trial periods are voluntary and must be agreed in writing and negotiated in good faith as part of the employment agreement.

There is no obligation on employers to provide health insurance or subsidized health insurance to their employees, but many larger organizations in New Zealand do so.

2.5 Treaties relating to social security obligations
No such treaties exist in New Zealand. However, the government has made new arrangements effective from 1 July 2013 that will allow retirement savings from certain Australian superannuation funds to be transferred to the New Zealand KiwiSaver funds, and vice versa. The agreement means that Australian and New Zealand residents who live in either country may qualify for a benefit or pension from both countries.

2.6 Manning issues with flying the New Zealand flag
The flying of New Zealand's flag brings with it New Zealand law, particularly employment law.
3. Corporate structure

3.1 Most commonly used legal structure for shipping activities
The legal structure for the majority of New Zealand operational shipping activities is the limited liability company. The current company tax rate is 28%. Where the company is owned by nonresidents, a specific regime applies to limit the total income tax and nonresident withholding tax to 28%.

3.2 Taxation of profit distribution
Income derived from carriage by sea in New Zealand is deemed to have a New Zealand source. Tax is levied on profit distribution in line with normal New Zealand company tax laws and depends on the status of the recipient of the distribution. In general, either resident or nonresident withholding tax applies, but this can be reduced.

Where a dividend is paid to a New Zealand resident recipient, resident withholding tax (RWT) is substantially reduced by “imputing dividends” (that is, attaching tax credits). As the RWT rate on dividends is still 33% despite the reduction in the company tax rate to 28%, the RWT cash flow cost (generally 5%) will remain in respect of dividends paid to a New Zealand resident recipient.

Where a dividend is paid to a non-New Zealand resident recipient, the foreign investor tax credit regime has been modified by a 0% nonresident withholding tax (NRWT) rate under domestic legislation. Broadly, fully imputed dividends paid to “nonportfolio” (that is, 10% or greater) shareholdings are now subject to 0% NRWT.

4. Grants and incentives

4.1 Specific and/or general subsidies available to shipping companies
No subsidies exist for shipping companies in New Zealand.

4.2 Investment incentives for shipping companies and the shipbuilding industry
The New Zealand industry is fully deregulated, so there are no direct incentives for shipping companies or the shipbuilding industry. However, there are a number of funding incentives for businesses in general, which are in place to assist companies with growth strategies.

4.3 Research and development
The 15% tax credit for research and development that was introduced in 2007 and applicable in the 2008–09 year has been repealed, effective from the 2009–10 year. As a result, expenditure on activities in the 2009–10 and subsequent income years will not be eligible for the tax credit.

4.4 Special incentives for environmental awareness
No such incentives exist in New Zealand.

4.5 Issues with flying the New Zealand flag
There are no issues connected with flying New Zealand’s flag in relation to grants or subsidies. The New Zealand government subsidizes other modes of transport, such as road and rail, either directly or indirectly, but the shipping industry receives no subsidies.

Labor and statutory compliance costs are high compared with other shipping nations. As a result, many may deem New Zealand to be less competitive than other nations with respect to the shipping industry.

4.6 Major changes in shipping subsidy legislation in the near future
No anticipated major changes have been reported, although the government may be examining possibilities to improve shipping in New Zealand. This may require the introduction of subsidies in order to stay competitive and attractive.
5. General information

5.1 Infrastructure

5.1.1 Major ports

The following are the largest ports in New Zealand, measured by the combined tonnage of exports passing through the port from largest to smallest.

<table>
<thead>
<tr>
<th>City in which port is located</th>
<th>Location of port</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tauranga</td>
<td>North Island</td>
</tr>
<tr>
<td>Lyttelton (Christchurch)</td>
<td>South Island</td>
</tr>
<tr>
<td>Auckland</td>
<td>North Island</td>
</tr>
<tr>
<td>Napier</td>
<td>North Island</td>
</tr>
<tr>
<td>Port Chalmers (Dunedin)</td>
<td>South Island</td>
</tr>
<tr>
<td>New Plymouth</td>
<td>North Island</td>
</tr>
<tr>
<td>Nelson</td>
<td>South Island</td>
</tr>
<tr>
<td>Whangarei</td>
<td>North Island</td>
</tr>
<tr>
<td>Wellington</td>
<td>North Island</td>
</tr>
</tbody>
</table>

5.1.2 Port facilities

The following facilities are available:

- Maintenance and repair
- Docking
- Storage including cold/dry storage, container and covered storage
- Cranes for every size of vessel (in most major ports)

5.1.3 Airports close to the major ports

Ports close to major airports include:

- Auckland (Auckland, Tauranga, Whangarei)
- Christchurch (Lyttelton)
- Dunedin (Port Chalmers)
- Nelson (Nelson)
- Wellington (Napier, New Plymouth, Wellington)

5.1.4 Support services for the shipping industry

The following support services for the shipping industry are easily available:

- Banks with a shipping desk
- Consulting firms specializing in shipping
- Maritime law services
- Insurance brokers for the shipping industry

5.1.5 Maritime education

- Bradley's Nautical School (Russell)
- Marlborough Maritime School (Picton)
- New Zealand Maritime School (Auckland)
- New Zealand School of Fisheries (Nelson)

Apart from the specialized maritime educational institutions listed above, there are also a number of other
maritime courses offered by various training institutions and polytechnics, as well as the Maritime Safety Authority of New Zealand.

5.2 Safety and environmental issues

5.2.1 Implementation of the International Safety Management Code on board vessels
The body responsible for ship safety management in New Zealand is the Maritime Safety Authority (MSA). Shipping companies have been required to be in compliance with the International Safety Management (ISM) Code since it was made mandatory on 1 July 1998. Any ships inspected in New Zealand and found without the necessary ISM documentation will be detained until they obtain the necessary documentation from their administration.

5.2.2 Safety rules regarding manning
New Zealand has strict requirements on employees’ safety, demonstrated by its impressive safety record. The health and safety of maritime employees is governed by the HSE Act. Health and safety for seafarers on New Zealand ships was previously covered by Part II of the Maritime Transport Act 1994.
Under the HSE Act, employers are responsible for the safety of those on board New Zealand ships. This means they are required to identify and control significant hazards, provide appropriate training and supervision and to involve employees in the development of health and safety procedures. Coverage now includes not only seafarers on New Zealand ships but all those who are on board on business - pilots, ships’ agents, stevedores, provedores, surveyors, contractors and so on.

5.2.3 Special regulations on safety and the environment
Ship Safety Management (SSM), introduced in New Zealand by the MSA, attempts to put ongoing safety measures in place to prevent maritime accidents to both vessels and crew. This is monitored by inspections and audits, with higher-risk vessels being inspected more often.
New Zealand has very strict environmental regulations to protect its diverse marine life. All ports in New Zealand emphasize the need for boats to discharge their ballast water in the deeper sea and not at port. Various marine service groups regularly test the water at ports to make sure there are no environmental hazards.

5.2.4 Maritime Security Act 2004
Increased concern about terrorism has seen the implementation of the Maritime Security Act 2004 (the Security Act). The Security Act attempts to protect ships against potential attacks and hijacking. The Security Act establishes a robust framework that will reduce the risk of security threats affecting the ships or port facilities. The instruments of the Security Act comply with the International Ship and Port Facility Security (ISPS) Code in the New Zealand context.

5.3 Registration

5.3.1 Registration requirements
The Ship Registration Act 1992 sets out the registration requirements in New Zealand. There are two classes of compulsory registration for New Zealand-owned ships:
1. Part A registration is for larger commercial vessels.
2. Part B is for pleasure vessels that need nationality for overseas voyaging.
For procedures, see section 5.3.2.

5.3.2 Ship registration procedure
Registration is performed through the New Zealand Register of Ships, which is located in Wellington. There are two types of registration, parts A and B as mentioned in section 5.3.1.
Part A registration
Registration is aimed at larger commercial vessels and provides evidence of title. It requires the following:
• Application for registration
• Appropriate fee (which varies depending on the length of the ship and whether a ship is secondhand or new)
• A builder’s certificate or a photocopy of a builder’s certificate if the ship has previously been registered in another country
• Evidence of all ownership changes from the builder to the present owner, or, if the ship has previously been registered in another country, evidence of all ownership changes from the last registered owner overseas to the present owner
• Declaration of ownership and nationality
• If applicable, a certified transcript of any previous overseas registration and evidence that the registration has been closed, e.g., a deletion certificate
• For ships over 24 meters in length, an international tonnage certificate (1969) and a New Zealand surveyor’s tonnage certificate prepared by a surveyor recognized by the MSA for this purpose
• For ships less than 24 meters register length, a surveyor’s certificate issued by a recognized surveyor
• Carving and marking note signed by a recognized surveyor (for commercial ships)
• If the owner does not reside in New Zealand or does not have a registered office in New Zealand, an appointment of a representative person and a fee of NZ$104.27 (US$86)
• For demise charter ships, a declaration by the charterer and a copy of the charter party

In addition, a surveyor’s fee will be charged for the measurement of the ship. A number of organizations around New Zealand are recognized by the MSA to undertake measurements of ships for part A registration. Depending on the circumstances of the case, a part A registration will take approximately 25 working days to complete. However, it does depend on the individual circumstances of each application.

Part B registration

Part B registration is aimed particularly at pleasure vessels that need nationality for overseas voyaging. It requires an appropriate fee and the following documentation:
• Application for registration; the original form must be lodged; it cannot be accepted by fax or email
• Evidence of closure of any previous overseas registration if applicable
• Fee of NZ$720 (US$594)

No measurement by a surveyor is required for part B registration. The ship’s overall length must be measured using the diagrams supplied by the registrar with the application form.

The approximate processing time for a part B registration is 10 working days.

5.3.3 Requirements for the officers and crew serving on vessels

Officers and crew must have the appropriate qualifications and be permitted to work in New Zealand.

5.3.4 International conventions regarding registration

Most major international conventions have been ratified by New Zealand.

5.3.5 Special requirements/rules relating to registration

A ship must be registered before it can be mortgaged.

5.4 General comments

For more information on the New Zealand shipping industry, visit the Ministry of Transport’s website at www.transport.govt.nz. The site includes a government review of the shipping industry, looking at how to increase New Zealand participation in shipping and maritime services. Alternatively, visit the MSA’s website at www.msa.govt.nz, which provides information on most areas of New Zealand shipping.

While the shipping industry in New Zealand has experienced little growth over the last 10 years, with increased support from the government it is expected to become more attractive. With appropriate incentives, the New Zealand shipping industry has significant opportunity for growth.
1. Tax

1.1 Tax facilities for shipping companies

Standard tax

Unless a Norwegian shipping company elects to be covered by the tonnage tax regime, it is subject to tax under the standard corporate income tax regime (i.e., profits are taxed at 27% as of 1 January 2014). The rate of depreciation of vessels under the standard tax regime is 14% according to the declining-balance method.

Tonnage tax

The main tax incentive is the tonnage tax system introduced in 1996, which made it possible to operate in Norway without being subject to normal corporate tax on operating income. Major amendments of the tonnage tax regime have been in effect since 1 January 2007, bringing the Norwegian system more in line with the European Union-based systems.

The Norwegian tonnage tax system provides a final exemption from tax on qualifying shipping income. Net financial income is subject to 27% tax.

A tonnage-taxed company may perform activities closely related to the operation of the company's qualifying ships, but as a rule, other business activities are not permitted by a company covered by the regime. Permitted activities and qualifying assets was expanded in of 2007 to include strategic and commercial management as well as day-to-day technical operations and maintenance for group-related companies outside the tonnage tax regime. This also includes activities in group-related foreign companies and controlled foreign corporations (CFCs).

The minimum requirement for assets is primarily ownership of a qualifying vessel or ownership of at least 3% in a company or chain of companies owning such a vessel. There is no required ratio of owned vessels to chartered-in vessels, and there are no restrictions on bareboat chartering out of vessels.

The definition of qualifying vessels covers primarily ships in international trade carrying passengers and/or cargo. In addition, Norway allows auxiliary ships, such as AHTS (anchor handling tug supply vessels), PSV (platform supply vessels) and seismic vessels. Special rules apply to tugs.

Also included are entrepreneurial vessels, such as intervention vessels, Inspection, Maintenance and Repair (IMR) vessels, crane vessels and cable- and pipe-laying vessels, among others. If entrepreneurial vessels are operated on the Norwegian continental shelf, only hiring out on bareboat charter terms is allowed. Only income from the bareboat charter will be tax exempt under the regime. The company operating the entrepreneurial vessel would be subject to 27% tax on its net income.

The regime provides for the calculation of a special tonnage tax for shipping companies engaged in ocean-going shipping business on the basis of the net registered tonnage of their vessels. The tonnage tax for each ship is deemed to be equal to the following flat rates for every 1,000 net tons and days of operation:

<table>
<thead>
<tr>
<th>Total net tonnage (NT)</th>
<th>Fixed tax per day per 1,000 net tons, € (US$)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 1,000</td>
<td>0</td>
</tr>
<tr>
<td>1,001 to 10,000</td>
<td>2.22 (2.91)</td>
</tr>
<tr>
<td>10,001 to 25,000</td>
<td>1.48 (1.94)</td>
</tr>
<tr>
<td>Over 25,000</td>
<td>0.74 (0.97)</td>
</tr>
<tr>
<td>Over 50,000</td>
<td>0.50</td>
</tr>
</tbody>
</table>
The rates may be reduced if certain environmental requirements are met.

Upon entering the tonnage tax regime, the difference between fair market values and tax values will be taxed at 27%.

Under the tonnage tax system, foreign investors in a Norwegian shipping company are not granted any special additional benefits. Norway generally levies a withholding tax of up to 25% of the dividends distributed, but this is usually reduced (15%-0%) in accordance with the relevant tax treaty. As of 2004, dividends distributed to companies within the European Union (EU) or European Economic Area (EEA) are not subject to withholding tax, provided they have sufficient substance.

The Norwegian tonnage tax system is a ring-fenced system. Thus, only qualifying assets can be owned and activities performed by the tonnage-taxed company. A breach of the requirements entails a compulsory exit. No tax will be levied upon exit, but the company will be subject to ordinary income tax (27%) in the year of exit and subsequent years.

As of 1 July 2005, flag requirements have been added as a qualification in line with the EU and EEA requirements. The Ministry of Finance has decided that the flag requirement is valid for the fiscal year 2013. Any flagging requirement for the fiscal year 2014 will likely be announced by the Ministry of Finance in November 2014.

A group requirement has been introduced as of 2009, implying that eligible companies belonging to the same group must make the same choice as to whether to claim tonnage tax. Furthermore, a lock-in period of 10 years was introduced as of 2007. If a company exits the regime before expiry of this 10-year period, this will entail a waiting period (i.e., a period when this company will be locked out) that corresponds to the remaining part of the 10-year period.

Foreign international shipping companies with Norwegian management

Individuals or companies resident outside Norway will, in principle, not be subject to tax in Norway on income that results from owning vessels in international traffic, even though the vessels are effectively managed from Norway. The same applies to drilling rigs and construction vessels operating internationally. However, in some cases the exemption does not apply, for example, when the nonresident is a resident of a country with which Norway has concluded a tax treaty that grants Norway the exclusive right to tax income from international shipping, or the nonresident has more than 34% Norwegian owners.

1.2 Tax facilities for seafarers

Seafarers, tax liable to Norway, may be entitled to a seafarer’s allowance on their income before tax is calculated if they are tax liable to Norway for at least 130 days in the fiscal year. The seafarer’s allowance is 30% of income earned on board, subject to a maximum of NOK80,000 (€9,520 and US$13,003).

There are two refund schemes for Norwegian seafarers.

1.3 Tax treaties and place of effective management

Norway has concluded double taxation treaties with the following countries: Albania, Argentina, Australia, Austria, Azerbaijan, Bangladesh, Barbados, Belgium, Benin, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, China, Croatia, Cyprus, Czech Republic, Denmark*, Egypt, Estonia, Faeroe Islands*, Finland*, France, Gambia, Georgia, Germany, Greece, Greenland, Guernsey, Hungary, Iceland*, India, Indonesia, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Kazakhstan, Kenya, Latvia, Lithuania, Luxembourg, Macedonia, Malawi, Malaysia, Malta, Mexico, Montenegro, Morocco, Nepal, Netherlands, Netherlands Antilles, New Zealand, Pakistan, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Senegal, Serbia Sierra Leone, Singapore, Slovak Republic, Slovenia, South Africa, South Korea (ROK), Spain, Sri Lanka, Sweden*, Switzerland, Tanzania, Thailand, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Kingdom, United States of America, Venezuela, Vietnam, Zambia and Zimbabwe.

*Nordic treaty

In addition, Norway has concluded special shipping treaties with the following countries: Argentina, China,
Greece, Hong Kong, Lebanon, New Zealand, South Africa and South Korea (ROK). To the extent that Norway has concluded general tax treaties with these countries, the general tax treaties will prevail.

Most treaties include a special article on shipping. Some treaties use the place of effective management as a basis for taxation of shipping. However, all new treaties are based on place of residence.

Norway’s tax treaties generally have an offshore article directed at shipping and service activities performed on the continental shelf.

1.4 Freight taxes
Norway does not levy freight taxes. It has concluded treaties that grant relief from foreign freight tax.

1.5 Special vessel registration benefits for the shipowner
There are no benefits with regard to taxation. The tonnage tax system applies to ships sailing under any flag. However, the system has an EU or EEA flag requirement that states that the group of companies has to maintain or increase the existing level of vessels flying an EU or EEA flag until 60% of the fleet meets the requirement.

1.6 Changes to tax law anticipated in the near future
The tonnage system has been in effect since January 1996. The system was adjusted in 2007, and further adjustments may be expected as experience is gained.

2. Human capital

2.1 Formalities for hiring personnel
The conditions that have to be met when hiring personnel depend on the individual’s job on board the vessel.

Formalities in general
All crew members must have:
- A medical certificate
- A discharge book
- A contract of employment with a shipping company
- A notification sent to the Maritime EE-register in Hamar, which records the relationship between employers and employees.
- Received approved basic safety training and have attended a special safety course (if required for that type of vessel)

Public muster is no longer required.

The crew members must have a written contract of employment with the shipping company. The shipping company should use the standard that has been drawn by the Norwegian Maritime Directorate, if permission has not been given by the directorate to use other contracts.

In some instances, there are registration requirements for statistical purposes.

All seafarers should have received approved basic safety training. The rules of the International Convention on Standards of Training, Certification & Watchkeeping for Seafarers (STCW) of the International Maritime Organization (IMO) are reflected in the Norwegian certificate rules.

On 20 August 2013, the Maritime Labour Convention (MLC) was implemented for Norwegian ships, bringing with it the requirement for MLC certificates on all Norwegian ships of 500 gross tons or more in overseas trade.

Certification requirements
Norwegian crew members must have the relevant Norwegian certificates for their respective positions. The certificates must fulfill the STCW standard. Before a certificate is issued, the crew member must have
obtained a relevant qualification and have the required length of service.

Persons holding non-Norwegian certificates must apply to the Norwegian Maritime Directorate for qualification documents. Approval is granted only if the certificate is issued by a country that has entered into a bilateral agreement regarding this. Agreements exist between Norway and Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, China, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, India, Indonesia, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malaysia, Malta, the Netherlands, New Zealand, Peru, the Philippines, Poland, Portugal, Romania, Russia, Serbia and Montenegro, Singapore, Slovakia, Slovenia, Spain, Sri Lanka, Sweden, Ukraine and the United Kingdom. Further, a unilateral agreement has been entered into with the United States.

The Norwegian Maritime Directorate will consider entering into agreements with countries other than the above where particular shipping companies document a stated desire to employ a reasonable number of seafarers. Such requests, with accompanying documentation, are to be made to the Norwegian Maritime Directorate.

Masters holding a non-Norwegian certificate must have knowledge of the laws of Norway before they can apply for qualification documents.

Safety courses

Crew members should have received the relevant safety training in, for example, oil, chemical and gas.

2.2 National labor law

Norway has two separate laws that regulate the working conditions for crew members. These are the Ship Labour Act of 21 June 2013 No. 102 and Act No. 9 of 16 February 2007, relating to hours of work on board the ship (Skipssikkerhetsloven). These acts meet the United Nations International Labour Organization (ILO) Convention 180 and EU directives on working hours on vessels, and are harmonized with the rules that apply within the EEA. On 1 January 2014, the Ship Labour Act (the Act) replaced the Seafarers Act from 1975. One of the main purposes of the new Act is to secure ship workers the same rights as other employees while at the same time taking into account the special considerations that apply to work at sea. The Act implements the MLC in Norwegian law.

The Act mainly applies to employees on Norwegian registered vessels. It does not apply to employees who only work on board vessels while the vessel is in harbour. Some parts of the Act, however, apply to employees on, for example, tourist ships.

The structure of The Act is more logical and modern, and the language has been made gender neutral; for instance, the term “seaman” is replaced by the gender neutral term “ship worker”.

The new Act strengthens employment protection for ship workers and to a large extent gives ship workers rights that are the same as or better than the rights that apply to employees working on shore.

2.3 Collective labor agreements

The description given in this chapter is for ships registered in the Norwegian International Ship Register (NIS).

In Norway, three collective labor agreements apply to Nordic seafarers (i.e., seafarers of Norway, Sweden and Denmark). The Norwegian Shipowners’ Association (NSA) has entered into collective labor agreements with:

- Norwegian Maritime Officers’ Association (Norsk Sjøoffisersforbund)
- Norwegian Seafarers’ Union (Norsk Sjømannsforbund)
- Norwegian Union of Marine Engineers (Norsk Maskinistforbund)

The shipping companies also have the possibility of using the labor agreements for vessels registered in the Norwegian Ordinary Ship Register (NOR). To some extent, this is done for offshore-service vessels.

In addition, the NSA has entered into collective bargaining agreements (CBAs) for seafarers serving on NIS
ships with maritime unions in China, Croatia, Estonia, India, Indonesia, Latin America (Caribbean and South America), Latvia, Lithuania, Pakistan, the Philippines, Poland, Ukraine, Romania and the Russian Federation. The CBAs for Latin America and Pakistan have not been renewed for many years and therefore cannot be considered fully valid.

All the agreements listed above cover wages and other working conditions, such as working hours, duration of service, vacation, repatriation, sickness and disability, and death benefits and war risk compensation. Thus, in some aspects, they are similar to the Total Crew Cost Concept (TCC) agreements of the International Transport Workers’ Federation (ITF). The agreements also include provisions on union subscriptions to Norwegian and local or national unions.

The agreements cover only NIS vessels whose owners, operators or managers have joined the NSA. Other owners, operators or managers of NIS vessels may make their own arrangements with the appropriate unions representing seafarers, or conclude individual employment contracts directly with the seafarers, without any reference to a collective bargaining agreement. Thus, these agreements may differ from the TCC agreements.

The NIS also allows individual employment agreements between seafarers and employers without any reference to a collective agreement or union approval. In such cases, deviation from the Act to the detriment of the employee is not permitted.

Norway is among the very few countries that ratified and agreed to abide by the ILO Convention 109 (1958). This convention has been replaced by the ILO Convention 180, which applies to the EEA countries and some other countries (e.g., Japan).

Without reference to any specific collective bargaining agreement, the basic principles are that seafarers from outside Norway may be hired under labor agreement standards in their countries of origin, but their wages have to meet ILO standards for sailors’ wages. For all practical purposes, a particular TCC standard applies for all ships in international ship registers (“flags of convenience”). ILO standards are accepted as sufficient standards for bona fide ship registers (not flag of convenience).

2.4 Treaties relating to social security contributions

In principle, the Norwegian National Insurance scheme applies only to Norwegian seafarers and foreign seafarers resident in Norway serving on Norwegian-flagged vessels. As regards non-Norwegian-flagged vessels, the National Insurance Scheme applies to seafarers resident in Norway and employed by a Norwegian shipping company.

The EEA treaty and EU Regulation 883/04 regarding social security provide that all EU citizens should be treated as Norwegians and be covered by the Norwegian public system.

Seafarers from EEA member states should be fully covered by the social security system in the register state if they do not have an employer in their home country. If they have an employer in their home country, they are covered by the national social security system.

Thus, an EEA citizen working on a Norwegian flagged vessel will, as the main rule, be covered by the Norwegian social security scheme. Seafarers, other than Norwegians working for a Norwegian company on an EEA-flagged, non-Norwegian-flagged vessel will, as the main rule, not be covered by the Norwegian social security scheme.

Seafarers from the EEA serving on NIS ships employed by a company from their home country are still covered by the national scheme of their home country.

Norway has entered into treaties with Poland, Latvia and Romania. The treaties are valid indefinitely, but will be in force at least to the end of 2014. Seafarers from these countries serving on NIS ships may be insured by their home country based on an application to the national health care authorities.

For EEA seafarers covered by the Norwegian scheme, the employer must pay social security contributions of 14.1% of the seafarer’s gross wages to the scheme, and the seafarers must pay 7.8% of their gross salary.
In addition, the employer must pay a contribution to the seafarer’s pension. Finally, for EEA seafarers, employers pay a premium in accordance with the Occupational Insurance Act. For seafarers from countries outside the EEA area and catering crews serving on cruise vessels, the social security liabilities are covered by the protection and indemnity (P&I) clubs. Special P&I protection is required for catering crew members who are citizens of an EEA country.

Seafarers from countries outside the EEA area and catering crews serving on cruise vessels (regardless of nationality) are not covered.

Norway has entered into bilateral social security treaties with countries outside the EEA. These countries are Australia, Canada, Chile, Israel, Switzerland, Turkey and the United States. The treaties have separate clauses for seafarers. As the main rule, the seafarers should be covered by the social security scheme in the flag state if the flag state is a part of the treaty. Most of the agreements have been entered into with countries that are not well represented on board Norwegian vessels.

3. Corporate structure

3.1 Most commonly used legal structures for shipping activities

Typical legal structures that can be utilized are:

- Joint stock companies
- General and limited partnerships

Due to the tonnage tax system, Norway has seen an increase in the use of joint stock companies.

The average tax rate payable by shipping companies depends on whether the company has entered into the tonnage tax system. Generally speaking, the tax rate has been, and will be, very low. See section 1.1.

3.2 Taxation of profit distribution

Norwegian individual investors and owners are subject to tax at a rate of 27% of the received dividend that exceeds a computed risk-free interest on the tax base cost of each share.

Dividends and capital gains from shares in companies resident within the EEA are generally tax exempt for corporate shareholders. However, the exemption does not apply to companies resident in a “low tax jurisdiction” within the EEA unless the subsidiary is actually established and performs genuine economic activity there (i.e., meets the “substance” requirement). Losses are not deductible. From 7 October 2008, the participation-exemption method was amended to state that 3% of the tax exempt income shall be considered taxable income subject to the ordinary corporate income tax rate of 27%. Thus, the effective tax rate under the exemption method will be 0.81% (i.e., 27% of 3%).

Dividends and capital gains from investments outside the EEA are only exempt if (1) the shareholding is at least 10% of the share capital of the foreign company, (2) the shareholding has been at least 10% for at least two years and (3) the foreign company is not considered resident in a low-tax country.

Effective from 1 January 2012, the 3% rule will no longer apply to the following situations:

- Capital gains derived from sale of shares or interests in limited liability companies, partnerships and other “qualifying companies”
- Intra-group distributions between group companies covered by Norwegian group contribution rules (i.e., more than 90% ownership), distributions from an EEA company equivalent to a Norwegian qualifying company (i.e., having sufficient substance) or distributions from a Norwegian company to a permanent establishment (PE) of a foreign company (90% ownership requirement)
- As of 1 January 2012, the 3% rule is introduced on distributions from partnerships (formerly tax exempt). Three percent of distributions from the partnerships will always be included as income in the hands of the corporate partner (i.e., the group exemption referred to above is not applicable).
Furthermore, the scope of the 3% rule has been broadened to cover distributions of dividends to foreign companies with PE in Norway (not exempt under the 90% ownership rule). Thus, the business will have the right to deduct expenses incurred in relation to the shares, etc., of the PE in Norway.

There is no withholding tax on dividends paid by resident companies to corporate shareholders resident within the EEA if the shareholder satisfies the “substance” requirement. Dividends paid to other nonresident shareholders are subject to withholding tax at a rate of 25%, unless a lower rate applies under a tax treaty (15%-0%).

No stamp duty or transfer taxes are imposed on the transfer of shares. There is no capital duty on contribution of capital.

4. Grants and incentives

4.1 Tax refund for Norwegian seafarers
Subject to certain criteria, there is a refund scheme for Norwegian seafarers on board vessels registered in the NOR and the NIS.

4.2 Investment incentives for shipping companies and the shipbuilding industry
The shipbuilding subsidy scheme is aligned with the new EU scheme.
Norway has a shipbuilding credit guarantee scheme aligned with the Organisation for Economic Co-operation and Development (OECD) arrangement. The scheme is operated by the state owned company Eksportkreditt on behalf of the Norwegian Ministry of Trade, Industry and Fisheries. The scheme applies to loans granted for the purpose of financing the construction or radical alteration of ships. Guaranteed loans of up to 85% of the approved contract price are given for the construction or alteration of ships.

4.3 Special incentives for environmental awareness
For companies that are subject to tonnage taxation, marginal reductions in tonnage tax may be granted if vessels fulfill certain environmental requirements.

4.4 Issues with flying the Norwegian flag
One possible issue with regard to flying the NIS flag is that the vessel may not carry cargo in domestic trade, or passengers between Norwegian ports and some EU ports (cabotage).

4.5 Major changes in shipping subsidy legislation anticipated in the near future
Norway follows the OECD rules. No major changes are expected in the near future.

5. General information

5.1 Infrastructure

5.1.1 Major ports
The major ports are:
- Bergen/Mongstad
- Fredrikstad (Borg)
- Mongstad
- Narvik
- Oslo
- Porsgrunn (Grenland)
- Haugesund
5.1.2 Port facilities
   The following facilities are available:
   - Cranes
   - Docking
   - Maintenance and repair
   - Storage

5.1.3 Airports close to the major ports
   - Evenes Airport (Narvik)
   - Flesland Airport (Mongstad and Bergen)
   - Gardermoen Airport (Oslo)
   - Torp Sandefjord Airport (Oslo, Porsgrunn)
   - Rygge (Oslo, Fredrikstad [Borg])
   - Haugesund (Haugesund)

5.1.4 Support services for the shipping industry
   The following support services for the shipping industry are readily available:
   - Banks with a shipping desk
   - Consulting firms specialized in shipping
   - Maritime law services
   - Insurance brokers for the shipping industry
   - Experienced ship managers and shipping companies

5.1.5 Maritime education
   There are four major nautical colleges in Norway:
   1. Hogskolen i Alesund, Alesund
   2. Hogskolen i Stord/Haugesund, Haugesund
   3. Hogskolen i Tromso, Tromso
   4. Hogskolen i Vestfold, Tonsberg
   The universities also offer specialized courses in maritime economics, engineering and logistics. In addition, there are several schools for nautical education at a lower level.

5.2 Safety and environmental issues

5.2.1 Implementation of the International Safety Management code on board vessels
   The International Safety Management (ISM) code is implemented by all shipowners.

5.2.2 Safety rules regarding manning
   The safety rules regarding manning are stringent. The Norwegian regulations of 18 June 2009, on the manning of merchant ships, apply to vessels registered in the NOR and the NIS (both described under section 5.3.1), which must have a manning certificate issued by the Norwegian Maritime Directorate.

5.2.3 International organizations
   Norway is a member of the IMO (elected member of the council) and the ILO. Norway has ratified most IMO and ILO conventions, protocols and amendments, which also apply to NIS vessels.

5.3 Registration

5.3.1 Registration requirements
   In Norway there are two ship registers: the NIS and the NOR.
   The NIS was established in 1987 for a twofold purpose: to offer a flexible and commercially attractive alternative to the open register, while retaining the essential features of quality registers. In several areas, the
administrative procedures were simplified compared with those governing the NOR.

Ships registered in the NIS may not carry cargo or passengers solely in domestic trade between Norwegian ports or engage in regular, scheduled passenger transport between Norwegian and foreign ports. Dispensations may be granted from this provision on a case-by-case basis. For the purpose of this register, oil and gas installations on the Norwegian continental shelf are regarded as Norwegian ports.

The main requirements regarding the manning of NIS vessels are as follows:

- The vessel must have a manning certificate issued by the Norwegian Maritime Directorate.
- There are no restrictions on the nationality of the crew, except that dispensation must be applied for if the master is not an EEA citizen.
- When a vessel transfers to the NIS, the shipowner may apply for a manning specification from the Norwegian Maritime Directorate. The Norwegian Maritime Directorate will take into consideration, for example, the technical standards of the vessel and the administrative and organizational arrangements.
- The NIS legislation allows employment of nonresident seafarers on local and national wages. Norway has ratified the ILO Convention 180. Seafarers from outside Norway may be hired in accordance with labor agreement standards in their countries of origin, but the requirements have to meet ILO standards.

5.3.2 Ship registration procedure

The registration procedure for NIS complies with the procedures of international ship registries (see www.nis-nor.no).

5.3.3 Parallel registration

Parallel registration is not permitted, due to the strict legal requirements.

5.3.4 Requirements for the officers and crew serving on vessels

In accordance with IMO’s STCW standards, both officers and crew serving on vessels registered in the NIS must hold Norwegian certificates or apply to the Norwegian Maritime Directorate for a qualification document on the basis of their non-Norwegian certificates. Approval is granted only if the certificate is issued by a country that has entered into a bilateral agreement regarding this. All seafarers should have received approved basic safety training.

5.3.5 International conventions regarding registration

Norway is a member of the IMO (an elected member of the council) and the ILO. Norway has ratified most IMO and ILO conventions, protocols and amendments that also apply to vessels registered in the NIS.

The Norwegian Shipowners’ Association (the Association) may also be consulted on NIS matters. The Association is a member of the International Shipping Federation (ISF) and the International Chamber of Shipping (ICS).

5.3.6 Special requirements and rules relating to registration

Vessels in the NIS are subject to public control by the Norwegian Maritime Directorate. For NIS vessels, the following classification organizations have been granted authority, on behalf of the government, to carry out inspections and to issue all certificates for cargo vessels above 500 gross tons:

- American Bureau of Shipping (ABS)
- Bureau Veritas (BV)
- Det Norske Veritas
- Germanischer Lloyds
- Lloyd’s Register of Shipping (LR)
- RINA S.p.A (RINA)
- Nippon Kaiji Kyokai (ClassNK)

Please note that while Det Norske Veritas and Germanischer Lloyds have merged into DNV GL AS, a common
set of rules for the two registries has not yet been implemented.

6. **Excise duty on emission of NOx (NOx duty)**

Vessels operating in and around Norway are at the outset subject to the NOx duty if they have propulsion machinery exceeding 750 kW. Only the owner of the vessels is required to register with the customs authorities, unless the owner is a foreign company, in which case the company must register with a representative based in Norway. For rigs, special provisions apply. The duty is incurred when emitting NOx, and the scope of the liability depends on the vessel's traffic pattern. The duty is calculated per kilogram NOx emitted, and the rate for 2014 is budgeted at NOK 17.33 per kilogram. The extent of the liability to pay the NOx duty depends on several factors, including the vessel's flag affiliation, where the liability is greater for vessels sailing under the Norwegian flag. The legal basis for charging the duty on foreign registered vessels outside Norwegian territorial waters is unknown, and the legality of this practice will likely be challenged in the future.
Panama

1. Tax

1.1 Tax facilities for shipping companies

The Panamanian tax system is based on the “territorial principle” whereby all income, from any source, derived within Panamanian territory is subject to income tax. Article 694 of the Panamanian Tax Code states:

“The object of this tax is any taxable income generated from any source, within the territory of the Republic of Panama, regardless of where the income is received. Taxpayer, as defined herein, is any legal entity or individual, domiciled or non-domiciled that receives taxable income.”

Pursuant to Article 9 of Executive Decree No. 170 of 1993, any income generated within Panama, irrespective of where it is received and the domicile or residence of the taxpayer, is subject to income tax. The corporate tax rate is 25%.

Income is deemed derived within the country when it is generated by civil, commercial, industrial, professional and similar activities and any type of services carried out within the Panamanian territory.

Article 694, paragraph 2 of the Fiscal Code indicates several types of activities which, even when they are carried out within the Panamanian territory, are not considered to generate Panamanian source income, and consequently, would not be subject to local taxation. Such activities, as noted in the Fiscal Code, include the following:

- “... a. Billing, from an office set up in Panama, sales of merchandise or products for an amount greater for which they were purchased, provided that said merchandise or products are transferred abroad
- b. Directing, from an office set up in Panama, transactions that take place or produce effects abroad
- c. Distributing dividends or participations of legal entities that do not require the Notice of Operation or do not produce taxable income in PA [Panama], when said dividends or participations derive from income not generated within the Panamanian Territory, including income derived from the activities mentioned in bullets “a.” and “b.” above ...

According to Article 694, paragraph 1-c of the Fiscal Code, income earned by companies engaged in international transport services, from freight, cargo, tickets and other services, is considered Panamanian source income (and consequently tax exempt) when Panama is the origin or final destination, regardless of the company's place of incorporation or domicile.

However, the said article provides that the following income is exempt:

- Income earned from freight, tickets and services provided to passengers or cargo that are in transit through Panama
- Income derived from maritime tickets and other services when they are obtained by an international company that operates cruise ships whose home port is located in Panama

Article 10 of Executive Decree 170 provides that income from the following activities is not considered Panamanian source income:

- Income generated by persons or corporations located overseas, receiving payment for goods or services financed, contracted or executed completely outside of the national territory, in favor of taxpayers, such as hotels, international vehicle lessors, repairs of naval and air vessels dedicated to international exploitation, freight or other charges made by shipping agencies on behalf of international naval line or international tourism operators, as well as any other international business activities

Taxpayers dedicated to these international businesses must certify the following before the Tax Administration:

- That the goods or services are of international origin, and for services, that these were provided fully overseas (payment or a contract is not sufficient proof of this condition)
- That the price paid for the good or service received by the taxpayer is reasonable in relation to the value
of the good or service rendered

- That the international business in question is conducted inside the Republic of Panama and that its client portfolio comprises at least 40% foreigners (an exception to this requirement is cargo of merchandise shipped to national territory)

Moreover, under Article 701 (m) of the Fiscal Code, companies engaged in international transport, referred to in Article 694, paragraph 1-c explained above, may apply as income tax credit the income tax paid abroad on income from freight, cargo, tickets and other services that are also considered taxable income in Panama. These credits may not be carried forward or returned to the taxpayer.

Nevertheless, under Article 701 (n) of the Fiscal Code, companies engaged in international maritime transport services may choose to consider 3% of their gross income from Panamanian source as net taxable income, or follow the general rules of the Fiscal Code. For that purpose, the gross income will be determined based on the kilometers or miles traveled within Panama from the outside and vice versa. It should be noted that the territory of Panama extends to a distance of 200 nautical miles out from its coastal baseline.

It should be noted that Article 701 (n) applies as an alternative method if the income of the international maritime transport services is not exempt. If the company is not considered a fiscal resident in Panama, the same percentage (3%) will apply to determine the taxable basis of the withholding tax.

**Exempt income**

Income earned from international maritime commerce carried out by merchant ships legally registered in Panama, even if the transportation contracts are signed in Panama, is exempt, except when Panama is the origin or final destination of the service.

According to Article 1057 (v) of the Fiscal Code, the following goods and services are exempt from value-added tax (VAT):

- Freight and transport of cargo by air, sea or land, as well transport of individuals by sea or land
- Loading, unloading or transfer within or between ports, logistics and auxiliary services provided to cargo in ports and in free trade zones or special economic areas, as well as repairs, maintenance and cleaning services provided within the territorial waters to ships in transit

Article 154 of the Fiscal Code indicates that, for all legal effects, it is understood that logistic services are those that seek to facilitate that goods in general arrive to the various clients, which includes transportation, distribution, storage, handling and repackaging of goods, information management, invoicing services, as well as logistics and foreign commerce advisory.

### 1.2 Tax facilities for seafarers

There are no special tax facilities for seafarers in Panama.

### 1.3 Tax treaties

Fourteen double tax treaties have been signed by Panama and are currently in effect with the following countries: Mexico, Spain, Barbados, Luxembourg, Qatar, Singapore, The Netherlands, France, South Korea, Portugal, Ireland, United Arab Emirates, the Czech Republic and the United Kingdom.

**Vessel agreements**

- United States: agreement to exempt from income tax, on a basis of reciprocity, income derived by residents of the other nation for the international exploitation of ships and aircraft
- Netherlands: treaty to avoid the double taxation for companies that operate ships or aircraft in international traffic
- Cyprus: agreement to exempt the income tax or any other tax on income received from the exploitation of ships on the basis of reciprocity

### 1.4 Freight taxes

Receipts obtained by international transportation companies that relate to freight, passengers, cargo and similar services between Panama and foreign countries or vice versa are considered Panamanian source
Companies engaged in transportation may choose to be taxed either on the basis of their ordinary income, or on the basis of considering 3% of gross freight received from the operations set out in the preceding paragraph as net taxable income. For the purpose of the latter option, gross freight income is calculated on the basis of how many miles or kilometers are covered within the territory of Panama.

In either of the above options, income tax will be assessed at the corporate tax rate of 25%. Operating cost and expenses can be deducted if the international transportation company chooses to be taxed on the basis of its ordinary income. If withholding tax applies, it is possible to file a Panamanian tax return for that revenue, so as to deduct expenses and obtain a credit or refund for part of the sums that have been paid as income tax. No deduction of expenses will be allowed if a company decides to apply the 3% gross freight rule.

1.5 **Special vessel registration benefits for the shipowner**

Depending on the ship's gross register tonnage (GRT) and age, shipowners may be entitled up to a 50% discount on regulatory and consular rates and up to a 30% annual tax. Shipowners may also be entitled to a 20% discount for registering 5 to 15 vessels, a 35% discount will be granted for registering 16 to 50 vessels, and a 60% discount for registering more than 50 vessels in Panama (Law 57 of 2008 and Resolution ADM 016-09).

Shipowners may also be entitled to additional discounts on regulatory and consular rates and on annual tax for ships that meet the requirements established by Resolution No. 106-136-DGMM of September 2013.

1.6 **Major changes to tax law anticipated in the near future**

None.

2. **Human capital**

2.1 **Formalities and regulations for employing personnel**

Shipping companies are free to choose crew and officers of any nationality.

In order to comply with the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), all crew members and officers have to be duly certified by the Panamanian Maritime Administration (the Administration). All enrollment contracts must be executed in writing by the shipowner or its representative and the crew member. A copy of the contract shall be annexed to the crew list.

2.2 **National labor law**

The Panamanian Maritime Labour Law and Executive Decree No. 41 of 22 February 2013, which regulates the Maritime Labour Convention of 2006 (applicable as of 27 February 2013), applies to a seafarer, crew member or sailor, meaning any person employed, hired or working in any position aboard a ship (Article 1 of Executive Decree No. 41 of 22 February 2013).

2.3 **Collective labor law**

The contract of employment or articles of agreement of the crew could be held for a limited term, an unlimited term or per trip.

This contract may be individual or collective, transcribed or attached to the role of crew, so that the whole crew appears duly.

The date of termination of the contract is determined by the type of contract:

1. For a limited term contract, the date in set forth therein.
2. For a contract for travel, the contract should include the port of destination and the time that must elapse after arrival to ensure that the person concerned can be licensed; if the contract is set for a specific trip,
the contract should end in the port of destination.

3. For unlimited term contracts, the contract should include conditions that will enable each party to finish it as well as the term of notice.

Minimum wage and other obliged payments

Before the entry into force of the Decree Law 8 of 26 February 1998, “which regulates work at sea and on waterways and enacting other provisions,” labor relations on board vessels of Panamanian registry were governed by the Labor Code of the Republic of Panama.

As of the entry into force of Decree Law 8 of 1998, all conflict and maritime labor is regulated by such provision provided that the parties may not agree in other labor legislation applicable to the case.

Neither the Labor Code nor Decree Law 8 of 1998 provides any rule on the salary rate for seafarers who work on ships under the Panamanian flag.

In the majority of cases, the following parameters are taken into consideration:

- Place of recruitment and agreed currency
- Nationality of the owner, shipper or charterer
- Agreement between the parties
- Manners and customs of maritime trade

The salary must be paid as of the day the crew member begins his or her service on board. However, if a crew member has to travel from the recruiting place to reach the vessel, the wage shall start counting as of the start of said trip. The salary will be determined either beginning at the start of the trip or on the date specified in the contract.

The salary will be paid in the currency agreed on in the contract of employment. The wages of the crew may only be paid after the following deductions and discounts have been applied:

- The payment of debts that a crew member acquires with the shipowner for advances of salary or excess payments, but under no circumstance shall deductions for this reason be above 15% of the wage earned in the corresponding payment period
- The payment of installments for the purchase of a home to the selling entity or a credit institution, or the amount to be paid as rent for his or her home, for up to 30% of the wage earned in the corresponding payment period
- Child support payments ruled and ordered by a competent authority
- Regular or special union fees to seafarers’ organizations
- The attachment or embargo on 15% of the excess above the non-attachable amount of the wage

Total deductions and deductions authorized in any case should not exceed 50% of the basic wage of the crew, except for family allowance (e.g., child support).

Rules regarding working hours

Ordinary hours of work must comprise a maximum of eight daily hours, with one weekly day of rest, and those days of rest that correspond to official holidays, without detriment to any other more favorable rules established by collective agreements.

Working hours in excess of the daily limits prescribed in the contract are deemed overtime hours for which the worker is entitled to compensation fixed by collective or individual contracts, which in no case will be less than the basic hourly wage rate increased by 25%.

The arrangement of national/health insurance

Professional risks are those accidents suffered by seafarers because of the work done on behalf of a shipowner.

The Republic of Panama shall provide all crew members who reside regularly in its territory and the persons under their care, access to protection in matters of social security, pursuant to the national laws and regulations in force.
Every foreign individual working for a company established in Panama is subject to social security withholdings and educational insurance tax withholdings. These payments are shared between the employer and employee, and remitted by the employer on a monthly basis to the appropriate office.

- Employees pay 9.75% of their salaries for social security and 1.25% for educational tax.
- Employers contribute 12.25% of the salaries paid to the employees for social security and 1.5% for educational tax. In addition, employers pay workers’ compensation insurance at a rate that ranges from 0.98% to 5.6% of the salaries, depending on the type of business in which the employer is engaged.

Social security and educational taxes are levied on salaries and on most other remuneration paid to employees. No ceiling applies to the amount of remuneration subject to these taxes. Remuneration subject to social security includes all compensation, whether monetary or non-monetary, and benefits in-kind given to or provided for an employee or family member.

**Medical care**

Medical care onboard Panamanian-flagged vessels and ashore offered by shipowners to the crew must include:

- The supply of necessary medicines, as well as the necessary medical equipment and services for the diagnosis and treatment as well as all medical information and advice
- The right to visit, without delay, a qualified doctor or dentist on ports of call, when feasible
- Health promotion and sanitary education programs, as preventive measures
- Hospitalization services when necessary

### 2.4 Treaties regarding social security contributions

No treaties providing relief from social security contributions have been concluded.

### 2.5 Advantages and disadvantages of flying the Panamanian flag

The procedure for registration of vessels under the Panamanian flag is very simple and straightforward. The general advantages include:

- Any person, natural or legal, regardless of nationality and place of origin, is eligible to register ships under the Panamanian flag.
- The registration procedure allows the registration of a ship in a period of eight hours, provided that the ship complies with all the requirements.
- Panama has a reliable system of naval mortgages that have the support of national and international banking.
- Panama offices operate 24 hours a day to accommodate Asian and European customers despite the time difference.
- Panama has strategic representation in 60 countries through the merchant navy consulates.
- Panama has a high-quality system.
- Panama is in strict compliance with the international conventions on maritime safety, the International GNSS Service (IGS), STCW 78/95 and others.
- Panama permits exemption from taxes on gains from the activity undertaken.
- Resolution ADM 016-09 of the Panamanian Maritime Authority provides discounts over the annual tax, consular rate and regulatory rates depending on the age and capacity of the vessel. Also, discounts per number of ships are granted by Law 57 of 2008 (see section 1.5, Special vessel registration benefits for the shipowner). Shipowners may also be entitled to additional discounts provided by Resolution No. 106-136-DGMM of September 2013.
- Ship builders and operators of ships under the Panamanian flag have access to the system referred to in the law of corporations.
- There are no minimum tonnage requirements; however, ships older than 20 years will have to pass a
special inspection by a Panamanian authorized inspector to obtain a statutory patent.

- The owners of vessels who wish to transfer to the Panamanian flag will not be re-inspected if the ships possess a certificate of security and valid tonnage issued by a recognized organization or society. However, at the time of registration, a recognized entity shall issue new certificates on behalf of the Panamanian Administration.

Since 1977, the representative office of the Panamanian Maritime Authority in New York has provided assistance and advice in technical matters relating to the Panamanian registry and security to all users with promptness and efficiency.

3. Corporate structure

3.1 Most commonly used legal structure(s) for shipping activities

Shipping activities are generally carried out through a corporation or limited liability partnership. Both vehicles provide limited responsibility and are in principle opaque (subject to tax) for Panamanian tax purposes.

Income tax liability will be assessed at a flat 25% rate on the net taxable income (difference or balance that results upon deducting from gross income or general earnings the foreign and exempted income, and deductible expenditures, costs and expenses). Taxable income and revenue includes all income derived from business activities in Panama less expenses incurred wholly and exclusively in the production of assessable income or the conservation of its source.

Taxpayers with annual taxable income greater than US$1.5m are required by law to calculate the tax using two methods and pay the higher of the amounts calculated under these methods. This calculation must be included in their annual income tax return. The following are the two methods:

- Applying the corresponding tax rate to net taxable income
- Applying the corresponding tax rate to 4.67% of total income (CAIR)

However, if a taxpayer applies the alternative method and the payment of taxes results in a loss or if the taxpayer’s effective tax rate exceeds 25% for the respective fiscal year, the taxpayer may submit a waiver request for the application of CAIR for a period of up to three years.

3.2 Taxation of profit distribution

Dividends distributed from earnings arising out of Panamanian source income are taxable at the rate of 10% for dividends derived from nominal registered shares and 20% for dividends derived from bearer shares. This withholding tax applies regardless of whether the dividends are paid to legal entities or individuals, resident or nonresident. When dividends are distributed from earnings arising from non-Panamanian source income, the applicable withholding rate is 5%.

If a corporation does not distribute dividends in a given period, or if the amount distributed is less than 40% of the period’s net taxable income less income tax paid thereon, the difference is subject to a deemed dividend tax of 4% (2% if the earnings derive from non-Panamanian source income). The deemed dividend tax paid in a given period can be used as a credit to offset actual dividend withholding taxes due in subsequent periods.

For companies operating in Panama that require a Notice of Operations or that generate Panamanian source income, the rate of 5% applies to dividends distributed from:

- Foreign source income
- Export operations
- Panamanian source income exempt from income tax, as listed in literals f and I of Article 708 of the Tax Code
4. Grants and incentives

4.1 Specific and/or general subsidies available to shipping companies
No subsidies or special incentives are available.

4.2 Investment incentives for shipping companies and the shipbuilding industry
No investment incentives are available.

4.3 Special incentives for environmental awareness
There are no special incentives for environmental awareness in Panama.

4.4 Advantages and disadvantages of flying the Panamanian flag
With the largest registration of ships at the global level, the Panamanian registry offers many advantages, which can be of considerable interest to the shipowners who wish to register their vessels under the flag of Panama.

Competitive costs
The costs of registering a ship in Panama are considerably lower than in other jurisdictions.

No minimum tonnage requirement
There is no minimum tonnage required for the registration of a vessel in Panama.

All nationalities accepted
There are no restrictions regarding nationality, which means that any person or company may register a vessel under the Panamanian flag.

Dual registration is possible
Vessels registered under the Panamanian flag that are under charter to a company incorporated in another country may also be simultaneously registered in that country.

Advantage of a preliminary registration of title and mortgage
Preliminary registration of title and mortgage is easily accepted by US, European and worldwide banks as providing satisfactory security.

Major class survey societies accepted
All major class societies and members of the International Association of Classification Societies Ltd. (IACS) are authorized by Panama to survey Panamanian vessels.

Tax advantages
Income derived by vessels engaged in international trade is not taxed by the Republic of Panama, except for the freight whose final destination or origin is a Panamanian port.

Vessels under construction can obtain provisional registration
Vessels under construction may also apply for provisional registration and radio call letters.

Advantages for pleasure vessels (yachts, boats, sailing vessels)
There is a sole enrollment charge of US$1,500 for yachts; however, if the yacht is owned by a Panamanian natural citizen, Panamanian company or a Panama foundation, this charge is US$1,000.

4.5 Major changes in shipping subsidy legislation anticipated in the near future
None.

5. General information

5.1 Infrastructure
The shipping industry is considered very important to the Panamanian economy; since 1994, Panama has been the world’s leading register of ships.

5.1.1 Major ports
The geographical location of Panama means that it has ports in both the Pacific and Atlantic oceans, which are separated by land by a distance of approximately 75 kilometers, and linked by the Panama Canal. This makes them an important crossing point between the most important shipping routes.

Panama is on its way to becoming the main center of transshipment of containers in Latin America and the Caribbean, specifically in the area of Coco Solo North, which is experiencing a sustained and growing port development.

During the past 10 years, the evolution of port activities has presented its highest level of growth and development. This fast expansion is projected with the privatization of major port terminals and the construction of new terminals, and is reflected primarily in the number of ships berthed and the containerized cargo volume reached in recent years.

Therefore, the Manzanillo International Terminal, Colon Container Terminal and Cristobal are the main ports of Latin America.

Panamanian maritime access
The port system of Panama comprises 26 ports of which 19 are administered by the Panamanian Maritime Authority through the General Directorate of ports and maritime auxiliary industries, mainly small ports that provide service to international transport and cabotage. The remaining seven ports are managed and operated by private companies under the control of this General Directorate, through the captaincies of ports located in the Atlantic and the Pacific.

The ports are classified into three categories according to the nature of their operations:
- Specialized ports
- Port complexes
- General cargo ports

Currently, the terminal ports – Balboa on the Pacific side and Cristobal on the Atlantic – are under the administration of Panama Ports Company, a member of the group Hutchison Port Holding (HPH).

Several newer ports are under the operation and administration of private enterprise:
- Since 1997, CCT, an affiliate of the Evergreen Group, has operated Colon Container Terminal, located on the Atlantic side at the Manzanillo Bay, Coco Solo North, City of Colon.
- Petroterminales de Panama (PTP) is the administrator-operator of the ports of Charco Azul in Chiriquí and Chiriqui Grande, Bocas del Toro.
- Since 1994, MIT, a wholly owned subsidiary of Stevedoring Services of America (SSA), has operated Manzanillo International Terminal, located at the Manzanillo Bay, Coco Solo North, City of Colon.

Another important terminal on the Atlantic side is Colon Port Terminal, at Coco Solo South, City of Colon. The terminal was granted in concession to a Panamanian corporation in 1997.

5.1.2 Port facilities
- Maintenance and repair facilities
- Docking facilities
- Storage facilities
- Cranes for every size of vessel

5.1.3 Airports close to the major ports
Airports are located in the Colon Free Zone, approximately 5 to 10 kilometers from the major ports on the Atlantic side, and in Tocumen, approximately 30 kilometers from the ports on the Pacific side.

5.1.4 Support services for the shipping industry
• Banks with a shipping desk
• Consulting firms specialized in shipping
• Maritime law services
• Insurance brokers for the shipping industry

5.1.5 Maritime education
The major maritime educational institution in Panama is the Universidad Marítima Internacional de Panamá (Panamanian International Maritime University).

5.2 Safety and environmental issues
5.2.1 Implementation of the International Safety Management Code
Compliance with the International Safety Management (ISM) Code is mandatory for companies operating large vessels in international trade.

Under the ISM Code, a company must be declared to the Administration. In accordance with Section 1.1.2 of IMO Resolution A.741 (18) of the ISM Code, “a Company means the Owners of a ship or any organization or person such as the Manager, or the Bareboat Charters, who has assumed the responsibility for operation of the ship from the ship Owners and who on assuming such responsibility has agreed to take over all the duties and responsibility imposed by the Code.”

In order to comply with the international technical certificates, the following organizations have been entrusted with the survey of ships and issuance of relevant convention certificates on behalf of the Republic of Panama:

1. American Bureau of Shipping
2. Bureau Veritas
3. China Corporation Register of Shipping
4. China Classification Society
5. Det Norske Veritas
6. Germanischer Lloyd
7. Global Shipping Bureau
8. Hellenic Register of Shipping
9. Indian Register of Shipping
10. Intermaritime Certification Services, SA
11. International Maritime Register (Panama), Inc.
12. International Naval Survey Bureau (INSB)
13. International Register of Shipping (Panama), Inc.
14. Isthmus Bureau of Shipping
15. Korean Register of Shipping
16. Lloyd's Register of Shipping
17. Macosnar Corporation
18. National Shipping Adjuster, Inc.
19. Nippon Kaiji Kyokai
20. Overseas Marine Certification Service, Inc.
21. Panama Bureau of Shipping
22. Panama Register Corporation
23. Panama Marine Survey & Certification Services, Inc.
24. Panama Maritime Documentation Services, Inc.
25. Panama Shipping Registrar, Inc.
26. Phoenix Register of Shipping, SA
Each recognized organization (RO) is authorized to carry out surveys and to issue specific technical certificates according to the national and international regulations adopted by Panama. ROs’ specific technical certificates authorization list is available in this office at the owner's or operator's request.

5.2.2 Safety rules regarding manning

Strict reference is made to Chapter V, Regulation 13 of the Solas Convention, which mandates that each contracting government undertakes to maintain and, if necessary, to adopt measures for the purpose of ensuring that, from the point of view of safety of life at sea, all ships shall be sufficiently and efficiently manned.

Resolution 614-308-ALCN dated 31 December 1982 established the minimum safe manning required on board vessels of over 200 GRT.

Certificated survival craftsmen: every passenger vessel and every cargo vessel of 500 GRT and above shall carry a sufficient number of certificated survival craftsmen as determined by the Administration. The allocation of the survival craftsmen to each survival craft remains within the discretion of the Master.

<table>
<thead>
<tr>
<th>Prescribed complement of lifeboat</th>
<th>Minimum number of certificated survival craftsmen</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fewer than 41 persons</td>
<td>2</td>
</tr>
<tr>
<td>From 41 to 61 persons</td>
<td>3</td>
</tr>
<tr>
<td>From 62 to 85 persons</td>
<td>4</td>
</tr>
<tr>
<td>More than 85 persons</td>
<td>5</td>
</tr>
</tbody>
</table>

The survival craftsmen must hold certificates of proficiency issued under the authority of an accepted administration. Also, examiners have been designated to examine the efficiency and competence of lifeboatmen on Panamanian vessels. These examiners follow the US Coast Guard requirements.

Resolution A-481 (XII) on “Principles of Safe Manining” adopted by the IMO Assembly – Twelfth Session urges all members of the organization to institute the “Minimum Safe Manning Certificate.”

Based on the aforementioned, the Republic of Panama has instituted a Minimum Safe Manning Certificate for vessels registered under its flag, which should be on board every passenger and cargo vessel of more than 200 GRT.

5.2.3 Special regulations on safety and the environment


5.3 Registration

5.3.1 Registration requirements

The procedure for registration of vessels under the Panamanian flag is very simple and straightforward.

Conditions:

- The owner of the vessel may be an individual or entity, either Panamanian or foreign, domiciled in Panama or elsewhere.
- There is no minimum tonnage requirement or age requirement.
- Vessels built more than 20 years before registering under the Panamanian flag must undergo an inspection. Vessels that may be registered under the Panamanian flag include crafts intended for transportation of passengers and cargo, pontoons, dredges, floating docks or other hulls made of wood, cement, iron, steel or mixed materials or other objects that are used or may be used in maritime commerce.
- It is possible to register a vessel that is under construction.
- It is possible to obtain a special type of registration for vessels on account of scrapping, delivery voyage or any other purpose of a provisional nature.
- It is possible to have dual registration of vessels, under certain circumstances, whereby a vessel registered under the Panamanian flag will be allowed to fly another flag as a special registry on account of a charter party arrangement. The opposite is also permissible.

Required documents:

- Power of attorney from owner to person requesting registration, authenticated, legalized and enabled. Notice of name proposed for the vessel and property title of the ship properly registered in the public registry.
- Appointment of a resident agent (legal representative in Panama).
- Tax clearance certificate of the ship.
- Certificate of tonnage or tonnage issued by an authority recognized by Panama and its confirmation by the office in New York.
- Evidence of title of ownership, which takes one of the following forms: builder’s certificate for a newly constructed vessel; original bill of sale, certificate of the title deed or a certified copy of the previous certificate of registry showing the owner.
- Certification of cancellation or deletion certificate.
- Certificate of construction (if new).
- Technician certificates carried by the vessel in accordance with international conventions.
- Application for radio license.
- When vessels are engaging in maritime auxiliary services for boats, procurement of supplies to ships and transport of fuel for supply ships, and their owner or bareboat charterer is a legal entity, they must prove that the percentage of the shareholders or beneficial owners of the corporation, of the shares belonging to Panamanians, is not less than 75% of the total issued and outstanding shares or participation shares. If the owner of these kinds of vessels (with one of these activities) is a naturalized person, he or she must have Panamanian nationality (an additional requirement per Law 41 of 2013, which amended Law 57 of 2008).

Ship building companies located in the Republic of Panama shall be exempt from the provisions of this article regarding the specifications required by the Maritime Authority of Panama for auxiliary maritime services.

Maritime auxiliary services are defined as (article 168 amended by Law 41 of 2013): services corresponding to maritime transport, loading services, the ship, crew, passengers or maritime or port facilities.

5.3.2 Ship registration procedure

The procedure for registering ships under the Panamanian flag may start with the application for a provisional registration through a legal representative (qualified in Panama) or in the Panamanian consulates accredited abroad, for which the required information should be filed along with the
The provisional registration may be obtained in two days after the application. It will be necessary to provide complete information about the vessel and to pay the government taxes. Once the provisional registration is obtained, the registrant has six months to present all the original documents in order to obtain the permanent registration.

Once all the documents and payment of the corresponding rights have been received, a provisional six-month patent from either the authorized consulate or the main office in Panama, and a provisional radio license for three months, will be issued. The entire procedure takes approximately one business day.

The regulatory patent and the radio license are issued only in Panama, for a four-year term. The patent is awarded once all documents have been submitted and delivered and the title of the ship has been duly registered in the public registry. The radio license is issued when the applicant has duly completed the application of the communication equipment that the ship will have on board, and has complied with the Global Maritime Distress Safety System (GMDSS).

A shipowner who does not provide any of the documents referred to in the provisional register may request a period of grace of six months through a legal representative.

All vessels may be registered at a Panamanian consulate or directly at the Shipping Bureau in Panama. The registration process begins with an application for registration. The following information is required to complete the application for provisional registration:

- Present name of the vessel
- Previous name of the vessel (if applicable)
- Type of vessel
- Name, nationality and full address of the owner
- Previous country of registration, if applicable
- Net and gross tonnage in accordance with 1969 International Tonnage Convention, if applicable
- Principal dimensions of the vessel, in accordance with 1969 International Tonnage Certificate, if applicable
- Number of decks, masts, funnels and bridges
- Type and number of engines and cylinders with an indication of their length and diameter, as well as the name and full address of the engine manufacturers, and year of manufacture
- Speed of the vessel
- Nature of service or traffic to be rendered by the vessel
- Name and address of the builder of the vessel, place and year of construction and material out of which the hull was built
- Name and full address of the party responsible for the radio station
- Vessel's legal representative in Panama
- Name of the classification society that will issue technical certificates
- Horsepower
- Information about the radio and equipment
- Areas of navigation

The following documents required for obtaining the permanent registration are to be filed within six months after the issuance of the provisional registration and authenticated by a Panamanian consul or by Apostille:

- Proof of ownership (bill of sale or building certificate)
- Power of attorney on behalf of firm for registering the vessel
- Deletion certificate or cancellation of previous registry (not required for new vessels)

Expenses and fees payable to the Panamanian authorities in connection with the registration of vessels under the Panamanian flag and annual current charges are:
Annual tax at the rate of US$0.10 per net tonne or part thereof

The annual charge for investigation of accidents and participation in international conferences and treaties, including tankers, drilling rigs, vessels engaged in the transportation of passengers, gas carriers and vessels engaged in the transportation of chemical products is: US$850.

<table>
<thead>
<tr>
<th>Fee for other vessels not specified above:</th>
<th>US$</th>
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<tbody>
<tr>
<td>With a GRT of up to 500</td>
<td>300</td>
</tr>
<tr>
<td>GRT between 500 and 10,000</td>
<td>400</td>
</tr>
<tr>
<td>GRT over 10,000</td>
<td>500</td>
</tr>
</tbody>
</table>

In addition, all vessels listed above shall pay US$0.03 per net registered tonne or part thereof. Vessels exempted from the application of the above-mentioned charge include pleasure or private use vessels and those without self-propulsion, other than drilling rigs.

Annual service rate

Vessel engaged in commercial activities, such as general cargo, passenger trade, fishing in the high seas, drilling rigs, tug boats, dredgers:

<table>
<thead>
<tr>
<th>GR T</th>
<th>US$</th>
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<tbody>
<tr>
<td>up to 1,000</td>
<td>1,200</td>
</tr>
<tr>
<td>between 1,000 and 3,000</td>
<td>1,800</td>
</tr>
<tr>
<td>between 3,000 and 5,000</td>
<td>2,000</td>
</tr>
<tr>
<td>between 5,000 and 15,000</td>
<td>2,700</td>
</tr>
<tr>
<td>over 15,000</td>
<td>3,000</td>
</tr>
</tbody>
</table>

Vessel without self-propulsion, and those engaged in scientific research, supply, exploration, floating dry docks, submarines, crew boats or in any other activity that is non-profit or that does not constitute trade:

<table>
<thead>
<tr>
<th>GR T</th>
<th>US$</th>
</tr>
</thead>
<tbody>
<tr>
<td>up to 500</td>
<td>850</td>
</tr>
<tr>
<td>between 500 and 1,000</td>
<td>1,400</td>
</tr>
<tr>
<td>over 1,000</td>
<td>1,800</td>
</tr>
</tbody>
</table>

Annual inspection charges

<table>
<thead>
<tr>
<th>Passenger vessel</th>
<th>US$</th>
</tr>
</thead>
<tbody>
<tr>
<td>up to 1,600</td>
<td>900</td>
</tr>
<tr>
<td>over 1,600</td>
<td>1,800</td>
</tr>
</tbody>
</table>
Special charges for pleasure vessels

Owners of pleasure vessels or those for private use pay a sole registry charge of US$1,500 or US$1,000 if the owner is of Panamanian nationality. The fee must be paid every two years to allow the renewal of the corresponding navigation and ratio license. The above-mentioned charge excludes the payment of any other recurrent annual charge.

Dual registry

Owners of dual registry vessels pay an annual charge of US$150, plus US$0.20 per net tonne or part thereof.

Title registration

There is no charge for the registration of titles.

Special discounts

Pursuant to Decree No. 39 of 1987 and Law 57 of 2008, the Shipping Bureau may authorize a discount on the registration charges for a vessel to be registered under the Panamanian flag where significant tonnage is being transferred. A special application for the discount must be filed with the Shipping Bureau prior to registration.

The Panamanian Maritime Authority, in order to maintain the competitiveness of the Panama Registry, has issued Resolution No. 106-136-DGMM dated 10 September 2013 (the “Competitiveness Resolution”) whereby new discounts on registration fees and annual consular fees are established for all newly built vessels and for all other vessels with more than 10,000 GT and less than 15 years in age that are registered by 31 December 2013.

The General Directorate of the Merchant Marine has mentioned that the validity term of these new incentives will be extended by one year.

Discounts established in the Competitiveness Resolution will apply in addition to discounts already established by the General Merchant Marine Law No. 57 of 2008.

5.3.3 Parallel registration

According to Law 57 of 2008, a foreign vessel, subject to a bareboat charter, could be registered in Panama without losing its previous registration, but only if the home jurisdiction has similar provisions allowing dual registration.

5.3.4 Requirements for officers and crew serving on vessels

Certification of seafarers

<table>
<thead>
<tr>
<th>Tankers and cargo vessels</th>
<th>US$</th>
</tr>
</thead>
<tbody>
<tr>
<td>GRT up to 500</td>
<td>500</td>
</tr>
<tr>
<td>GRT between 500 and 1,600</td>
<td>750</td>
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</tr>
<tr>
<td>GRT over 15,000</td>
<td>1,200</td>
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<table>
<thead>
<tr>
<th>Drilling rigs</th>
<th>US$</th>
</tr>
</thead>
<tbody>
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<td>500</td>
</tr>
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</tr>
</tbody>
</table>
In order to comply with the International Convention on STCW, the Administration has taken the relevant action regarding the proper examination of the crew on board all ships registered under the Panamanian flag. The Administration and Panamanian consulates all over the world are authorized to issue the aforementioned certificates to any seafarer who applies for a certificate, whether or not he or she is employed to work on a vessel registered under the Panamanian flag.

Procedure
An application form must be filed with the Technical Department of the Shipping Bureau or with the Panamanian consulates. The application must be lodged with the following documents:

- Officer's Certificate of Competence:
- A letter of recommendation from the company where the applicant is or was employed
- This document should be duly certified by a Panamanian consul
- Seafarer's register (special form to be used):
  - For new applicants: evidence of activities performed during the last five years
  - For renewals or promotions: evidence of activities performed during the last two years
- A copy of the page of the identity card or passport with the applicant's general data; for renewals or promotions, the relevant provisional certificate
- Medical certificate (special form supplied on request), duly certified by a Panamanian consul
- Eight color photos, each 3cm², each bearing the name of the applicant on the back

Seafarer's Certificate:

- The same documents as for the officer's certificate
- Criminal record check
- Any certificates or titles of competency – a Panamanian consul should duly certify the originals and copies of such documents

It should be noted that there is a system to validate Certificates of Competency or Seafarer's Certificates issued by third parties. Countries that qualify are: Argentina, Australia, Brazil, Belgium, Canada, Colombia, Croatia, Cuba, Czech Republic, Chile, Denmark, Ecuador, the Russian Federation, Slovenia, Spain, Finland, France, Greece, the Netherlands, India, Ireland, Israel, Italy, Japan, Mexico, Norway, New Zealand, Pakistan, Peru, Poland, Portugal, the Republic of Korea, Germany, the People's Republic of China, Sweden, South Africa, Taiwan, Ukraine, the United Kingdom, the United States, Uruguay and Venezuela.

5.3.5 International conventions regarding registration
Technical certificates required by international conventions:

- Passenger Ship Safety Certificate
- Cargo Ship Safety Construction Certificate
- Cargo Ship Safety Equipment Certificate
- Cargo Ship Safety Radiotelegraphy Certificate
- Cargo Ship Safety Radiotelephony Certificate
- International Loadline Certificate
- Minimum Manning Certificate
- Classification Certificate

5.3.6 Special requirements and rules relating to registration
Duties have to be paid in order to register the ship.

5.4 General comments
None.
Philippines

1. Tax

1.1 Tax facilities for shipping companies

Shipping income

Pursuant to Republic Act (RA) No. 9301 (approved on 27 July 2004) amending RA No. 7471, otherwise known as the Philippine Overseas Shipping Development Act, a Philippine shipping enterprise is exempt from payment of income tax on income derived from Philippine overseas shipping for a period of 10 years from the date of approval of RA No. 9301 or until 27 July 2014, provided that:

- The entire net income, after deduction of not more than 15% thereof for distribution of profits or declaration of dividends, is reinvested in the construction, purchase or acquisition of vessels and related equipment and/or in the improvement or modernization of vessels and related equipment.
- The cumulative amount so reinvested shall not be withdrawn for a period of seven years after the expiration of the period of income tax exemption or until the vessel or related equipment so acquired has been paid for in full, whichever date comes earlier.

Any amount not so invested or withdrawn prior to the expiration of the period stipulated above shall be subject to the corresponding corporate income tax of 30%, including penalties, surcharges and interests.

“Philippine shipping enterprise” means a citizen of the Philippines or an association or corporation organized under the laws of the Philippines, at least 60% of the capital of which is owned by citizens of the Philippines and engaged exclusively in Philippine overseas shipping.

“Philippine overseas shipping” means the operation of a Philippine shipping enterprise in the overseas trade of any type of Philippine-registered ship for any kind of shipping operation, which shall include, but shall not be limited to, the transport of goods and/or passengers, the purchase of ships for operation and the sale of ships after operation, except when the ship is operated solely between ports in the Philippines.

On the other hand, an international carrier doing business in the Philippines pays tax at a rate of 2.5% on its gross Philippine billings. “Gross Philippine billings” means gross revenue, whether for the transportation of passengers, cargo or mail originating from the Philippines up to the final destination, regardless of the place of sale or payment of the passage or freight documents (Section 28 [A] [3] [b] of the National Internal Revenue Code [NIRC], as amended by RA No. 10378).

However, international carriers doing business in the Philippines may avail of reduced tax rates under applicable tax treaties or exemption on the basis of reciprocity (Section 28 [A] [3] [b] of the NIRC, as amended by RA No. 10378).

Existing tax treaties entered into by the Philippine government allow residents of certain countries to avail of reduced tax rates on their gross Philippine billings as low as 1.5%.

At present, tax treaties with the following 38 countries are in force in the Philippines:

Australia, Austria, Bahrain, Bangladesh, Belgium, Brazil, Canada, China, Czech Republic, Denmark, Finland, France, Germany, Hungary, India, Indonesia, Israel, Italy, Japan, Kuwait, Malaysia, Netherlands, New Zealand, Norway, Pakistan, Poland, Romania, Russian Federation, Singapore, South Korea (ROK), Spain, Sweden, Switzerland, Thailand, United Arab Emirates, United Kingdom, United States of America, Vietnam.

An exchange of notification of a treaty with Poland is pending, and treaties with Chile (limited to shipping), Finland (protocol amending the convention), France (protocol amending the agreement), Indonesia (renegotiated treaty), Nigeria, Qatar and Sri Lanka are pending approval by the Philippine Senate.

The treaties with Thailand (renegotiated) and Turkey are pending signature, while the treaties with Brunei Darussalam, Germany (renegotiated), Iran, Myanmar, Oman, Papua New Guinea, Saudi Arabia (air transport) and Tunisia are under negotiation.
Tax exemption based on reciprocity may be availed by an international carrier if its home country grants income tax exemption to Philippine carriers. Home country is defined as the country under whose laws the international carrier is organized or incorporated (Revenue Regulations [RR] No. 15-13, 20 September 2013).

To avail of reduced tax rates or exemption, an international carrier may file a request for a confirmatory ruling with the International Tax Affairs Division of the Bureau of Internal Revenue (RR No. 15-13, 20 September 2013).

Value-added tax

Domestic sea carriers are subject to 12% value-added tax (VAT) on their transport of passengers, goods or cargoes from one place in the Philippines to another place in the Philippines. Transport of passengers and cargo from the Philippines to a foreign country by domestic sea carriers is subject to 0% VAT, while the income derived from their transport operations from a foreign country to the Philippines is VAT exempt. Any other income incidental to their operations shall be subject to 12% VAT (Section 108 [B][6] of the NIRC, amended and Revenue Memorandum Circular [RMC] No. 031-08, 30 January 2008).

Online international sea carriers are not subject to VAT. Instead, they are subject to a tax of 3% imposed on their gross receipts from outbound transport of cargo pursuant to Section 118 of the NIRC, as amended by RA No. 10378. However, if online international sea carriers engage in other transactions that are not VAT-exempt under Section 119 of the NIRC, they shall be liable to the 12% VAT on these transactions (RMC No. 031-08).

The sale, importation or lease of passenger or cargo vessels, including engine, equipment and spare parts for domestic or international transport operations, are exempt from VAT (Section 109 [T] of the NIRC, as amended). To avail of these VAT exemptions, the requirements set forth in R A No. 9295 must be met. Said requirements include, among others: 1) that the importation and local purchase of passenger and/or cargo vessels shall be limited to those of 150 tons and above, including engine and spare parts of said vessels, and 2) that the vessels to be imported shall comply with the age limit requirement, at the time of acquisition counted from the date of the vessel's original commissioning, as follows: (i) for passenger and/or cargo vessels, the age limit is 15 years; (ii) for tankers, the age limit is 10 years; and (iii) for high-speed passenger crafts, the age limit is 5 years (Section 4, RA No. 9295 and RMC No. 031-08).

Importation of fuel, goods and supplies for use by persons engaged in international shipping is VAT-exempt provided that said fuel, goods and supplies shall be used exclusively in or shall pertain to the transport of goods and/or passengers from a port in the Philippines directly to a foreign port without stopping at any other port in the Philippines to unload passengers and/or cargoes loaded in and from another domestic port. Should any portion of such fuel, goods or supplies be used for purposes other than the foregoing, such portion of fuel, goods and supplies shall be subject to 12% VAT (Section 109 [U] of the NIRC, as amended, and RMC No. 031-08).

The sale of goods, supplies, equipment, fuel and services (including leases of property) to a common carrier to be used in its international sea transport operations is subject to 0% VAT. It is required, however, that the same be limited to goods, supplies, equipment, fuel and services pertaining to or attributable to the transport of goods and passengers from a port in the Philippines directly to a foreign port without docking or stopping at any other port in the Philippines to unload passengers and/or cargoes loaded in and from another domestic port. Thus, if any portion of such fuel, equipment, goods or supplies and services be used for purposes other than those mentioned, such portion of fuel, equipment, goods, supplies and services shall be subject to 12% VAT (Sections 108 [B][4] and 109 [T] of the NIRC, as amended and RMC No. 031-08).

Import duties and taxes

Importation by a Philippine shipping enterprise operating or to operate oceangoing vessels that are registered or to be registered under the Philippine flag is exempt from import duties and taxes. Spare parts for the repair and/or overhaul of vessels are likewise exempt from import duties and taxes, provided that such items are destined for or consigned to either: (i) a Philippine dry-docking or repair facility that is accredited by the Maritime Industry Authority (MARINA) and registered as a customs-bonded warehouse and will undertake the necessary
repairs and work on the vessel or (ii) the vessel in which the items are to be installed. If such items are found in locations other than the two aforementioned ones or in places not authorized by customs, the person or entity in possession of such items will be subject to full duties and taxes, including surcharges and penalties.

Local manufacturers or dealers who sell machinery, equipment, materials and spare parts to a Philippine shipping enterprise are entitled to tax credits for the full amount of import duties and taxes actually paid, or on parts or components thereof, subject to the approval of the Secretary of Finance, upon the recommendation of the MARINA.

1.2 Tax facilities for seafarers
An individual citizen of the Philippines who is working and deriving income from abroad as an overseas contract worker (OCW) is taxable only on income from sources within the Philippines. A seafarer who is a citizen of the Philippines and who receives compensation for services rendered abroad as a member of the complement of a vessel engaged exclusively in international trade is treated as an OCW (Section 23 [C] of the NIRC, as amended). To be considered an OCW, a seafarer must be duly registered as such with the Philippine Overseas Employment Administration (POEA) and should have a valid Overseas Employment Certificate (OEC) with a valid Seafarers Identification Record Book (SIRB) or Seaman’s Book issued by the MARINA (Revenue Regulations [RR] No. 01-11).

With RA No. 10022 in effect, Filipino seafarers are now exempt from paying documentary stamp tax (DST) on remittances and travel tax (Section 22).

1.3 Freight taxes (common carriers tax)
International shipping carriers doing business in the Philippines shall be taxed 3% of their quarterly gross receipts from outbound transport of cargo (Section 118 of the NIRC, as amended). There are no shipping treaties that grant relief from freight tax. Note, however, that since international shipping carriers doing business in the Philippines are already subject to 3% tax on quarterly gross receipts from outbound freight, they shall no longer be subject to VAT pursuant to Section 109 (E) of the NIRC, as amended.

1.4 Special vessel registration tax benefits for the shipowner
As discussed in section 4, Grants and incentives, the shipowner can take advantage of special tax benefits under RA No. 9295 (Domestic Shipping Development Act of 2004) or those provided by the Board of Investments (BOI) under the Investments Priorities Plan (IPP) if the shipping operations are registered with the BOI.

1.5 Changes to tax law anticipated in the near future
The forthcoming Philippine Maritime Code is a piece of legislation intended as an omnibus code for the country. It consolidates and updates existing laws in Philippine shipping as well as incorporates standards set forth in international agreements. Several versions of the legislation are pending with the House of Representatives.

2. Human capital
According to the 2010 Overseas Employment Statistics issued by the Philippine Overseas Employment Administration (POEA), an estimated 340,000 Filipino seafarers were deployed worldwide for 2010.

Deployment of seafarers by top 10 flags of registry 2009–11

<table>
<thead>
<tr>
<th>Flag of registry</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Panama</td>
<td>67,361</td>
<td>66,523</td>
<td>73,198</td>
</tr>
<tr>
<td>2. Bahamas</td>
<td>36,054</td>
<td>41,814</td>
<td>42,594</td>
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<tr>
<td>3. Liberia</td>
<td>29,796</td>
<td>32,561</td>
<td>38,752</td>
</tr>
<tr>
<td>4. Marshall Islands</td>
<td>18,068</td>
<td>21,824</td>
<td>24,026</td>
</tr>
</tbody>
</table>
2.1 Formalities for hiring and training personnel

Foreign and domestic shipping companies owning or operating vessels engaged in overseas shipping are required to hire Filipino seafarers through a POEA-licensed manning agency (2003 POEA Rules and Regulations).

An employer who has identified a Philippine manning agent must submit the following to the POEA:

- Manning agreement containing, among other things, the responsibilities of both principal and manning agency with respect to the employment of seafarers
- Special power of attorney
- List of ships and their particulars, including International Maritime Organization (IMO) number
- Crew complement
- Valid business license registration certificate or equivalent document, or proof of existence of business validated or certified by the issuing authority in the host country
- Other documents the POEA may find necessary

Each seafarer assigned on board a ship should hold the appropriate certificate in accordance with the provisions of the 1978 Standards of Training, Certification & Watchkeeping (STCW) Convention, now amended as STCW 95. Personnel serving on board apart from the crew have to receive familiarization training on safety matters.

2.2 National labor law

The Labor Code of the Philippines applies to crew members of all Philippine-flagged vessels.

RA No. 8042, otherwise known as the Migrant Workers and Overseas Filipino Act of 1995, as amended by RA No. 10022, institutes the policies of overseas employment and establishes higher standards of protection and promotion of the welfare of migrant workers, their families and overseas Filipinos in distress. With the amendment of RA No. 8042 by RA No. 10022, Filipino seafarers deployed by a manning agency are now required to be covered by a compulsory insurance policy at no cost to said workers (Section 23, RA No. 10022).

The POEA Standard Employment Contract for Seafarers primarily governs the employment relations between Filipino seafarers on board oceangoing vessels and their employers.

2.3 Regulations on employing personnel

In the Philippines, the prevailing requirement is that the personnel to be hired hold at least a tertiary degree (i.e., a college degree). Seafarers must have passed the examinations required by the government and must have other qualifications and skills. Operations personnel should preferably hold a Bachelor of Science degree with a major in Customs. Previous work experience is important but not essential.

2.4 Collective labor agreements

The collective agreements entered into by the seafarers and the management of the shipping company are contained in the contract(s) signed by both parties. Seafarers are usually hired on a contract basis, covering a period that usually ranges from 10 months for tankers to 12 months for cargo – roll-on/roll-off
(ro-ro) vessels, for example. These may be renewed or extended as agreed upon by the personnel and the management.

Shipping companies provide the personnel to man the ships. Shipowners pay the shipping companies for the services of the crew. As defined by the POEA, shipping companies in the Philippines must strictly abide by the laws of the republic with regard to the minimum wage and other mandatory payments. The shipping companies are accountable for remitting wages to the seafarers. Shipowners, on the other hand, are responsible for the health and disability insurance of the seafarers on board their vessels.

Shipping companies in the country abide by the terms of the contract between the management and their personnel so as to eliminate the risk of lawsuits arising from unlawful dismissal. Seafarers work a standard eight-hour day, or as assigned by the management of the vessel. Furthermore, shipping personnel are also given up to two and one-half days’ leave per month.

2.4.1 Dispute settlement procedures
In cases of claims and disputes arising from employment, parties covered by collective bargaining agreements are governed by grievance procedures and arbitration clauses wherein both parties undertake to avail of, or resort to, said grievance procedure before submitting the claim or dispute to the original and exclusive jurisdiction of the voluntary arbitrator or panel of arbitrators.

If the parties are not covered by a collective bargaining agreement, the parties may at their option submit the claim or dispute to either the original and exclusive jurisdiction of the National Labor Relations Commission (NLRC) or to the original and exclusive jurisdiction of the voluntary arbitrator or panel of arbitrators. If there is no provision as to the voluntary arbitrators to be appointed by the parties, the same shall be appointed from the accredited voluntary arbitrators of the National Conciliation and Mediation Board of the Department of Labor and Employment (DOLE).

The POEA shall exercise original and exclusive jurisdiction to hear and decide disciplinary action on cases that are administrative in character, involving or arising out of violations of recruitment laws, rules and regulations involving employers, principals, contracting partners and Filipino seafarers.

2.5 Treaties relating to social security contributions
The Philippines has bilateral agreements on social security with Austria, Belgium, Canada, the Netherlands, Switzerland and the United Kingdom.

The salient features of the treaties include:
• Mutual assistance between the Philippines and the other country in the field of social security—covered members or beneficiaries may file their claims with the designated liaison agencies of the Philippines or the other country, which will extend assistance to facilitate the processing of claims.
• Equality of treatment—a Filipino covered by social security shall be eligible for benefits under the same conditions as the nationals of the other country, as shall his or her dependents and survivors.
• Export of social security benefits—a Filipino shall continue to receive his or her benefits wherever he or she decides to reside, whether in the Philippines, in the other country or even in a third country.
• Totalization—creditable membership periods in both the host country and the Philippines (excluding overlaps) shall be added to determine qualification for benefits.
• Prorated payment of benefits—both the host country and the Philippines shall pay a fraction of the benefit due from their respective systems, in proportion to the actual contributions or creditable periods.

2.6 Manning issues with flying the Philippine flag
Philippine-registered ships are manned fully by Philippine officers and ratings, except as authorized by the MARINA. Crew members must meet certain qualifications regarding education and skills (see section 2.3).
3. Corporate structure

3.1 Most commonly used legal structures for shipping activities
Most shipping companies operate as corporations and/or partnerships and accordingly are subject to applicable tax rates.

POEA-licensed manning agencies may be Filipino single proprietorships, partnerships or corporations in which at least 75% of the authorized and voting capital stock is owned and controlled by Filipino citizens. POEA rules and regulations require a minimum capitalization of PHP2 million (€31,600) in the case of a single proprietorship or partnership and a minimum paid-up capital of PHP2 million (€31,600) in the case of a corporation.

3.2 Taxation of profit distribution
Profit distribution will be taxed based on the following tax rates:

- For corporations the tax rate is 0% for domestic and resident foreign corporate stockholders and 15% for nonresident foreign corporations, subject to the condition that the country in which the nonresident foreign corporation is domiciled allows a credit against the tax due from the nonresident foreign corporation, equivalent to 15% of the taxes deemed to have been paid in the Philippines, beginning 1 January 2009 (Section 28 [B][5][b] of the NIRC, as amended). Nonresident foreign corporations may avail of the preferential rates under certain tax treaties.
- For individuals, the tax rate is 10% for citizens and resident foreigners. However, for nonresident foreigners, the tax rate is 20% if they are engaged in trade or business in the Philippines and 25% if they are not engaged in trade or business in the Philippines.
- Branch remittances, on the other hand, are taxed at 15%, based on the total profits applied or earmarked for remittance without any deduction for the tax component thereof (except those activities that are registered with the Philippine Economic Zone Authority) (Section 28 [A][5] of the NIRC, as amended). Moreover, preferential rates may be availed of under certain tax treaty provisions.

4. Grants and incentives

4.1 Investment incentives under RA No. 9295 (Domestic Shipping Development Act of 2004)
Investment incentives are granted to qualified domestic shipowners and operators and for shipbuilding and ship repair:

VAT exemption:
- Importation of passenger and/or cargo ships of 150 tons and above, including engine spare parts of the imported ship
- Importation of life-saving equipment, fire-fighting systems and safety and rescue equipment
- Importation of cargo-handling equipment that is reasonably needed and to be used exclusively by the registered domestic shipowner or operator in his or her transport operations
- Sale, transfer and disposition of the aforementioned articles

Net operating loss carryover:
- A net operating loss in any taxable year immediately preceding the current taxable year that had not been previously offset as a deduction from gross income shall be carried over for the next three consecutive taxable years immediately following the year of such loss.
- Accelerated depreciation

“Qualified domestic shipowner or operator” shall mean a citizen of the Philippines, a commercial partnership wholly owned by Filipinos or a corporation at least 60% of the capital of which is owned by Filipinos that is duly authorized by the MARINA to engage in the business of domestic shipping.
4.2 Investment incentives granted by the BOI for shipping companies and the shipbuilding industry under the Investment Priorities Plan (IPP)

Fiscal incentives

- Income tax holidays:
- New projects with pioneer status for six years
- New projects with a non-pioneer status for four years
- Expansion projects for three years
- New or expansion projects in less-developed areas for six years
- Modernization projects for three years
- Exemption from taxes and duties on imported spare parts
- Exemption from wharfage dues and export tax, duty, impost and fee
- Tax credits
- Additional deductions from taxable income

Non-fiscal incentives

- Employment of foreign nationals
- Simplification of customs procedures
- Importation of consigned equipment for a period of 10 years
- The right to operate a bonded manufacturing or trading warehouse

4.2.1 Requirements to qualify for BOI incentives pursuant to the 2013 IPP

Shipbuilding

Shipbuilding covers the construction and repair of ships or boats and includes ship breaking or ship recycling. The following are the requirements for registration:

- For shipbuilding, vessels to be built must be at least 500 gross tonnage (GT).
- For shipbreaking and recycling, facilities must have a dry docking or dismantling slipway with a minimum capacity of 1,500 deadweight tonnage (DWT).

Registered enterprises must comply with Department of Labor and Employment Department Circular No. 1 series of 2009 on the Guidelines on Occupational Safety and Health in Shipbuilding, Ship Repair and Shipbreaking Industry and submit a copy of the Department of Environment and Natural Resources Environment Compliance Certificate.

Prior to the start of commercial operations, the registered enterprise may be required to submit a copy of a Certificate of Registration or its equivalent from the MARINA or appropriate government authority.

Any of the following may qualify for pioneer status:

- Shipbuilding or ship repair facilities with a minimum lifting capacity of 20,000 DWT
- Shipbuilding or ship repair facilities with a minimum berthing capacity of 7,500 DWT

Water transport – domestic and interisland shipping

Domestic and interisland shipping covers pure cargo, passenger and passenger-cargo vessel operations, including ro-ro terminal system (RRTS) operations.

The following are the qualifications for registration:

- The registrant must be a MARINA-accredited Philippine shipping enterprise.
- Vessel must be registered with the MARINA.
- Vessel must comply with the following age limitations:
  - Tankers, 10 years
  - High-speed craft, five years
  - Passenger or cargo, 15 years
• Tankers, high-speed craft, ro-ro vessels serving primary routes and passenger or cargo vessels must have a gross weight of 150GT or above.

The age of the vessel shall be reckoned from the date of launching based on the Builder’s Certificate or Certificate of Vessel Registry.

Ro-ro operators and enterprises serving missionary routes, as indicated in the certificate of public convenience (CPC) issued by the MARINA, may qualify for pioneer status.

Salvaging operations

Salvaging pertains to the rescue of a seriously damaged or incapacitated ship that may include refloating and towing of the ship to a safe place. It also pertains to the removal of a sunken or wrecked ship, derelict or hazardous, including its cargoes.

Only income from salvaging operations may be entitled to an income tax holiday.

All applications for registration must be endorsed by the concerned agency.

Logistics

This covers ports, terminals and warehouses.

Ports

This covers the development and operation of seaports.

All applications for registration must be endorsed by the PPA.

Terminals

This covers the development and operation of the following:

(a) Cargo terminals and container yards

The following are the qualifications for registration:

• Must have new facilities
• Must have a system of ingress and egress to prevent traffic buildup and obstruction of thoroughfares on a 24-hour basis as certified by Department of Transportation and Communication (DOTC), Metropolitan Manila Department Authority (MMDA) and/or other concerned agency

(b) LNG and CNG storage, distribution and marketing facilities

The following are the qualifications for registration:

• Must have new facilities
• Must cater to power plants, industrial plants, shipping vessels, commercial establishments or land transport
• Must cater to at least one client other than the proponent’s own business

Prior to beginning commercial operation, the registered enterprise must submit a copy of its Permit to Operate issued by the Department of Energy (DOE).

Autonomous Region of Muslim Mindanao (ARMM) list

In addition to the above, the Regional BOI of the ARMM has independently determined the following priority activities in accordance with EO No. 458:

• Public utilities such as common carriers with developmental route of the five provinces and one city of the ARMM and other adjacent cities
• Logistics

The above-mentioned activities will be entitled to incentives only when these activities are undertaken within the ARMM region, which comprises the provinces of Sulu, Maguindanao, Lanao del Sur, Tawi-tawi, Basilan and Shariff Kabunsuan. Projects located in the ARMM region must be registered with the BOI ARMM.

4.3 Special incentives for environmental awareness

No special incentives are provided for environmental awareness in the Philippine shipping industry.
4.4 Issues with flying the Philippine flag
A possible issue with flying the Philippine flag is the imposition of the 4.5% withholding tax under Section 28 [B][3] of the NIRC, as amended, which provides:

“A nonresident owner or lessor of vessels shall be subject to a tax of 4.5% of gross rentals, lease or charters to Filipino citizens or corporations, as approved by the Maritime Industry Authority.”

The MARINA believes that the above-quoted provision of the NIRC as amended is a disincentive against registering under the Philippine flag since the financial burden is imposed on Philippine-flagged vessels while the same tax may not be imposed on foreign-flagged vessels carrying Philippine cargo.

4.5 Major changes in shipping subsidy legislation in the near future
House Bill (HB) No. 4935, or “The Investments and Incentives Code of the Philippines,” rationalizes and consolidates several tax incentive laws of the Philippines, including EO No. 226. Similar to EO No. 226, HB No. 4935 grants various tax incentives based on areas of investment set out in an Investment Priorities Plan, which, under the HB, shall be issued every three years.

Under HB No. 4935, incentives granted to existing registered enterprises shall continue to be legally binding in accordance with the terms and conditions stated thereof.

HB No. 4935 was approved by the House of Representatives on 15 August 2011 and submitted to the Senate on 18 August 2011.

Several versions of the Bill have since then been filed with the Senate. The Bills are undergoing deliberations with the Senate Committee on Ways and Means.

5. General information

5.1 Infrastructure

5.1.1 Major ports
The Philippine Port System comprises more than 1,000 ports. Of this number, around 12%, or 123 seaports, belong to or come under the PPA Port System, which consists of 21 base ports and 102 secondary ports (or terminal ports). The remaining ports are under the jurisdiction of the DOTC. The PPA Port System has five Port District Offices, each having jurisdiction over all ports within their geographical territory. The 21 major ports are:

1. Batangas City, Batangas
2. Cagayan de Oro City, Misamis Oriental
3. Cotabato City, Maguindanao
4. Davao City, Davao del Sur
5. Dumaguete City, Negros Oriental
6. Gen. Santos City, South Cotabato
7. Iligan City, Lanao del Norte
8. Iloilo City, Iloilo
9. Jolo, Sulu
10. Legaspi City, Albay
11. Nasipit, Agusan del Norte
12. North Harbor, Manila
13. Ozamis City, Misamis Occidental
14. Puerto Princesa, Palawan
15. Pulupandan, Negros Occidental
16. San Fernando City, La Union
17. South Harbor, Manila
18. Surigao City, Surigao del Norte
19. Tacloban City, Leyte
20. Tagbilaran City, Bohol
21. Zamboanga City, Zamboanga del Sur

Most ports are required by the Philippine Ports Authority (PPA) to have compulsory pilotage and towage.

5.1.2 Port facilities
The PPA provides a variety of facilities that support the Philippine shipping services, such as:

- Domestic and foreign general cargo berths
- Multi-purpose berths
- Ro-ro ferry facilities
- Fastcraft and small fastcraft berths
- Transit sheds for handling both domestic and foreign cargo
- Passenger terminal buildings
- Arrastre service (cargo handling)
- Open storage areas and other storage facilities
- Cargo-cum-passenger vessels
- Coastal towage services
- Maintenance and repair facilities with docking facilities
- Cranes for every size of vessel

5.1.3 Airports close to the major ports
Two of the major ports, South Harbor and North Harbor in Manila, are located in the National Capital Region (NCR), where a domestic airport and Ninoy Aquino International Airport are also located. Domestic airports can also be found in major cities and provinces where various major and minor ports are situated.

5.1.4 Support services for the shipping industry
The following support services for the shipping industry are available:

- Consulting firms specialized in shipping
- Maritime law services
- Insurance companies and brokers for the shipping industry

The BOI has listed the shipping industry under the IPP. Industries listed in the IPP are eligible for several incentives. A number of associations and organizations composed of companies involved in shipping have grouped together to espouse common interests. These are the Association of International Shipping Lines Inc. (AISL), the Philippine International Sea Freight Forwarders' Association (PISFA) and the Philippine Shippers' Council (SHIPPERCON).

5.1.5 Maritime education
There are 90 maritime schools in the Philippines providing education with the objective of complying with national and international quality standards. The maritime courses offered in the Philippines are a Bachelor of Science in Marine Transport (BSMT) for deck officers and a Bachelor of Science in Marine Engineering (BSMarE) for engine officers. These maritime courses include training in navigation, technicalities and engineering of the vessel. Furthermore, these courses meet the present international requirements provided in the STCW 95 Convention.

The MARINA, together with the Professional Regulations Commission (PRC), has implemented a modern system of examination, including computerized services and a question and answer databank for the examination and certification of marine officers and ratings, in accordance with the convention.

According to the Commission on Higher Education (CHED) Memorandum Order No. (CMO) 08, series of
2001, and CHED Memorandum Order No. (CMO) 19, series of 2001, there are 62 maritime institutions. Of the identified institutions, 55 are offering BSMT and 50 are offering BSMarE programs compliant with the STCW 95 requirements. An additional seven institutions have also complied with the requirements and were approved by the Commission en banc during its 147th meeting on 15 October 2001 (see list below). Through the coordinated efforts of various agencies concerned, the Philippines is among the countries that made it to the “White List” of the IMO.

The CHED’s Maritime Education Unit (MEU) was also certified by the international certifying body, Det Norske Veritas (DNV), on 2 June 2000 for having complied with the Quality Standards System (QSS) per Regulation I/8 of the STCW 95. For the year 2001, MEU’s QSS successfully passed its first surveillance or periodic audit by DNV.

List of maritime schools that have fully complied with CHED STCW 95 requirements

PER CMO 8, S. 2001 AND CMO 19, S. 2001

<table>
<thead>
<tr>
<th>Region</th>
<th>Name and location</th>
<th>Programs</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>MT</td>
</tr>
<tr>
<td>I</td>
<td>International Maritime and Technology Institute, Dagupan City</td>
<td>&quot;</td>
</tr>
<tr>
<td>I 2</td>
<td>Northern Phil. Col. for Maritime Science and Technology, San Fernando, La Union</td>
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</tr>
<tr>
<td>I 3</td>
<td>Northwestern University, Laoag City</td>
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<td>I 4</td>
<td>Pangasinan Merchant Marine Academy, Dagupan City</td>
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<td>I 5</td>
<td>Philippine College of Science and Technology, Calasiao, Pangasinan</td>
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<td>I 6</td>
<td>PIMSAT Colleges, Dagupan City</td>
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<tr>
<td>1.1.1</td>
<td>Baliwag Maritime Academy, San Rafael, Bulacan</td>
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<td>Central Luzon College of Technology, Olongapo City</td>
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<td>Philippine Merchant Marine Academy, Narciso Zambales</td>
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<td>Lyceum of Batangas, Batangas City</td>
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<td>University of Perpetual Help System of Biñan, Biñan, Laguna</td>
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<td>Bicol Merchant Marine College, Sorsogon, Sorsogon</td>
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<td>V 18</td>
<td>Mariners Polytechnic College Foundation, Canaman, Cam. Sur</td>
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<td>Mariners Polytechnic College Foundation, Rawit, Legaspi City</td>
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<td>V 20</td>
<td>University of Saint Anthony, San Miguel, Iriga City</td>
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<td>VI 21</td>
<td>Aklan Polytechnic Institute, Osmena Ave., Kalibo, Aklan</td>
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<td>VI</td>
<td>John B. Lacson College Foundation, Arevalo, Iloilo City</td>
<td>MT: *, MarE: N.O.</td>
</tr>
<tr>
<td>VI</td>
<td>John B. Lacson College Foundation, Bacolod City</td>
<td>MT: *, MarE:</td>
</tr>
<tr>
<td>VI</td>
<td>John B. Lacson College Foundation, Molo, Iloilo City</td>
<td>MT: *, MarE: N.O.</td>
</tr>
<tr>
<td>VI</td>
<td>MTC College, Tugbauan, Iloilo City</td>
<td>MT: *, MarE:</td>
</tr>
<tr>
<td>VI</td>
<td>Saint Therese Colleges, Gen. Luna Street, Iloilo City</td>
<td>MT: *, MarE:</td>
</tr>
<tr>
<td>VI</td>
<td>Visayan Maritime Academy, Sum-ag, Bacolod City</td>
<td>MT: *, MarE:</td>
</tr>
<tr>
<td>VI</td>
<td>West Negros College, Bacolod City</td>
<td>MT: *, MarE:</td>
</tr>
<tr>
<td>VII</td>
<td>Cebu State College of Science and Technology, Carmen, Cebu</td>
<td>MT: *, MarE: N.O.</td>
</tr>
<tr>
<td>VII</td>
<td>PMI Colleges – Bohol, Tagbilaran, Bohol</td>
<td>MT: *, MarE:</td>
</tr>
<tr>
<td>VII</td>
<td>University of Cebu, Cebu City</td>
<td>MT: *, MarE:</td>
</tr>
<tr>
<td>VII</td>
<td>University of the Visayas, Cebu City</td>
<td>MT: *, MarE:</td>
</tr>
<tr>
<td>VIII</td>
<td>Naval Institute of Technology, Naval, Biliran</td>
<td>MT: *, MarE:</td>
</tr>
<tr>
<td>VIII</td>
<td>Palompon Institute of Technology, Leyte</td>
<td>MT: *, MarE:</td>
</tr>
<tr>
<td>IX</td>
<td>Zamboanga del Sur Maritime Institute of Technology, Pagadian City</td>
<td>MT: *, MarE:</td>
</tr>
<tr>
<td>IX</td>
<td>Zamboanga State Col. of Marine Sci. and Tech., Zamboanga City</td>
<td>MT: *, MarE:</td>
</tr>
<tr>
<td>X</td>
<td>Cagayan Capitol College, Cagayan de Oro City</td>
<td>MT: *, MarE:</td>
</tr>
<tr>
<td>X</td>
<td>Misamis Institute of Technology, Ozamis City</td>
<td>MT: *, MarE:</td>
</tr>
<tr>
<td>X</td>
<td>Misamis University, Ozamis City</td>
<td>MT: *, MarE: N.O.</td>
</tr>
<tr>
<td>X</td>
<td>Southern de Oro Philippine College, Cagayan de Oro City</td>
<td>MT: *, MarE: N.O.</td>
</tr>
<tr>
<td>XI</td>
<td>Agro-Industrial Foundation College of the Philippines, Davao City</td>
<td>MT: *, MarE:</td>
</tr>
<tr>
<td>XI</td>
<td>Davao Merchant Marine Academy, Davao City</td>
<td>MT: *, MarE:</td>
</tr>
<tr>
<td>XI</td>
<td>Holy Cross of Davao College, Davao City</td>
<td>MT: *, MarE: N.O.</td>
</tr>
<tr>
<td>XI</td>
<td>MATS College of Technology, Davao City</td>
<td>MT: *, MarE:</td>
</tr>
<tr>
<td>XI</td>
<td>Mindanao Polytechnic College, General Santos City</td>
<td>MT: *, MarE:</td>
</tr>
<tr>
<td>XII</td>
<td>Lyceum of Iligan, Iligan City</td>
<td>MT: *, MarE: N.O.</td>
</tr>
<tr>
<td>CARAGA</td>
<td>Agusan Institute of Technology, Butuan City</td>
<td>MT: *, MarE: N.O.</td>
</tr>
<tr>
<td>CARAGA</td>
<td>St. Joseph Institute of Technology, Butuan City</td>
<td>MT: *, MarE:</td>
</tr>
<tr>
<td>CARAGA</td>
<td>Surigao Education Centre, Surigao City</td>
<td>MT: *, MarE:</td>
</tr>
<tr>
<td>NCR</td>
<td>Asian Institute of Maritime Studies (AIMS), Pasay City</td>
<td>MT: *, MarE:</td>
</tr>
<tr>
<td>NCR</td>
<td>NAMEI Polytechnic Institute, Mandaluyong City</td>
<td>MT: *, MarE: P.O.</td>
</tr>
<tr>
<td>NCR</td>
<td>Our Lady of Fatima College, Valenzuela, Manila</td>
<td>MT: *, MarE:</td>
</tr>
<tr>
<td>NCR</td>
<td>Philippine Merchant Marine School, Talon, Las Piñas</td>
<td>MT: *, MarE:</td>
</tr>
</tbody>
</table>
Seven additional maritime education institutions were approved by the Commission en banc during its 147th meeting on 15 October 2001:

<table>
<thead>
<tr>
<th>Region</th>
<th>Name and location</th>
<th>Programs</th>
</tr>
</thead>
<tbody>
<tr>
<td>NCR</td>
<td>Philsin Marine Technological Colleges, Sta. Mesa, Manila</td>
<td>MT: N.O.</td>
</tr>
<tr>
<td>NCR</td>
<td>PMI Colleges, Roosevelt Ave., Quezon City</td>
<td>*</td>
</tr>
<tr>
<td>NCR</td>
<td>PMI Colleges, Escolta, Manila</td>
<td>* N.O.</td>
</tr>
<tr>
<td>NCR</td>
<td>Technological Institute of the Philippines, Quezon City</td>
<td>N.O. **</td>
</tr>
<tr>
<td>NCR</td>
<td>Technological Institute of the Philippines, Quiapo, Manila</td>
<td>* *</td>
</tr>
<tr>
<td>NCR</td>
<td>University of Perpetual Help of Rizal, Pamplona, Las Piñas, MM</td>
<td>P.O. **</td>
</tr>
<tr>
<td>NCR</td>
<td>West Bay Colleges, Muntinlupa City</td>
<td>* *</td>
</tr>
</tbody>
</table>

35 (*)
20 (**) Total: 55

XII 1 Cotabato City Central College, Cotabato City For inspection
Grand total: 56 Overall: 51

Legend:
- *: Included in CMO 8, s. 2001
- **: Included in CMO 19, s. 2001
- P.O.: Phased out
- N.O.: Not offering

Seven additional maritime education institutions were approved by the Commission en banc during its 147th meeting on 15 October 2001:
5.1.6 Maritime training

The Maritime Training Council (MTC) was established on 1 May 1984 by virtue of Letter of Instruction No. 1404 in keeping with the Philippines’ commitment as a signatory to the IMO’s STCW 78, now amended as STCW 95. The MTC is attached to the DOLE for administrative and policy control. MTC’s vision is to maintain the status of the Philippines as the major provider of qualified and competent seafarers in the world maritime labor market. Its mission is to ensure quality education and training for Filipino seafarers and develop a seafaring workforce who are duly certified, are globally competent and compliant with national and international standards and aid the country’s maritime sector.

As of 23 December 2011, the following are the maritime training centers authorized and accredited by the MTC:

<table>
<thead>
<tr>
<th>REGION</th>
<th>Training Center Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Capital</td>
<td>1. Assessment and Research Center of the Philippines, Inc.</td>
</tr>
<tr>
<td></td>
<td>3. Britannia Training Center</td>
</tr>
<tr>
<td></td>
<td>4. Competent Maritime Professionals and Sea Staff Training Center, Inc.</td>
</tr>
<tr>
<td></td>
<td>5. Consolidated Training Systems, Inc.</td>
</tr>
<tr>
<td></td>
<td>6. Eastgate Maritime Training Center, Inc.</td>
</tr>
<tr>
<td></td>
<td>7. Epsilon Maritime Services, Inc.</td>
</tr>
<tr>
<td></td>
<td>8. Excellence and Competency Training Center</td>
</tr>
<tr>
<td></td>
<td>9. FMFI Maritime Foundation, Inc.</td>
</tr>
<tr>
<td></td>
<td>10. FSC Training Center</td>
</tr>
<tr>
<td></td>
<td>11. Far East Maritime Foundation, Inc.</td>
</tr>
<tr>
<td></td>
<td>12. Global Training Center</td>
</tr>
<tr>
<td></td>
<td>13. GPN International Maritime Training Center, Inc.</td>
</tr>
<tr>
<td></td>
<td>14. Great Seas Mariners Training and Assessment Center, Inc.</td>
</tr>
<tr>
<td></td>
<td>15. Hanseatic Shipping Philippines, Inc. – Hanseatic Training Institute</td>
</tr>
<tr>
<td></td>
<td>16. Harbor Training Center</td>
</tr>
<tr>
<td></td>
<td>17. Intership Navigation Training Center, Inc.</td>
</tr>
<tr>
<td></td>
<td>18. Italian Maritime Academy Philippines, Inc.</td>
</tr>
<tr>
<td></td>
<td>19. ITI Philippines, Inc. – Manila</td>
</tr>
<tr>
<td></td>
<td>20. K-Line Maritime Training Corporation</td>
</tr>
<tr>
<td></td>
<td>21. Lucky Star Maritime Training and Allied Services, Inc.</td>
</tr>
<tr>
<td></td>
<td>22. Magsaysay Training Center</td>
</tr>
<tr>
<td></td>
<td>23. Mariners Polytechnic Training Center</td>
</tr>
<tr>
<td>REGION</td>
<td></td>
</tr>
<tr>
<td>--------</td>
<td>---</td>
</tr>
<tr>
<td>24.</td>
<td>Maritech Maritime Training Studies and Manning Services, Inc.</td>
</tr>
<tr>
<td>25.</td>
<td>Maritime Technological and Allied Services, Inc.</td>
</tr>
<tr>
<td>26.</td>
<td>Maritime Training Center of the Philippines</td>
</tr>
<tr>
<td>27.</td>
<td>Marlow Navigation Training Center</td>
</tr>
<tr>
<td>28.</td>
<td>Meridian International Maritime Training Center</td>
</tr>
<tr>
<td>29.</td>
<td>New Simulator Center of the Philippines</td>
</tr>
<tr>
<td>30.</td>
<td>NN Ocean Link Institute</td>
</tr>
<tr>
<td>31.</td>
<td>Northstar Training and Consultancy, Inc.</td>
</tr>
<tr>
<td>32.</td>
<td>Norwegian Training Center</td>
</tr>
<tr>
<td>33.</td>
<td>Nautical Options Training Institute of the Philippines, Inc.</td>
</tr>
<tr>
<td>34.</td>
<td>Nyk-Fil Maritime E-Training</td>
</tr>
<tr>
<td>35.</td>
<td>OSG Ship Management Manila, Inc.</td>
</tr>
<tr>
<td>36.</td>
<td>Pentagon Maritime Foundation, Inc.</td>
</tr>
<tr>
<td>37.</td>
<td>Philippine Center for Advanced Maritime Simulation and Training, Inc.</td>
</tr>
<tr>
<td>38.</td>
<td>Philippine Nautical Training Institute</td>
</tr>
<tr>
<td>39.</td>
<td>Philippine Seafarers Training Center</td>
</tr>
<tr>
<td>40.</td>
<td>Philsin Maritime Technological College Foundation</td>
</tr>
<tr>
<td>41.</td>
<td>Pos-Fil MTC Corporation</td>
</tr>
<tr>
<td>42.</td>
<td>Propellers Foundation – Maritime Science and Technology Resources, Inc.</td>
</tr>
<tr>
<td>43.</td>
<td>Protect Marine Deck and Engine Officers of the Philippines, Inc.</td>
</tr>
<tr>
<td>44.</td>
<td>Sandigan Maritime Training, Inc.</td>
</tr>
<tr>
<td>45.</td>
<td>Seabase Training Center for Watchkeeping, Inc.</td>
</tr>
<tr>
<td>46.</td>
<td>Seamac International Training Institute, Inc.</td>
</tr>
<tr>
<td>47.</td>
<td>Sea Quest Maritime Training, Inc.</td>
</tr>
<tr>
<td>48.</td>
<td>Seatech Maritime Training Center</td>
</tr>
<tr>
<td>49.</td>
<td>Sharp Maritime Security Training Services, Inc.</td>
</tr>
<tr>
<td>50.</td>
<td>Southfield Maritime Training Foundation, Inc.</td>
</tr>
<tr>
<td>51.</td>
<td>Southern Institute of Maritime Studies – Manila</td>
</tr>
<tr>
<td>52.</td>
<td>Technological Institute of the Philippines</td>
</tr>
<tr>
<td>53.</td>
<td>Towers Maritime Training Center</td>
</tr>
<tr>
<td>REGION</td>
<td>54. Tram Integrated Training Solutions, Inc.</td>
</tr>
<tr>
<td>--------</td>
<td>---------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>55. ZRC Training Center Phils. Inc.</td>
</tr>
<tr>
<td>Region I – Ilocos</td>
<td>1. Far East Maritime Foundation, Inc. – Pangasinan</td>
</tr>
<tr>
<td></td>
<td>2. Pangasinan Merchant Marine Academy</td>
</tr>
<tr>
<td>Region III – Central</td>
<td>1. International Development and Environmental Shipping School</td>
</tr>
<tr>
<td></td>
<td>2. Maritime Academy of Asia and the Pacific Amosup Seamen's Training Center</td>
</tr>
<tr>
<td></td>
<td>3. Philippine Merchant Marine Academy</td>
</tr>
<tr>
<td></td>
<td>4. Wartsila Land and Sea Academy, Inc.</td>
</tr>
<tr>
<td>Region IV – Southern Luzon</td>
<td>1. Southern Institute of Maritime Studies – Cavite</td>
</tr>
<tr>
<td></td>
<td>2. Lyceum of the Philippines University – Maritime Training Center</td>
</tr>
<tr>
<td>Region V – Bicol</td>
<td>1. Mariners Polytechnic College Foundation</td>
</tr>
<tr>
<td></td>
<td>2. Mariners Training Institute</td>
</tr>
<tr>
<td>Region VI – Western Visayas</td>
<td>1. Aklan Polytechnic University</td>
</tr>
<tr>
<td></td>
<td>2. Excellence and Competency Training Center</td>
</tr>
<tr>
<td></td>
<td>3. John B. Lacson Foundation, Inc.</td>
</tr>
<tr>
<td></td>
<td>4. St. Therese – MTC Colleges Tigbauan</td>
</tr>
<tr>
<td></td>
<td>5. VMA Training Center</td>
</tr>
<tr>
<td>Region VII – Central Visayas</td>
<td>1. Far East Maritime Foundation, Inc.</td>
</tr>
<tr>
<td></td>
<td>2. Cebu Reliable Excellent Seafarers Training Center</td>
</tr>
<tr>
<td></td>
<td>3. Maritech Maritime Training Studies and Manning Services, Inc.</td>
</tr>
<tr>
<td></td>
<td>4. New Simulator Center of the Philippines</td>
</tr>
<tr>
<td></td>
<td>5. Protect Marine Deck and Engine Officers of the Philippines, Inc.</td>
</tr>
<tr>
<td></td>
<td>6. Philasia Maritime Services Training Center, Inc.</td>
</tr>
<tr>
<td></td>
<td>7. University of Cebu – Maritime Training Center</td>
</tr>
<tr>
<td></td>
<td>8. University of the Visayas – Maritime Colleges</td>
</tr>
<tr>
<td>Region VIII – Eastern Visayas</td>
<td>1. ITI Philippines, Inc. – Samar</td>
</tr>
<tr>
<td></td>
<td>2. Netherlands Shipping Training Center</td>
</tr>
<tr>
<td>Region X – Cagayan De Oro</td>
<td>1. Northwestern Mindanao Institute of Technology</td>
</tr>
<tr>
<td></td>
<td>2. Surigao Education Center</td>
</tr>
</tbody>
</table>
5.2 Safety and environmental issues

5.2.1 Implementation of the International Safety Management Code on board vessels

To underscore the government’s commitment to further the maritime safety culture in the country, the International Safety Management (ISM) Code was officially adopted for implementation on domestic vessels of certain sizes required to be classed through the issuance of Flag State Administration Advisory No. 18 on 6 October 1998.

To address the needs and problems besetting the industry, specifically of maritime safety, the MARINA board issued the following memorandum circulars (MCs):

<table>
<thead>
<tr>
<th>MC No.</th>
<th>Year</th>
<th>Subject</th>
</tr>
</thead>
<tbody>
<tr>
<td>175</td>
<td>2002</td>
<td>Mandatory Display of the Maximum Authorized Passenger Capacity for Passenger-Carrying Bancas with Open-Deck Accommodation and Similar Watercrafts</td>
</tr>
<tr>
<td>176</td>
<td>2002</td>
<td>Wearing or Holdings of Life-Jackets by Passengers of Motorized Bancas and Similar Water Transport Carrying Passengers</td>
</tr>
<tr>
<td>177</td>
<td>2002</td>
<td>Regulations Amending Chapter XV of the 1997 PMMR on the Registration, Documentation and Licensing of Ships</td>
</tr>
<tr>
<td>178</td>
<td>2002</td>
<td>Amendments to Memorandum Circular No. 152 on the Mandatory Dry-Docking of Ships</td>
</tr>
<tr>
<td>194</td>
<td>2003</td>
<td>Rules on the Provision/Installation of Ship Security Equipment</td>
</tr>
<tr>
<td>197</td>
<td>2003</td>
<td>Revised Rules to Rationalize Life-Saving Appliances Requirements under Chapter IX of the PMMRR 1997</td>
</tr>
<tr>
<td>203</td>
<td>2005</td>
<td>Rules Governing the Implementation of the Ship Safety Inspection System (SSIS)</td>
</tr>
<tr>
<td>205</td>
<td>2005</td>
<td>Amending MC No. 203 on the Rules Governing the Implementation of the SSIS</td>
</tr>
<tr>
<td>2006-01</td>
<td>2006</td>
<td>Rules on Accreditation of Manufacturers/Suppliers/Servicing Entities of Life-Saving and Other Safety-Related Appliances/Equipment</td>
</tr>
<tr>
<td>2006-03</td>
<td>2006</td>
<td>Revised Guidelines in the Accreditation of Domestic Shipping Enterprises or Entities</td>
</tr>
<tr>
<td>2006-04</td>
<td>2006</td>
<td>Amendment to MARINA Circular No. 2006-01 on the Rules on Accreditation of Manufacturers/Suppliers/Servicing Entities of Life-Saving and Other Safety Related Appliances/Equipment</td>
</tr>
<tr>
<td>2006-06</td>
<td>2006</td>
<td>Revised Guidelines in the Issuance of Special Permit (SP) to Operate Ships in the Domestic Trade Due to Meritorious Circumstances</td>
</tr>
</tbody>
</table>
The MARINA board also issued the following related MCs and advisories (MAs):

<table>
<thead>
<tr>
<th>MC No.</th>
<th>Year</th>
<th>Subject</th>
</tr>
</thead>
<tbody>
<tr>
<td>01-07</td>
<td>2007</td>
<td>Rules to Implement Double Hull Requirement under MARPOL 73/78, Annex I, as Amended, on Oil Tankers Operating in Philippine Domestic Waters</td>
</tr>
<tr>
<td>02-08</td>
<td>2007</td>
<td>Rules to Implement Master's Oath of Voyage</td>
</tr>
<tr>
<td>03-08</td>
<td>2007</td>
<td>Rules and Regulations to Implement the Code of Safe Practice for Cargo Stowage and Securing in Domestic Shipping</td>
</tr>
<tr>
<td>08-08</td>
<td>2008</td>
<td>Rules to Implement Safety Measures for Passenger Ships with Open Deckhouse</td>
</tr>
<tr>
<td>01-09</td>
<td>2009</td>
<td>Rules Governing the Mandatory Marine Insurance to Cover Legal Liabilities Arising out of Any Maritime Related Accidents</td>
</tr>
<tr>
<td>01-07</td>
<td>2007</td>
<td>Application for Authority to Allow Marine Surveyors, Supercargoes, Shipowner Representatives and Other Persons on board Ships in the Domestic Trade</td>
</tr>
<tr>
<td>02-07</td>
<td>2007</td>
<td>Allowing Certain Personnel to Command Fishing Vessels Irrespective of the Limitation in Their License</td>
</tr>
<tr>
<td>05-07</td>
<td>2007</td>
<td>Compulsory Passenger Insurance Coverage</td>
</tr>
<tr>
<td>06-08</td>
<td>2008</td>
<td>Implementation of IMO Resolution A.955(23) – Amendments to the Principles of Safe Manning Resolution A.890(21)</td>
</tr>
<tr>
<td>11-08</td>
<td>2008</td>
<td>Reports on Marine Casualties and Incidents</td>
</tr>
<tr>
<td>04-09</td>
<td>2009</td>
<td>Marine Circular 2009-01 on the “Rules Governing the Mandatory Marine Insurance to Cover Legal Liabilities Arising out of Any Maritime Related Accidents”</td>
</tr>
<tr>
<td>07-09</td>
<td>2009</td>
<td>Measures to Prevent and Suppress the Acts of Piracy and Armed Robbery Against Ships off the Coast of Somalia</td>
</tr>
<tr>
<td>11-09</td>
<td>2009</td>
<td>Practical Measures to Survive as a Hostage in a Piracy Attack</td>
</tr>
<tr>
<td>12-09</td>
<td>2009</td>
<td>Best Management Practices to Deter Piracy in the Gulf of Aden and off the Coast of Somalia</td>
</tr>
<tr>
<td>13-09</td>
<td>2009</td>
<td>Prohibition of Mandatory Sale of Additional Insurance Policy to Passengers Prior to Boarding</td>
</tr>
<tr>
<td>14-09</td>
<td>2009</td>
<td>Prevention and Control of Influenza A (H1N1) in MARINA</td>
</tr>
<tr>
<td>15-09</td>
<td>2009</td>
<td>Submission of Notice to MARINA Whenever a Ship Intends to Pass Through the Coast of Somalia or Gulf of Aden or Horn of Africa or Areas of Enhanced Risk</td>
</tr>
<tr>
<td>18-09</td>
<td>2009</td>
<td>Influenza A (H1N1) Prevention and Control in the Different Transport Facilities</td>
</tr>
<tr>
<td>29-09</td>
<td>2009</td>
<td>Moratorium on Accreditation/Renewal of Accreditation of Manufacturers/Suppliers/Servicing Entities of Life-Saving and Other Safety-Related Appliance/Equipment</td>
</tr>
</tbody>
</table>

### 5.2.2 Safety rules regarding manning

The MARINA is the agency tasked with implementing the rules and regulations on minimum manning.
requirements for domestic and international vessels and fishing vessels. In adopting the Table of Minimum Safe Manning prescribed, the MARINA recognized the principles of safe manning under IMO Resolution No. A. 481 (XII). Safe manning under these rules will therefore mean that the crew includes sufficient officers and ratings with appropriate skills and experience to ensure compliance with the principles. Furthermore, MARINA will issue a certificate of inspection with each vessel's minimum safe manning requirements, indicating the numbers and grades of the personnel required to be carried, together with any special conditions or other remarks.

5.2.3 Special regulations on safety and the environment
The MARINA implements special regulations on safety and the environment by issuing various MCs. It has also organized the Vessel Safety Inspection System (VSIS) to help to ensure vessel seaworthiness. The system provides a manual of procedures for the conduct of periodic vessel safety inspections by authorized and trained government inspectors.

5.3 Registration
5.3.1 Registration requirements
The Maritime Safety Office Ship Registration and Licensing Division under MARINA governs vessel registration in the country. New foreign-built vessels, locally built vessels and vessels leased from foreign nationals for a period of time are required to submit the items listed in section 5.3.2 below for registration.

In addition to the above, the Bureau of Customs (BOC) and the MARINA have signed a memorandum of agreement (MOA) dated 15 August 2007, which requires vessel owners to submit a certificate of conversion (COC) as clearance for payment of duties and taxes from the BOC as a requirement for registration of imported vessels in the MARINA.

The MOA covers foreign and imported ships and other vessels converted to the Philippine flag or registry. The MOA excludes military or government seacraft or vessels.

Imported ships and vessels previously registered with the MARINA will also be subject to a post-entry audit by the BOC within three years to check whether there have been any deficiencies in the duties and taxes.

5.3.2 Ship registration procedure
Vessels should be registered with the Maritime Safety Office Ship Registration and Licensing Division. The office provides a checklist of items to be completed and presented with regard to the application for registration. Four types of registration are accepted and processed by the office. The official requirements of such applications are as follows:

New foreign-built vessels:
- Application for certificate of ownership (CO) or certificate of vessel registration (CVR)
- Approved plans by MARINA under the Shipyard Regulation Office (SRO)
- Certificate from the classification society that supervised or managed the construction of the vessel
- Domestic Shipping Office (DSO) approval for importation
- Clearance from DSO for registration of the vessel
- Certificate from the Maritime Shipping Office (MSO) regarding the BOC release
- Builder's certificate
- Admeasurement certificate
- Affidavit of ownership
- Company's tax identification number
- Proof of payment of import duties and taxes from the BOC
- Clearance of the vessel's name from the Maritime Information System Office (MISO)

New building, alteration or conversion of vessels locally:
- Application for CO or CVR
- MARINA approval to acquire through local construction
• Approval of plans before construction, alteration or conversion under the SRO
• Certificate in evidence of the fact that the vessel is built in accordance with approved plans (SRO)
• Admeasurement certificate
• Builder's certificate
• Affidavit of ownership
• If the applicant is a new company or a corporation, accreditation from DSO
• Company's tax identification number
• Proof of remittance to the Bureau of Internal Revenue (BIR) of the 10% VAT from the builders
• Clearance of the vessel's name from MISO

Certificate of vessel registration for bareboat chartered vessels:
• Application for CVR
• Approval of DSO of the bareboat charter
• Clearance from DSO to register the vessel
• Proof of payment of BIR documentary stamp tax on charter property
• Certificate from MSO regarding the BOC's release
• Approval of plans from SRO
• Admeasurement certificate
• Company's tax identification number
• Clearance of the vessel's name from MISO

To protect its interests, a mortgagee of a bareboat chartered vessel may file a precautionary notice with the MARINA.

Change of ownership of vessel or local sale of vessel:
• Application for CO or CVR
• Deed of absolute sale with board resolution, if the seller is a corporation
• Clearance from DSO if the vessel is imported
• Surrender of original CO or CVR (if lost, submit affidavit of loss duly notarized)
• Check or verify if the vessel is mortgaged; if mortgaged, proponent is to secure the consent of mortgage
• Company's tax identification number

5.3.3 Parallel registration
A Philippine shipping company may bareboat charter foreign vessels, and this should be registered with the Maritime Safety Office Ship Registration and Licensing Division. Submission of a certificate of consent by the original port of registry is required.

5.3.4 Requirements for the officers and crew serving on vessels
Philippine-registered ships are manned wholly by Philippine officers and ratings, except as authorized by the MARINA. Masters, officers and ratings on board Philippine-registered ships should be qualified, competent and medically fit in accordance with the rules and regulations. Crew who are performing watchkeeping duties have to meet the certification requirements of the STCW Convention, as amended, and those not performing watchkeeping duties have to attend basic safety training.

Masters and first officers for voyages (coastwise, bay, river) must be holders of a ship radio mobile operator's certificate issued by the National Telecommunications Commission (NTC). Vessels certified by a recognized classification society and/or the NTC for compliance with the Global Maritime Distress and Safety System (GMDSS) requisite are not required to have a radio officer on board.

Ships should have medical personnel on board in proportion to the number of passengers and the duration of the voyage. Such medical practitioners and paramedics have to attend an orientation and/or refresher course on public health in relation to ship sanitation conducted by the health authority.
Special manning requirements apply only to fishing vessels engaged in international voyages.

### 5.3.5 International conventions regarding registration

The Philippines is a member of the IMO of the United Nations (UN), an agency tasked to improve maritime safety and reduce pollution from ships.

The Philippines is also part of the Brunei-Indonesia-Malaysia-Philippines-East ASEAN Growth Area (BIMP-EAGA), granting interisland or coastwise vessels an EAGA special permit, which is renewable yearly. By virtue of the BIMP-EAGA, the Philippine-registered ship that will engage in international trade within the BIMP-EAGA is exempt from the requirement that domestic vessels serve the domestic trade for at least one year. Furthermore, the special permit may be used during the whole duration of the charter period. The vessels are also required to comply with the ISM Code.

### 5.3.6 Special requirements and rules relating to registration

Philippine shipping companies that own, manage or operate Philippine-registered vessels plying international waters should submit the following documents for special registration:

- A MARINA certificate of accreditation
- A certified copy of the articles of incorporation, duly registered with the Securities and Exchange Commission (SEC), in the case of a corporation or partnership, or a certificate of registration of the firm or business name with the Bureau of Domestic Trade, in the case of single proprietorship
- A surety bond of PHP200,000 (€3,650) from a reputable bonding company, duly accredited by the Insurance Commission, the validity of which should be coterminous with the validity of registration
- A copy of the certificate of approval of the bareboat charter
- A Philippine Coast Guard certificate of registration
Poland

1. Tax

1.1 Tax facilities for shipping companies

1.1.1 General corporate tax rule

Resident companies (including companies in the process of incorporating or registering) are subject to corporate tax on their worldwide income and capital gains. Nonresident companies are taxed only on income earned in Poland. A company is resident in Poland for tax purposes if it is incorporated in Poland or managed in Poland. For this purpose, the concept of management is broadly equivalent to the effective management test in many treaties and is typically deemed to be exercised where the board of directors (or equivalent) meets. A branch of a nonresident company is generally taxed according to the same rules as a Polish company, but only on its Polish-source income. Partnerships are tax transparent except for Polish limited joint-stock partnerships that are treated as taxpayers subject to corporate income tax (CIT). Foreign partnerships are treated as CIT taxpayers in their countries.

Under most tax treaties, income from an overseas representative office or permanent establishment of a Polish resident company is exempt from tax. Alternatively, certain tax treaties grant a tax credit for the foreign tax imposed on foreign-source income.

The general corporate tax rate is 19%. In general, shipping companies are subject to taxation under the ordinary corporate tax regime.

1.1.2 The Polish tonnage tax system

The Polish tonnage tax scheme, effective 1 January 2007, allows for maritime activities to be eligible for tonnage tax. Please note that only certain taxpayers may choose the tonnage tax regime - there are specific statutory conditions to be met.

The tonnage tax rate is 19% of the taxable base and by choosing this type of taxation no CIT will be applicable with regard to this taxpayer.

1.2 Tax treaties

Poland has double tax treaties in place with the following countries: Albania, Algeria*, Armenia, Australia, Azerbaijan, Bangladesh, Belarus, Belgium, Bulgaria, Canada, Chile, China, Croatia, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, India, Indonesia, Iran, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Latvia, Lithuania, Luxembourg, Macedonia, Malaysia, Malta, Mexico, Moldova, Mongolia, Morocco, Netherlands, New Zealand, Nigeria*, Norway, Pakistan, Philippines, Portugal, Qatar, Romania, Russian Federation, Singapore, Slovak Republic, Slovenia, South Africa, South Korea (ROC), Spain, Sri Lanka, Sweden, Switzerland, Syria, Tajikistan, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Uruguay*, Uzbekistan, Vietnam, Yugoslavia, and Zimbabwe.

*The treaty has not yet entered into force.

1.3 Freight tax

There are no freight taxes levied in Poland.

1.4 Consumption tax (Polish value-added tax)

Value-added tax (VAT) is imposed on goods sold and services rendered in Poland, exports, imports, and acquisitions and supplies of goods within the European Union (EU). Poland has adopted most EU VAT rules.

Effective from 1 January 2011, the standard rate of VAT is 23%. Lower rates may apply to specified goods and services. The 0% rate applies to exports and supplies of goods within the EU. Certain goods and services are exempt. Examples of goods and services taxable at 0% include supplies of certain sailing vessels, and international transport and related services.
2. Human capital

2.1 National labor law affecting seafarers
The Law on Labour on Sea-Going Commercial Ships applies to crew members of registered ships in Poland.

3. Corporate structure

3.1 Most commonly used legal structures for shipping activities
A majority of major shipping companies adopt a limited liability legal form with spółka z ograniczoną odpowiedzialnością (limited liability company) being the prevailing form.

4. Grants and incentives

4.1 Specific and/or general subsidies available to shipping companies
There are no specific or general subsidies available to shipping companies in Poland other than the tonnage tax regime.

5. General information

5.1 Infrastructure

5.1.1 Major ports
Poland is geographically in a favored location open to the Baltic Sea. Polish seaports are situated on the shortest path connecting Scandinavia with Central and Southern Europe. The number of ports on the Polish coastline is relatively high, however two groups of seaports stand out: The port of Szczecin-Świnoujście and ports in Gdynia and Gdańsk. Transshipments in Polish ports are growing year-to-year and in 2012 they amounted to 58.8m tons, which was 2.8% higher than in the previous year. As stated in the Trans-European Transport Networks Programme (TEN-T), three main polish ports (Gdynia, Gdańsk, Szczecin-Świnoujście) are considered crucial for the future development of European transport. All ports are key links in the TEN-T Corridor No. 6 connecting the Nordic countries with Southern and Eastern Europe.

Major ports in Poland:
- The port of Gdańsk is a major international transportation hub situated in the central part of the southern Baltic coast, which ranks among Europe's fastest growing regions. Additional information: port.gdansk.pl
- The port of Gdynia is a universal modern port specializing in handling general cargo, based on the well-developed network of multimodal connections including hinterland, regular short sea shipping lines as well as ferry connections (ferry terminal). Additional information: port.gdynia.pl/en
- The port of Szczecin - Świnoujście - the ports in Szczecin and Swinoujście are among the largest port groups in the region of the Baltic Sea. They are situated on the shortest path connecting Scandinavia with Central and Southern Europe. They also lie on the shortest seaway connecting Finland, Russia, Lithuania, Latvia and Estonia with Germany and Western Europe. Additional information: port.szczecin.pl/en/

Note: Gdynia and Gdańsk form a single metropolitan area, but the ports are administrated separately. Szczecin and Świnoujście are closely located cities with a combined port authority.

5.1.2 Port facilities
Among others, the following support facilities are available in these ports:
- Oil terminal in Gdańsk
- Shipyards (construction, maintenance and repair)
• Docking
• Freight forwarding (including intermodal)
• Towing
• Waste handling
• Storage and terminals (e.g., liquid bulk cargo, oversized cargo, ro-ro)
• Cranes for every size of vessel
• Business incubation services at ports
• LNG Terminal in Świnoujście – under construction

5.1.3 **Airports close to the major ports**
The Gdańsk and Gdynia ports are located nearby Gdańsk Lech Walesa Airport (15 and 25km respectively). The Szczecin port is situated 45km, and Świnoujście is 71km from the Szczecin-Goleniow Airport, respectively.

5.1.4 **Support services for the shipping industry**
Among others, the following supporting facilities for the shipping industry are easily available:
• Maritime law services,
• Insurance brokers for the shipping industry,
• Cargo handling services,
• Bunkering services,
• Stevedore services.

5.1.5 **Maritime education**
Two main maritime universities in Poland are as follows:
• Gdynia Maritime University: am.gdynia.pl/en/
• Szczecin Maritime University am.szczecin.pl/en/

5.2 **Safety and environmental issues**

5.2.1 **Implementation of the International Safety Management Code**
All passenger ships that sail internationally and all oil tankers with a total weight exceeding 500 tons are required to implement the International Safety Management (ISM) Code. Other domestic vessels that are not obliged to implement the ISM Code are also strongly requested to comply with the ISM Code on a voluntary basis.

5.2.2 **Special regulations on safety and the environment**
Poland is a party to the International Convention for the Prevention of Pollution from Ships (MARPOL) which is an important international regulation for preventing pollution to the marine environment by ships from operational or accidental causes, and the International Convention for the Safety of Life at Sea (SOLAS), which regulates the security of life at sea.

5.3 **Registration**

5.3.1 **Registration requirements**
Article 27 of the Maritime Code generally requires all ships having Polish nationality to be registered in the Polish registry of ships. Also, the maritime authority stipulates the rights and obligations of Polish ships.

5.3.2 **Parallel registration**
Parallel registration is prohibited per Article 27 of the Maritime Code.
Portugal

1. Tax

1.1 Tax facilities for shipping companies

*Corporate income tax*

The standard corporate income tax (IRC) rate is 23%. The standard IRC rate is reduced to 18.4% in the Azores, with the exceptions for certain activities. A reduced 17% rate applies to the first €15 of taxable profit computed by small- and medium-sized companies (13.6% for the Azores). In addition, a municipal surcharge is due, although not imposed on certain municipalities, of up to 1.5% of taxable profits (income before deduction of tax losses, if any). An additional state surcharge, which is cumulative with the municipal surcharge, is also applicable in all Portuguese territory, including the Azores and Madeira. This surcharge is levied at the rate of 3% for taxable profit exceeding €1.5 million and up to €7.5 million, 5% for taxable profit exceeding €7.5 million and up to €35 million, and 7% for the taxable profit exceeding €35 million.

IRC and applicable surcharges apply to companies and other corporate entities, including public enterprises, cooperatives and non-profit organizations. Branches of foreign companies in Portugal are subject to the same tax regime as resident entities.

However, under the Portuguese IRC Code, the Portuguese-sourced profits of a nonresident shipping company derived from the exploitation of ships may be exempt, provided there is reciprocity towards Portuguese companies and such reciprocity is recognized by the Minister of Finance. Such recognition has already been granted to several companies. An exemption may also be available under double tax treaties.

The IRC Code allows for an exemption of 50% of the capital gains realized with the disposal of tangible fixed assets, investment properties or biological assets for transforming if the sales' proceeds are reinvested in the acquisition or construction of other fixed assets, investment properties or biological assets for transforming in the year of sale, in the previous year or in the two subsequent years after the sale.

As for national merchant shipping companies, the Tax Incentives Code (EBF) states that only 30% of profits arising exclusively from maritime transport activity are subject to tax.

*Stamp duty*

Foreign financing operations for the acquisition of ships, containers and other equipment entered into by merchant shipping companies are exempt from stamp duty, even if such financing is obtained through national financial institutions.

*Madeira International Shipping Register*

Currently, a favorable tax regime is in force for income arising from qualifying shipping activities carried out within the Madeira International Business Centre (MIBC). This regime was approved as in line with European Union (EU) state aid rules and grandfathered by the European Commission.

The Madeira International Shipping Register (RIN-MAR) applies to companies licensed and incorporated in the MIBC from 2007 to 30 June 2014, which may benefit from the tax regime currently in force in the MIBC. Shipping companies that were licensed to operate within the MIBC under the previous tax regimes, which were in force until 2011, fall under the current tax regime in force in the MIBC (if a declaration was issued by the licensing authorities no later than 30 December 2011).

The MIBC tax regime applies only to income obtained by:

- Entities licensed from 2007 until 30 June 2014 (although the regime current in force was intended primarily to be applicable to entities licensed in the MIBC between 1 January 2012 and 31 December 2013, recently, the European Commission has decided to extend the authorization of new companies in the MIBC until the 30 June 2014), or by entities licensed under the previous tax regimes in force until 2011 and effectively transferred to the current regime to operate within the MIBC
- Carrying on transportation activities, provided that such activities are carried out within the scope of the
MIBC, except for income arising from the transport of passengers or cargo between Portuguese ports. According to the MIBC regime, companies benefit from a reduced IRC rate of 5% until 31 December 2020. The entities that wish to enjoy the benefits of this special regime will have to initiate their activity within six months, in the case of international services, or one year, in the case of industrial activities or maritime registration, as from the date of license. They must also comply with one of the following requirements:

- Creation of one to five jobs in the first six months of activity and a minimum investment of €75,000 in the acquisition of tangible or intangible fixed assets during the first two years of activity

Or

- Creation of six or more jobs in the first six months of activity

These entities will be subject to a limitation on the benefits to be granted through the application of ceilings on taxable income, according to the following terms:

- €2.73 million for the creation of one to two jobs
- €3.55 million for the creation of three to five jobs
- €21.87 million for the creation of 6 to 30 jobs
- €35.54 million for the creation of 31 to 50 jobs
- €54.68 million for the creation of 51 to 100 jobs
- €205.50 million for the creation of more than 100 jobs

The application of these ceilings shall be undertaken according to the number of jobs at the end of each year of activity.

On 18 August 2009, an administrative order was issued by the Regional Secretary for the Plan and Financing of the Autonomous Region of Madeira, which defines several situations where a job exists for the purposes of ascertaining the applicable ceiling on an entity operating in the MIBC. The definition of job contemplated in this order is very broad. The aim of this broad definition is to grant flexibility to the entities operating in the MIBC to have an appropriate number of jobs, connected with MIBC activities, allowing these entities to achieve the desirable ceiling of taxable income.

Entities investing in companies licensed in the MIBC are generally entitled to a total exemption from Portuguese withholding tax on most types of interest, royalty and service payments. Under the Parent-Subsidiary Directive, dividends paid to EU qualifying shareholders may be exempt from withholding taxes, provided that certain conditions are met. Portugal has an extensive double tax treaty network that may entitle reduced withholding tax rates on dividends paid to nonresident entities eligible under such treaties.

According to the Regional Decree No. 2/2011/M, the state surcharge does not apply to entities incorporated and licensed to operate within the MIBC.

MIBC entities benefit from a full stamp duty exemption on documents, books, papers, contracts, transactions, acts and products, provided no Portuguese entities (including permanent establishments of foreign companies) outside the MIBC are involved.

The crew members of the vessels registered in the RIN-MAR falling within the scope of the MIBC will be exempt from personal income tax (IRS). Such exempt income, however, will count in the determination of the progressive rates of the tax on income not so exempted.

1.2 Tax facilities for seafarers
As stated above, crew members who are registered in the RIN-MAR and who are within the scope of the MIBC are exempt from IRS.

1.3 Tax treaties and place of effective management
Portugal has concluded several bilateral tax treaties for the avoidance of double taxation and the prevention of fiscal evasion regarding taxes on income and capital, which are based on the Organisation for Economic Co-operation and Development (OECD) model convention, with the following countries: Algeria, Austria, Barbados*, Belgium, Brazil, Bulgaria, Canada, Cape Verde, Chile, China, Colombia*, Cuba,
Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Guinea-Bissau, Hong Kong, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Japan, Kuwait, Latvia, Lithuania, Luxembourg, Macau, Malta, Mexico, Moldova, Morocco, Mozambique, Netherlands, Norway, Pakistan, Panama, Peru*, Poland, Qatar*, Romania, Russian Federation, Singapore, Slovak Republic, Slovenia, South Africa, South Korea (ROK), Spain, Sweden, Switzerland, Timor-Leste*, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States of America, Uruguay and Venezuela.

*Treaty already signed but not yet in force

Based on the OECD model convention, the place of effective management determines the country that will have the right to tax international shipping operations.

1.4 Special vessel registration tax benefits for the shipowner
See section 1.1 above.

1.5 Changes to tax law anticipated in the near future
No major changes are expected to Portuguese tax law in the near future regarding shipping activities.

2. Human capital

2.1 Formalities for hiring personnel
According to Portuguese law, an individual to be hired as a seafarer must be registered as a “maritime officer” and hold a valid maritime certificate.

Furthermore, the employment agreement must be drawn up in writing and must contain specific clauses, including the professional category and remuneration.

2.2 National labor law
In general, national labor law applies to vessels registered in Portugal.

2.3 Collective labor agreements
According to Portuguese labor law, collective labor agreements (CLAs) take precedence over labor law if they are more favorable.

Several CLAs have been concluded, including the CLA with the Union of Maritime Employers, which have special regulations. CLAs differ among employers.

2.4 Treaties relating to social security contributions

EU social security regulations
Under the EU social security regulations, a seafarer who is an EU national or certain persons who are legally resident in the EU and employed on board a vessel flying the flag of an EU Member State will normally be subject to the social security legislation of that Member State. Certain exceptions apply to this general rule.

Bilateral agreements
Portugal has signed bilateral social security agreements with several non-EU countries, although the terms of the agreements vary considerably. In order to determine an individual’s liability or benefit entitlement, it is important to consult the particular agreement relating to the individual’s home country.

To prevent double social security taxes and to ensure benefit coverage, Portugal has concluded bilateral agreements with the following countries: Andorra, Argentina, Australia, Brazil, Canada – Quebec, Cape Verde, Channel Islands, Chile, Moldova, Morocco, Tunisia, Ukraine, United States of America, Uruguay, and Venezuela.

Bilateral agreements have also been signed with Angola, Guinea and São Tomé and Principe, but they are not yet in force.
2.5 Manning issues with flying the Portuguese flag
Please see section 1.1 above, regarding the advantages of the RIN-MAR.

3. Corporate structure

3.1 Most commonly used legal structure(s) for shipping activities
Portuguese-resident companies typically adopt two main different structures or types:
- **Private limited companies (Lda)**
  - Share capital: the minimum share capital is €1 for an Lda with a sole shareholder and €2 for Ldas with two or more shareholders. The minimum nominal value that each quota should have is €1.
  - Shareholder(s): Ldas have a minimum of two, but it is possible to incorporate a sole-shareholder Lda.
  - Management: Ldas should have at least one manager, appointed in the articles of association or by the general meeting of shareholders.
  - Statutory auditor: a statutory auditor or board may have to be appointed if certain thresholds are met.
- **Share capital**: the minimum share capital is €1 for an Lda with a sole shareholder and €2 for Ldas with two or more shareholders. The minimum nominal value that each quota should have is €1.
- **Shareholder(s): Ldas have a minimum of two, but it is possible to incorporate a sole-shareholder Lda.**
- **Management: Ldas should have at least one manager, appointed in the articles of association or by the general meeting of shareholders.**
- **Statutory auditor: a statutory auditor or board may have to be appointed if certain thresholds are met.**
- **Joint stock corporation (SA)**
  - Share capital: the minimum share capital is €50,000, divided into shares, each with a minimum nominal value of €0.01.
  - Shareholder(s): SAs should have at least five shareholders, except when not required by law (for companies incorporated in the MIBC, one shareholder is allowed).
  - Management: an SA's management board comprises at least three directors. In some cases, it is possible to have one single director.
  - Statutory auditor: a statutory auditor or board must be appointed.
Nevertheless, it is important to stress that companies licensed to operate within the MIBC are not subject to the minimum share capital rules, although the shareholders must comply with the remaining requirements.

3.2 Taxation of profit distribution
As a general rule, a 25% withholding tax rate applies to dividends paid to nonresidents. Nevertheless, the Portuguese tax law foresees a withholding tax exemption regime under which dividends paid to a qualifying shareholder in the EU or EEA or a treaty country will not be subject to withholding tax, provided that the shareholder holds at least 5% of the share capital for an uninterrupted period of two years (Parent-Subsidiary Directive) and is subject to and not exempted from one of the taxes foreseen in the Parent-Subsidiary Directive; or, if the company is located outside the EU or EEA, it is subject to corporate income tax at a minimum rate of 60% of the Portuguese IRC rate (i.e., 13.8% in 2014). In the event that the two-year period has not yet lapsed by the time of the dividend distribution, a refund of the withholding tax can be claimed upon expiry of this holding period.

In cases where the withholding tax exemption regime aforementioned is not applicable, companies resident in countries that have entered into a double tax treaty with Portugal may benefit from reduced withholding tax rates that can range from 5% to 15%. These reductions of withholding tax may be obtained through up-front or refund procedures.

4. Grants and incentives
Financial and tax grants may be available in certain circumstances and conditions for shipping-related activities and investments. A case-by-case analysis should be performed.
5. General information

5.1 Infrastructure

5.1.1 Major ports
The major ports are:
- Angra do Heroismo
- Aveiro
- Figueira da Foz
- Funchal (Madeira)
- Horta (Azores, Faial Island)
- Leixões (Porto)
- Lisbon
- Portimão (Algarve)
- Sesimbra
- Setúbal
- Sines
- Viana do Castelo

5.1.2 Port facilities
The following facilities are available:
- Maintenance and repair
- Docking
- Storage
- Quayside equipment, parking and security

5.1.3 Airports close to the major port(s)
The following airports are close to the major ports:
- Faro Airport (Faro)
- Funchal (Funchal)
- Horta (Horta)
- Lisbon (Lisbon)
- Porto (Leixões)

5.1.4 Support services for the shipping industry
The following support services for the shipping industry are readily available:
- Banks with a shipping desk
- Consulting firms specializing in shipping
- Maritime law services
- Insurance brokers for the shipping industry

5.1.5 Maritime education
The major maritime educational institutions are:
- Escola Náutica de Recreio (near Lisbon)
- Escola Náutica Infante D. Henrique (civil) (near Lisbon)
- Marinha de Guerra Portuguesa (military) (Lisbon)
Russia

1. Tax

1.1 Tax facilities for shipping companies

There are two tax regimes that may be applied by shipping companies in the Russian Federation (Russia):

- General taxation regime (applicable to all other companies operating in Russia)
- Shipping incentive regime (applicable to shipowners who have registered their vessels in the Russian International Register of Vessels)

1.1.1 General taxation regime

Under the general taxation regime, shipping companies are subject to the full range of Russian taxes, including value-added tax (VAT), profits tax, social insurance contributions, assets tax, transport tax (with certain exemptions) and stamp duty.

VAT

Generally, the provision of services in Russia, including chartering of vessels, is subject to Russian VAT. Where a supplier or a buyer of services is located in a foreign jurisdiction, Russian VAT may or may not be due depending on whether the “place of supply” of services is deemed to be Russia from a VAT perspective.

In case a foreign company without tax registration in Russia performs services that are subject to Russian VAT, a buyer of such services should act as a tax agent and calculate, withhold from the payment (remuneration) and remit to the Russian budget relevant VAT amounts (similar to the “VAT withholding” mechanism). Thus, where a foreign company renders services to a Russian buyer, it becomes of significant importance from a cash flow and pricing perspective to determine the “place of supply” of such services for VAT purposes.

Place of supply rules

Under the current VAT legislation, the place of supply of carriage and transportation services and various related services is regulated by the following main principles:

- Carriage and transportation services, as well as services or works directly connected with carriage and transportation, are considered to be supplied in Russia and, consequently, should be subject to Russian VAT, if such services or work are rendered or performed:
  - By a Russian company or a Russian individual entrepreneur and the point of departure and/or the point of destination of the shipment is located in Russia
  - By foreign entities not registered in Russia, and both the points of departure and destination are located in Russia (apart from carriage of passengers and baggage executed by foreign entities other than through their permanent establishment)
- The place of supply is also considered to be in Russia if the means of transport are provided by a Russian company or a Russian individual entrepreneur under a charter contract (which provides for carriage (transportation) on those means of transport), and the point of departure and/or the point of destination is located in the Russian territory.
- Services or work directly connected with carriage and transportation of goods placed under the international customs transit procedure upon transportation of foreign goods from a customs authority at the place of arrival to the Russian territory to a customs authority at the place of departure from the Russian territory are considered to be supplied in Russia if they are rendered or performed by companies or individual entrepreneurs who performed their business activity in Russia.
- The work or services that are directly connected with seagoing vessels and inland vessels that are located in the Russian territory should be deemed as performed or rendered in Russia. Such work or services shall include, in particular, installation, assembly, processing, treatment, repair and technical servicing.
Russia

Russia should be considered as the place of supply of carriage and transportation services, as well as services directly connected with them, performed by Russian and/or foreign companies, if the services are executed for the purpose of geological search, exploration and extraction of hydrocarbon materials on subsoil plots located on the continental shelf and/or in an exclusive economic zone of Russia.

Russia is not supposed to be the place of supply when the means of transport are provided under a time-charter arrangement with a company or an individual entrepreneur for carrying out activities outside the territory of the Russian Federation with respect to capture of aquatic biological resources and/or research and development purposes, or for the purposes of transportation between two ports outside Russia.

In other cases, the place of supply of the services should be determined under the default rule, i.e., as the place of a supplier's activity.

VAT exemptions

Russian VAT law provides a VAT exemption (exemption without credit) for services that are rendered directly at airports of the Russian Federation and in the airspace of the Russian Federation involving operation of an aircraft, including air navigation services.

Furthermore, the VAT legislation provides for VAT exemption for work (services, including repair services) with respect to operation of vessels, inland vessels and mixed (river-sea) vessels during the standing time in a port (all types of port charges, services of a harbor craft), as well as for maneuvering and for classification and inspection of vessels.

VAT rates

The VAT law provides for the following VAT rates applicable to carriage and transportation services and services (work) directly connected to carriage and transportation services:

- The 0% VAT rate is available for VAT payers in the following operations:
  - Services involving international carriage of goods. The international carriage of goods is deemed to be carriage of goods by inter alia sea-going, river-going and combined (river-sea) vessels where a departure point or a destination point of the goods is located outside of Russia
  - Freight forwarding services rendered under a freight forwarding agreement in the frames of international carriage
  - Work or services performed or rendered by Russian organizations in sea ports and river ports involving the transshipment and storage of goods that are moved across the border of Russia where shipping documents indicate a departure point and/or destination point located outside of Russia
  - Work or services performed or rendered by inland water transport organizations in relation to goods that are to be exported under the export customs procedure involving carriage (transportation) of goods within the Russian territory from a departure point to a point of unloading or reloading (transshipment) onto seagoing vessels, combined (river-sea) vessels or other modes of transport
  - Work or services directly connected with carriage or transportation of goods placed under the customs transit procedure
  - Work or services involving the carriage of passengers and baggage provided that a point of departure or a destination is located outside the Russian territory (provided standard international documents of carriage are issued in respect of such carriage)
  - Work or services performed by Russian rail carriers involving carriage or transportation of goods that are exported from the territory of the Russian Federation and withdrawals from the territory of the Russian Federation of products of processing performed in the territory of the Russian Federation
  - Work or services performed or rendered by Russian rail carriers involving carriage or transportation of goods that are exported from the territory of the Russian Federation to the territory of a member state of the Customs Union and work or services directly connected with carriage or transportation of those goods the value of which is indicated in the documents of carriage for carriage of the goods
  - Work or services performed or rendered by Russian rail carriers involving carriage or transportation of goods that are moved through the territory of the Russian Federation from the territory of a foreign state
that is not a member of the Customs Union, including via the territory of a member state of the Customs Union, or from the territory of a member state of the Customs Union to the territory of another foreign state, including one which is a member of the Customs Union, and work or services directly connected with carriage or transportation of the goods, the value of which is indicated in carriage documents.

- Work or services associated with goods exported from the territory of Russia or of goods imported to Russia by sea vessels and mixed (river–sea) vessels under a time-charter arrangement

The 0% VAT rate might be applied in the aforementioned cases provided that appropriate supporting documents are collected by a taxpayer and submitted to the tax authorities; otherwise, the standard VAT rate of 18% should apply until the required set of documents is collected. The application of the 0% rate normally allows offsetting input VAT. The list of documents confirming such operations is established by Article 165 of the Tax Code.

The 18% VAT rate applies to other services or work with certain exemptions.

**Practical issues**

Even though the principles are stated by the Russian Tax Code, their application in practice always raises many questions and uncertainties.

In particular, doubts may arise for transportation services that are not provided under a freight-forwarding agreement or for services where a forwarding agent does not organize international transportation itself. In those cases, service providers often prefer to apply the 18% VAT rate instead of the 0% VAT rate. As a result, VAT risks are transferred to a buyer of the services as the tax authorities could argue that such services should be zero-rated and therefore challenge the recovery of such VAT by the buyer.

The recent court practice shows that Russian courts tend to allow applying the 0% VAT rate to particular freight-forwarding services relating to imported or exported goods even if a service provider does not arrange transportation of goods itself. Such approach may be applied to a wider range of services relating to international transportation (including various types of intermediary support services). The court applies a “substance over form” approach to freight-forwarding services. This means that courts tend to support the application of the 0% VAT rate even if an agreement under which services are provided is not formally named as a freight-forwarding agreement. The requirement is that the agreement in substance should match the key features of a freight-forwarding agreement established by the civil law.

**Profits tax**

Generally, Russian profits tax could be imposed on both Russian and foreign companies operating in Russia.

**Russian companies**

Russian companies are taxed on their profits (in a general case, income received less deductible expenses). The standard profits tax rate is 20% (including 2% payable to the federal budget and 18% payable to the regional budget).

Generally, only economically justified and properly documented expenses can be deducted. Further, some expenses are deducted within a limit set by the Tax Code, and some expenses may appear to be completely nondeductible.

**Foreign companies**

A foreign company may be subject to Russian profits tax either via taxation of profits attributable to a Russian permanent establishment of such a foreign legal entity, or via income tax withholding applied by Russian taxpayers paying out so-called Russia-source income to that foreign company.

**Permanent establishment**

When a foreign company is resident in a jurisdiction having a double tax treaty (DTT) with Russia, the provisions of an appropriate treaty shall prevail, and the definition of a permanent establishment (PE) provided in a DTT should be tested instead of the domestic definition of a PE.

The definition of a PE of a foreign company in Russian domestic law is quite similar to the definition provided
under the Organisation for Economic Co-operation and Development (OECD) Model Convention (which was used as a template for most DTTs concluded by Russia). PE is defined as a branch, representation, division, bureau, office, agency or any other economically autonomous subdivision or other place of business of that organization through which the organization regularly carries out entrepreneurial activities in the territory of Russia. In this respect, a PE should be recognized when the following three main criteria are met:

- The activity is of a commercial nature (i.e., not preparatory or auxiliary).
- It is conducted on a regular basis (generally, more than 30 days continuously or cumulatively).
- It is carried out through a fixed place of business (e.g., a branch, representation office, division, bureau, agency).

Even where no fixed place of business exists, a foreign entity would be deemed to have a PE in Russia should a legal entity or an individual, other than an agent of an independent status, have a right to conclude contracts or negotiate key parameters thereof on behalf of that foreign company and habitually exercise such right in Russia.

Should a PE of a foreign entity be constituted in Russia, it would be subject to the full range of applicable Russian taxes.

**Income tax withholding**

According to Russian domestic law, income from a specific list of transactions received by a foreign company and not connected with entrepreneurial activities of that company in Russia (i.e., do not constitute a Russian PE) should be subject to income tax withheld at the source. In particular, the following items could be taxed at source:

- Dividends received
- Interest income from any kinds of debt obligations
- Royalty income
- Capital gain from a sale of property-rich companies
- Rental income, including income from leases, income from rent of ships (vessels), aircraft and/or means of transport and containers used in international traffic
- Income from international traffic, including demurrages and other payments arising in connection with transportation

If the jurisdiction where a foreign organization is tax resident has a DTT with Russia, provisions of that treaty should prevail over provisions of Russian domestic law and, therefore, respective income either should be not subject to withholding tax in Russia at all, or it should be taxed at Russia at a reduced tax rate in Russia.

Furthermore, income received by a foreign company from performance of work and rendering of services in the territory of Russia not leading to a PE in Russia, shall not be taxable at the source.

**Transfer pricing**

New transfer pricing (TP) law has been adopted in Russia on 8 July 2011 and has been enacted for periods commencing from 1 January 2012 (hereinafter referred to as the TP Law). Even though Russia is not a member of the OECD, the provisions of the TP Law are generally consistent with the OECD principles but are subject to some specific Russian considerations. The rules are driven by the arm's length principle and focus on the substance of a transaction rather than its form.

The old TP regime that was in place until the end of 2011 was rather ineffective from a practical standpoint, so the changes introduced by the new TP law were aimed at mitigating its major drawbacks. Among several significant changes, one of the major concepts introduced by the new TP Law is the documentation requirements and obligation to file to a tax authority notifications with respect to prices applied in controlled transactions.

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1 We note that there might be other grounds for PE creation.
It will take more time to trace how the TP Law is interpreted and applied by the Russian tax authorities in practice. There are certain trends showing the intention of the Russian tax authority to develop an OECD-like practice. However, companies whose activities fall under the TP Law should closely monitor further development of Russian TP legislation in order to comply with Russia-specific requirements that may differ from OECD ones.

**Scope of TP control**

The Russian TP rules primarily focus on related-party transactions, but certain third-party transactions are also subject to TP control. Third-party transactions subject to TP control include transactions involving goods traded on global commodity exchanges (such as oil and oil products, ferrous metals, non-ferrous metals, fertilizers, precious metals and precious stones) and transactions with a counterparty located in so-called black-listed jurisdictions if annual income earned in those transactions exceeds RUB60 million (approximately USD2.2 million). All cross-border transactions with related parties are also subject to TP control.

In the domestic market, only related-party transactions could be subject to TP control. However, materiality thresholds apply in the domestic market, and generally only transactions in excess of RUB1 billion (approximately USD33 million) for 2014 and subsequent years are subject to TP control. It is worth noting that this threshold is lowered down to RUB60 million (approximately USD2.2 million) for the following transactions:

- Transactions involving an object of assessment of mineral extraction tax calculated at an ad valorem tax rate
- Transactions where one of the parties is exempt from Russian paying profits tax or pays the tax at the 0% rate
- Transactions where one of the parties is registered in a special economic zone (such transactions will be controlled in 2014)

As an exemption, certain domestic transactions will not be subject to TP control:

- Transactions between members of a domestic consolidated group of taxpayers
- Transactions where both parties are registered within the same region of Russia, where none of the parties have economically autonomous subdivisions in other regions of Russia nor pay income tax to the budgets of other regions, where none of the parties have tax losses, and there are no other grounds for the transaction to be controlled

For the purposes of the TP Law, the main condition for two entities to be regarded as related parties is a 25% ownership threshold, i.e., if one party directly or indirectly controls more than 25% of the other party. Courts may declare companies and/or individuals to be related if it is proven that relationships between the parties influenced the terms and the results of the transactions in question.

**TP methods**

The TP Law generally follows the principles set forth in the July 2010 OECD Guidelines for Multinational Enterprises and Tax Administrations. In particular, it allows the use of one of the five OECD methods, including comparable uncontrolled price (CUP), resale minus, cost plus, transactional net margin method (modified) and profits split method. The CUP method has the first priority, whereas the profits split method is regarded as the method of last resort. The resale minus method is regarded as the second priority method for distribution of goods in Russia. Ultimately, taxpayers are able to use any method that can be shown to be appropriate, not only those five directly provided for in the TP Law.

**Documentation requirements**

Notification of controlled transactions: information about controlled transactions should be submitted annually to the tax authorities via a TP notification. This information should be presented to the tax authorities no later than 20 May of the year following the year when controlled transactions took place.

TP documentation: transactions subject to TP control should be documented. The tax authorities may request TP documentation proving that the transfer prices are established at arm's length. This documentation should be presented to the tax authorities within 30 business days from the date of the tax
authorities’ query which cannot be earlier than 1 June of the year following the reporting year. Generally, the Russian TP documentation should contain similar information as recommended by the OECD TP Guidelines. The TP documentation must be prepared and submitted to the tax authorities in Russian.

As an exception, TP documentation is not required for third-party transactions, transactions where the prices conform to a regulated price or a price that is prescribed by the anti-monopoly authorities, transactions with securities and derivatives traded on an organized equity market, and for transactions covered by an advance pricing agreement.

The Russian Ministry of Finance adopted the methodological requirements on the contents of TP documentation and the form of notification for controlled transactions, which the taxpayers can utilize in the course of preparation of documentation and notifications.

**Advance pricing agreements**

The TP Law provides for the possibility to conclude an advance pricing agreement (APA) with the Russian tax authority. Only Russian entities are eligible to conclude an APA, and they also have to qualify as large taxpayers. An APA can be unilateral (with the Russian tax authority only) or multilateral (with the tax authorities of several countries).

**Penalties**

The TP Law establishes a 40% penalty in case a taxpayer’s income is adjusted as the result of a TP audit (based on the amount of unpaid tax). However, no penalty can be charged by the tax authorities if the taxpayer submits transfer pricing documentation or concludes an APA.

In addition, the 40% penalty will be applied only to transactions concluded in 2017 and subsequent years. A reduced 20% penalty will apply to transactions concluded in 2014, 2015 and 2016.

**Social insurance contributions**

The social security situation is currently as follows: for the first approximately RUB624,000 (approximately USD18,300) of salary per employee in a calendar year, the company should pay social security contributions at 30.2%. For any income in excess of RUB624,000 in the same calendar year, the company should pay a social security contribution at 10.2%. The threshold of RUB624,00 is effective starting from January 2014.

The payments are made in the same proportion as before to various statutory funds as follows:

1) To the Pension Fund: 22%
2) To the Social Insurance Fund: 2.9%
3) To the Federal Fund of Compulsory Medical Insurance: 5.1%
4) Payments for Compulsory Social Insurance against Industrial Accidents: 0.2% for office workers (the rate is higher for dangerous industries, e.g., 8.5% for miners)

This results in a total of 30.2%. The rates apply to the first RUB624,000 of salaries in a calendar year. Income in excess of that figure is subject only to payments 1) and 4) at the rates of 10% and 0.2%, respectively.

The payments are not called taxes; instead, wholly separate legislation has been created. However, for all practical purposes, the payments are administered similarly to taxes on salaries. Many Russian companies choose to have a separate low-cost accountant dealing exclusively with payroll-related taxes as the schedules for calculation of the above payments must be maintained separately for each individual and must be kept for 75 years (since people may live that long).

**Personal income tax**

In certain situations prescribed by the tax legislation, when paying out income to employees, companies registered in Russia may act as tax agents, i.e., they should calculate, withhold and remit to the Russian budget the relevant amounts of personal income tax (the tax rates depend on the type of the income and Russian tax residency status of the employees).

**Assets tax**
Both Russian and foreign companies (either having created a permanent establishment in Russia or not) could be subject to assets tax in Russia on their taxable assets.

**Russian companies**

Taxable assets include both movable and immovable property accounted as fixed assets on a taxpayer’s balance sheet (based on the Russian Accounting Principles).

The movable property that was put into use starting 1 January 2013 is excluded from the list of taxable assets for Russian assets tax purposes.

The tax base is calculated as the average annual net book value of taxable assets under the Russian Accounting Standards.

The maximum assets tax rate provided by the Russian Tax Code is 2.2% (which could be reduced by the local tax authorities).

**Foreign companies**

When the Russian PE of a foreign company is created, the calculation of the assets tax is similar to the procedure discussed previously for Russian taxpayers, i.e., 2.2% (this could be reduced by the local tax authorities) of the movable and immovable assets’ net book value calculated based on the Russian Accounting Principles.

If no PE is created, the assets tax is calculated as 2.2% (could be reduced by the local tax authorities) of the assets’ inventory value with respect to immovable property only (calculated based on the data of the technical inventory bodies). Such value only becomes known after the valuation of the immovable property is performed by the technical inventory bodies. Generally, inventory value is much lower than market value. It is notable that in accordance with civil law, vessels should normally be considered as immovable property.

**Transport tax**

Vehicles (including vessels) registered in accordance with Russian law (please see the details of the registration below) are subject to transport tax which for seagoing vessels is calculated based on either number of unit of means of transport or horsepower (HP).

The following transportation vehicles are exempt from transportation tax:

- Seagoing harvesting vessels
- Passenger and freight sea vessels that are owned by companies and private entrepreneurs whose main type of activity is performance of passenger and/or freight carriage

**State duties**

The following major state duties are applicable to shipping companies in Russia:

<table>
<thead>
<tr>
<th>Type of duty</th>
<th>Duties RUB approximately USD*</th>
</tr>
</thead>
<tbody>
<tr>
<td>State registration in the State Register of Vessels, a vessel register or a</td>
<td>6,000 (184)</td>
</tr>
<tr>
<td>bareboat charter register of marine vessels</td>
<td></td>
</tr>
<tr>
<td>State registration of amendments made to the State Register of Vessels, a</td>
<td>1,200 (37)</td>
</tr>
<tr>
<td>vessel register or a bareboat charter register in relation to marine vessels</td>
<td></td>
</tr>
<tr>
<td>Issuance of a certificate of ownership and for the state registration of</td>
<td>6,000 (184)</td>
</tr>
<tr>
<td>limitations (encumbrances) of rights in a marine vessel</td>
<td></td>
</tr>
<tr>
<td>Issuance of a certificate of the right to fly the State Flag of Russia</td>
<td>6,000 (184)</td>
</tr>
</tbody>
</table>

*Exchange rate USD/RUB as of 1 January 2014 established by the Russian Central Bank.*
1.1.2 Shipping incentive regime

**VAT benefits for vessels registered in the Russian International Register of Vessels**

Shipowners who have registered their vessels in the Russian International Register of Vessels (RIRV) could enjoy the following benefits:

- The importation of vessels that are to be registered in RIRV is customs VAT exempt.
- The sale of built vessels that are to be registered in RIRV is subject to 0% VAT (provided a required set of documents is collected and submitted to the Russian tax authorities).

When the registration of a vessel in the RIRV has not been performed within 45 calendar days from the date of transfer of ownership for the vessel from a taxpayer to a customer, the tax base is determined by a tax agent (if the vessel is deemed to be supplied in Russia, please refer to the VAT place of supply rules above) as the value at which the vessel was sold to the customer including the amount of tax. If this is the case, the tax agent is a person who owns the ship at the end of 45 calendar days from the date of the transfer of ownership. The tax agent should assess VAT at 18/118 rate.

Though the shipping incentive regime does not provide for any additional VAT exemptions for carriage and transportation services, such services could be outside the scope of Russian VAT or be subject to the 0% rate or be subject to the standard 18% rate under the general rules (see section 1.1.1. above).

**Profits tax**

Profits received from transportation of cargo and passengers, other related shipping services and disposal of vessels are exempt from taxation in Russia provided the ships are registered in the RIRV and their point of departure and/or point of destination is located outside Russia. However, provisions of the Russian Tax Code disallow tax deduction of costs with respect to technical maintenance, repairs and other services related to maintenance or disposal of vessels registered in the RIRV. Moreover, such vessels are not depreciated for tax purposes.

All other non-shipping income received by a company (interest income, dividends, capital gains, including disposal of ships registered in the RIRV, etc.) is taxed under regular rates and rules.

**Social insurance contributions**

The crew of the vessels registered in RIRV should not be subject to social insurance contributions (except for payments for Compulsory Social Insurance against Industrial Accidents). This provision came into force beginning in 2012 and is valid until 2027.

**Assets tax**

Vessels registered in the Russian International Register of Vessels shall not be deemed to be subject to assets tax.

**Transport tax**

Companies are exempt from transport tax with respect to vessels registered in the RIRV.

**Customs duties**

Importation of vessels that are to be registered in the RIRV is exempt from customs duties.

**State duties**

State duties for registration of vessels in the RIRV depend on the gross tonnage of the ship:

<table>
<thead>
<tr>
<th>Gross tonnage units</th>
<th>Duties per vessel RUB (USD*)</th>
</tr>
</thead>
<tbody>
<tr>
<td>80–3,000</td>
<td>52,000 (1,592) plus 9.4 (0.29) per unit**</td>
</tr>
<tr>
<td>3,001–8,000</td>
<td>54,000 (1,653) plus 8.8 (0.27) per unit</td>
</tr>
<tr>
<td>8,001–20,000</td>
<td>96,000 (2,939) plus 5.0 (0.15) per unit</td>
</tr>
<tr>
<td>Over 20,000</td>
<td>134,000 (4,103) plus 3.2 (0.10) per unit</td>
</tr>
</tbody>
</table>
The following duties apply for annual confirmation of a ship's registration in the RIRV:

<table>
<thead>
<tr>
<th>Gross tonnage units</th>
<th>Duties per vessel RUB (approximately in USD*)</th>
</tr>
</thead>
<tbody>
<tr>
<td>80–8,000</td>
<td>14,000 (429) plus 22.4 (0.69) per unit**</td>
</tr>
<tr>
<td>8,001–20,000</td>
<td>104,000 (3,184) plus 14.2 (0.43) per unit</td>
</tr>
<tr>
<td>20,001–45,000</td>
<td>204,000 (6,246) plus 9.2 (0.28) per unit</td>
</tr>
<tr>
<td>Over 45,000</td>
<td>260,000 (7,961) plus 8.0 (0.24) per unit</td>
</tr>
</tbody>
</table>

* Exchange rate USD-RUB as of 1 January 2014 established by the Russian Central Bank.
** Gross register ton (GRT)

Considering the above, for shipowners involved in international traffic where the point of departure and/or the point of destination are located outside of Russia, the only Russian taxes applicable would be state duties provided the vessels are registered in the RIRV.

1.2 Tax facilities for seafarers
A personal income tax rate of 13% is established for the foreign seafarers who are not tax residents of Russia but who work on vessels that are flying the Russian flag.

1.3 Tax treaties and country of residence
Russia has ratified tax treaties with 80 countries.

Currently, the tax law envisages criteria of residency based on the country of incorporation. However, it is being considered to introduce the (effective) place of management test as a residency criterion.

Most treaties have a special article for international shipping income that is generally consistent with Article 8 of the OECD Model Convention. Generally, the DTTs ratified by Russia provide that profits from the operations of vessels in international traffic should be taxed only in the country of residence of the shipping company.

Further, such DTTs usually exempt vessels owned by foreign companies without PE in Russia from Russian assets tax since vessels are not treated as immovable property for the purpose of the DTTs.

2. Corporate structure

2.1 Most commonly used legal forms for shipping activities
The most commonly used legal forms in Russia are the limited liability company (LLC, usually referred to as OOO), open joint stock company (OJSC, usually referred to as OAO) and closed joint stock company (CJSC, usually referred to as ZAO). While the majority of shipping companies work as OOOs, most of the biggest companies use the OAO and ZAO forms.

2.2 Taxation of profit distribution
Dividends received by Russian taxpayers from Russian or foreign subsidiaries are generally subject to the 9% profits tax. A participation exemption regime was introduced for dividends with effect from 1 January 2008, but it is subject to strict conditions, e.g., minimum ownership of 50%, minimum holding period of 12 months and registration of a subsidiary in a jurisdiction not included in the blacklist of offshore jurisdictions. While there are still some discussions around what “registration” means (e.g., either legal domicile or a place of management and control), there is still some uncertainty in this respect. The changes proposed to the tax law are aimed at clarifying those matters, among others; however, no new law has been introduced or even finally approved in this respect.

Dividends received by foreign organizations from Russian subsidiaries are subject to a 15% withholding tax, which under certain conditions may be reduced pursuant to applicable DTTs.
3. Grants and incentives

3.1 Specific and/or general subsidies available to shipping companies

There are some subsidies available for shipping companies in Russia, in particular for shipping companies carrying out navigation and hydrographic support activities for the purpose of navigation safety on the Northern sea line.

The Russian government has approved a program to subsidize Russian shipping companies’ acquisition of new vessels (including financial leases). Subsidies will be provided to the amount of interest on loans raised to acquire vessels.

In 2008, the possibility of creating special economic port zones (port SEZs) was introduced. To date, the following port SEZs have been created: Sovetskaya Gavan (Khabarovsk Territory) and Murmansk.

The following tax incentives are available for the residents of port SEZs (and other entities when is applicable):

- **VAT**: work or services provided by the residents of a port SEZ in the territory of port SEZ should be VAT exempt; import of goods placed under the free customs zone procedure is not subject to import VAT; the 0% VAT rate may be applied for the sale of goods placed under the customs procedure of a free customs zone (FCZ customs procedure).

- **Excise duties**: importation of goods into the territory of port SEZs from within and outside the territory of Russia is not subject to excise tax.

- **Profits tax**: in accordance with regional laws, the regional part of the corporate profits tax rate can be reduced by up to 4.5% and can be as low as 13.5%.

- **Assets tax**: fixed assets produced or purchased for the performance of activities in the territory of port SEZs are not subject to assets tax for 10 years starting from the date when these fixed assets were put into the statement of financial position.

- Moreover, shipbuilding organizations that are residents of an industrial production SEZ are not subject to assets tax in relation to the property booked at their balance sheets and used for building and repairing ships for 10 years from the date of registration of such organizations, as well as in relation to the property created or acquired in order to build and repair ships for 10 years from the date of registration of the property, but not longer than during the life cycle of the industrial production SEZs.

- **Land tax**: land plots situated in the territory of port SEZs are not subject to land tax for five years starting from the date when the ownership right on each land plot was received (special provision for shipbuilding organizations).

- **Customs duty**: import of goods (e.g., equipment, raw materials, components) placed under the FCZ customs procedure is not subject to customs duties.

3.2 Customs implications

Importation of vessels that are to be registered in the RIRV is exempt from customs duties and import VAT.

Customs duties and import VAT exemptions are available for the vessels that are imported into Russia under the temporary importation customs procedure:

- Vessels of tonnage exceeding 1,000 GRT (customs classification codes 8901 10 100, 8901 20 100 0, 8901 30 100 0, 8901 90 100 0) owned by a foreign legal entity (FLE) and chartered to a Russian legal entity (RLE) under a bareboat and time charter arrangement for usage in international carriage only (for period of their temporarily importation)

- Vessels used as bunkers (customs classification code 8901) for export of petroleum products owned by a FLE and chartered to a RLE upon condition of usage in ports opened for the foreign vessels call

- Sea ferries (customs classification code 8901 10 100) owned by a FLE and chartered to a RLE under bareboat charter and time-charter agreements used in domestic and international carriage on certain routes

Other vessels can be temporarily imported into Russia with partial exemption from customs duties and import
VAT. The amount to be paid for each full and incomplete calendar month during which the vessel stays in the Russia is equivalent to 3% of the amount of import customs payments that would have to be made if the vessel had been placed under the customs procedure of release for domestic consumption.

Vessels are subject to customs duties and import VAT under the customs procedure of release for domestic consumption.

The Federal Law Concerning Customs Regulation envisages that if a vessel transports Russian goods from Russian territory to artificial islands, installations and structures over which Russia exercises jurisdiction (e.g., in the Russian continental shelf), such goods are not subject to customs declaring, customs duties or import VAT.

Russia became a member of the World Trade Organization (WTO) in August 2012, and the respective WTO regulations are applied in Russia.

4. General information

4.1 Infrastructure

4.1.1 Major ports

Shipping infrastructure in Russia includes over 50 ports. The major ports are:

- Arkhangelsk
- Azov
- Kaliningrad
- Kavkaz
- Magadan
- Murmansk
- Nakhodka
- Novorossiysk
- Primorsk
- Rostov-on-Don
- St. Petersburg
- Taman
- Tuapse
- Vanino
- Ust’-Luga
- Vladivostok
- Vostochny
- Vysotsk
- Yeisk

4.1.2 Port facilities

The following support facilities are usually available in major ports in Russia:

- Maintenance and repair
- Docking
- Storage
- Cranes for every size of vessel

4.1.3 Airports close to the major ports

Airports near major ports include:
• Anapa (Vityazevo, Kavkaz, Novorossiysk)
• Gelendjick (Novorossiysk)
• Kaliningrad (Hrabovo) (Kaliningrad)
• Krasnodar (Primorsk)
• Rostov-on-Don (Azov)
• St. Petersburg (Pulkovo, St. Petersburg)
• Taganrog (Azov)
• Vladivostok (Vostochny, Nakhodka)

4.1.4 Support services for the shipping industry
The following support services for the shipping industry are available:
• Consulting firms specialized in shipping
• Maritime law services
• Insurance brokers

4.1.5 Regulatory bodies in shipping industry
The following state bodies are authorized for regulation and control of the shipping industry:
• Ministry of Transportation of Russia (Mintrans) – adopting different types of regulations (on sea pilots, marine registration, rules for safety freight shipment, etc.)
• Federal Service of Transportation Supervision (Rostransnadzor) – carrying out control of maritime safety
• Federal Agency of Maritime and River Transport (Rosmorrechflot) – exercising functions for state services and state property administration in the sphere of maritime and river transport area
• Federal Fishing Agency (Rosrybolovstvo) – regulation of fishing industry
• Federal Service for Ecological, Technological and Atomic Supervision (Rostekhnadzor) – licensing of activities related to maritime safety
• Federal Agency of Water Recourses (Rosvodresursy) – exercising functions for state services and state property administration in the sphere of water recourses
• Other services authorized for shipping industry regulation and control among other functions (Federal Tax Service, Federal Customs Service, Federal Tariffs Service, etc.)

4.1.6 Maritime education
The major maritime educational institutions are:
• Ushakov Baltic Navy Institute (Kaliningrad)
• Far Eastern State Maritime Academy (Vladivostok)
• Kamchatka State Maritime Academy (Petropavlovsk-Kamchatski)
• Admiral Ushakov Maritime State Academy (Novorossiysk)
• Admiral Nevelski Maritime State University (Vladivostok)
• Moscow State Academy of Water Transport (Moscow)
• Novosibirsk State Academy of Water Transport (Novosibirsk)
• Sedov Rostov-on-Don Maritime College (Rostov-on-Don)
• St. Petersburg State University of Water Communications (St. Petersburg)
• Sakhalin Marine College (Nevelsk)
• Admiral Makarov State Maritime Academy (St. Petersburg)
• Volzhskaya State Academy of Water Transport (Nizhniy Novgorod)
The universities and colleges provide specialized courses in maritime science, technology and engineering, and oceanography.

4.2 Safety and environment protection issues
4.2.1 Implementation of the International Safety Management Code
Most shipping companies in Russia have implemented the International Safety Management (ISM) Code, as it would be impossible to sail ships in international territories without doing so.

Issues of maritime safety have always been given high priority in Russia. In particular, in 2000, a regulation of the Russian government (No. 324 of 11 April 2000) was adopted that approved a statute for a federal system of maritime industry protection from unlawful acts against security of navigation. According to this regulation, the main task of the federal system is to strengthen the security of vessels, their crews and passengers, the cargos transported, navigation control units, means of communication and navigation, and port facilities and their personnel.

The security system comprises a set of legislative, organizational, administrative, operational, military and technical arrangements aimed at foreseeing, detecting and deterring unlawful acts threatening human lives and damage to property, and detecting and handling problems and conditions that could foster unlawful acts in the sphere of the shipping business.

According to the regulation, the implementation of the assigned tasks of management and coordination of protective measures to be taken was entrusted to Mintrans and its departments. This work is carried out in close cooperation with other federal executive authorities.

4.2.2 International regulations on safety and environment protection
The Maritime Security Service (MSS), a federal state institution, is the executive body appointed to organize and oversee the implementation of the requirements of the International Convention for the Safety of Life at Sea (SOLAS) chapter XI-2 and the International Ship and Port Facility Security (ISPS) code in Russia. Also in force is the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78) and the United Nations Convention on the Law of the Sea (UNCLOS), 11 April 1997.

4.2.3 Russian regulations on safety and environment protection
Specific types of activity in the field of industrial safety – operation, major overhaul of a hazardous production facility (e.g., combustible liquids, gases or other combustible substances) as well as the servicing and repair of technical equipment used in a hazardous production facility – are subject to licensing in Russia.

A company operating a hazardous facility must comply with certain requirements:
- The company must obtain a license to operate a fire explosive facility. Licenses are granted by Rostekhnadzor.
- The company must complete pass an industrial facility safety review. Such review must be carried out by an expert with an appropriate license, and the expert’s report shall be approved by Rostekhnadzor.
- The company must produce a declaration of industrial safety.
- The company must procure an insurance policy covering liability for the harm caused to life, health, property or environment by accidents at the hazardous facility.
- The company must register as a facility in the state register of hazardous facilities.
- The company must comply with other requirements set out in the law.

Companies also need to obtain special water permits for the use of water objects under Russian state (federal) ownership for performing different types of activities, including for:
- Creation of stationary and/or floating platforms, artificial islands and artificial land plots on the lands, covered by surface waters
- Construction of hydrotechnical installations, bridges, as well as of submerged and underground passages, pipelines, underwater communication lines and other linear objects, if such construction is connected with changing the bottom and the banks of water objects
- Mineral prospecting and mining

Underwater cable laying or offshore subsea pipeline installations shall be effected only upon obtaining permission issued by the Federal Service for Supervision in the Area of Natural Resources' Use (Rosprirodnadzor).
4.2.4 Safety rules for crew members
Crew members must hold the necessary license to work on a ship. The license is only valid for a few years and must then be renewed. In general, the safety rules are robust and strict.

4.3 Sailing the Russian waters and crossing the Russian border
Any state enjoys freedom of navigation in the Russian Exclusive Economic Zone (EEZ) and/or the waters above the continental shelf.

As regards the Russian territorial sea, its external border is considered to be the state border of Russia. Hence, the entry into the territorial sea represents an entry into the territory of Russia. According to general regulation of Russian law, only innocent passage of a vessel does not require any permission, implying that all other activities do require such permission. On the other hand, no specific procedure for granting right of sailing in the internal seaways and territorial sea of Russia to commercial vessels under the foreign flag has been elaborated.

The Russian government has developed the practice of granting foreign vessels permission for single and multiple entries into the internal waters and territorial sea of Russia for the purposes of laying pipelines, monitoring conditions of existing pipelines and other related activities. Such permission defines the area of the territorial sea where entrance is allowed, names and flagship states of the foreign vessels admitted and the type of works they are to perform, as well as the admission period. Please note that it is common practice for the vessels flying the Russian flag to receive such permissions for multiple crossings of the border as well.

In order to formally cross the border, a foreign vessel has to enter a relevant Russian seaport (some Russian ports are closed for foreign vessels) and undergo relevant state border and customs control. Further, carrying out activities in the Russian territorial sea has to be reported to border control officials, and certain information must be provided.

If a vessel needs to pass through Russian inland waterways, it will have to be registered in the bareboat-charter register (as described below), because under Russian law, vessels are allowed to navigate in the inland waterways of Russia only under the Russian flag.

4.4 Flagging issues
The right to fly the Russian flag permanently is normally granted only to vessels owned by Russian legal entities.

Ships flying a foreign flag cannot provide services inside the Russian territorial sea.

The right to fly the Russian flag may be temporarily granted to a ship owned by a foreign company if the ship is provided under a bareboat charter to a Russian company for a period of at least one year, assuming the following conditions are met:

- The shipowner has agreed in writing to transfer the vessel under the Russian flag.
- Mortgagees under the mortgages established and registered in accordance with the laws of the shipowner’s state have agreed in writing to transfer the vessel under the Russian flag.
- The laws of the country under which flag the owner operates the ship do not prohibit granting the vessel the right to fly a foreign flag.
- The right to fly a foreign flag will be suspended by the time the right to fly the Russian flag is granted.

Such a right may be granted for a maximum period of two years, with a possibility of extension up to the period of the bareboat charter. Foreign vessels with the Russian flag can render all kinds of services in Russian territorial waters.

4.5 Registration

4.5.1 Registration requirements
Any vessel flying the Russian flag must be registered in one of the following register books of Russia:

- The Russian State Vessels Register
The ship’s book
• The Bareboat Charter Register
• The Russian International Register of Vessels

The right of ownership and other property rights to a ship, as well as limitations (encumbrances) on it (e.g., mortgage, trust management), shall be subject to registration in the state register or the ship’s book.

Vessel registration in Russia is carried out at various merchant ports at the choice of the shipowner or charterer. The registration of vessels and issuance of respective documents is processed by the master of a port.

4.5.2 Ship registration procedure

The procedure of ships’ registration is covered by several decrees and orders issued by the Russian government and Mintrans.

A vessel may be registered for a certain period of time with the right of prolongation of this period or without establishing duration of a vessel’s registration. A vessel’s registration in the registry shall be subject to annual confirmation. A procedure for the annual confirmation of a vessel’s registration shall be established by the rules for registration of ships and rights thereto in commercial seaports.

4.5.3 Requirements for officers and crew serving on vessels

The crew of a ship consists of the shipmaster, other commanding officers and the rest of the crew. The commanding officers of a ship include, in addition to the shipmaster, the mates, mechanics, electric mechanics, radio officers and physicians. Mintrans, Rosrybolovstvo and other federal executive bodies may also assign other specialists to the ship.

Russian law does not contain any specific requirements regarding the nationality (citizenship) of crew of foreign vessels. However, in case a foreign vessel obtains permission to fly the Russian flag, certain nationality requirements will be applicable: the captain, the chief officer, the chief mechanic and the radio officer will have to be Russian citizens.

Each ship shall have on board a crew whose members have the proper qualifications to ensure:

• The safe sailing of the ship and the protection of the marine environment
• The fulfillment of the requirements for the observance of working time aboard the ship
• Prevention of overwork of the crew members

4.5.4 International conventions regarding registration


4.5.5 Special requirements or rules relating to registration

The Regulations for Ship Registration in Sea Trading Ports establish an uncomplicated procedure for Russian ship operators to register ships in the Russian International Register of Vessels, including the reregistration of ships listed in the Russian State Register of Ships or Russian Bareboat Charter Register. Specifically, the reregistration of foreign ships chartered by a Russian disponent under bareboat charter from the Russian Bareboat Charter Register to the Russian International Ship Register requires neither execution of a new bareboat charter nor a new permit for flying the Russian flag.
Singapore

1. Tax

1.1 Tax in general

In the absence of specific tax incentives, the standard rate of corporate income tax is currently 17%. Seventy-five percent of the first S$10,000 (€5,748) of chargeable income and 50% of the next S$290,000 (€166,604) are exempt from tax. The balance of chargeable income in excess of S$300,000 (€172,452) is fully taxable at the standard rate of 17%.

1.2 Tax facilities for shipping companies

1.2.1 Automatic exemption

A shipping enterprise is exempt from tax on qualifying shipping income, which includes, but is not limited to:

- Income derived from the operation of Singapore ships plying outside the limits of the Port of Singapore
- Income from carriage of passengers, mail, livestock or goods shipped in Singapore by foreign ships (excluding carriage arising solely from transshipment from Singapore or carriage that is only within the limits of the port of Singapore)
- Income derived from foreign exchange and risk management activities that are carried out in connection with and incidental to the core shipping operations of Singapore ships
- Income derived from foreign exchange and risk management activities that are carried out in connection with and incidental to the core shipping operations of Singapore ships
- Gains derived from the sale of Singapore ships and ships under construction (including new building contracts) and sale of all the issued ordinary shares in a qualifying special purpose company that is the owner of Singapore ships only or is the buyer under a contract for construction of a ship that is provisionally registered or intended to be registered as a Singapore ship

Only companies (resident and nonresident) owning or operating ships are eligible for these exemptions. These exemptions are granted automatically if the criteria are met. In addition, such companies will enjoy automatic withholding tax exemption on certain payments made in respect of qualifying loans entered into on or before 31 May 2016 with foreign lenders to finance the purchase or construction of Singapore ships, subject to conditions.

A “Singapore ship” is defined as a ship for which a permanent certificate of registry has been issued under the Merchant Shipping Act in Singapore (i.e., it flies the Singapore flag), and its registry is not closed or deemed to be closed or suspended. The exemptions will apply from the date of provisional registration if the permanent certificate of registry has subsequently been obtained in respect of the ship.

1.2.2 Maritime Sector Incentive-Approved International Shipping Enterprise award

Shipping companies, which own or operate a fleet of foreign ships, can apply for the Maritime Sector Incentive-Approved International Shipping Enterprise (MSI-AIS) award. Successful applicants would either be granted the MSI-AIS status or the MSI-AIS (Entry Player) status, depending on their scale of operations.

Under this scheme, the MSI-AIS company is exempt from tax on qualifying shipping income, which includes, but is not limited to:

- Income derived from the operation of foreign ships plying in international waters
- Income from carriage of passengers, mail, livestock or goods shipped in Singapore by foreign ships (excluding carriage that is only within the limits of the port of Singapore)
- Income derived from foreign exchange and risk management activities that are carried out in connection with and incidental to the operation of ships
- Income derived from the provision of qualifying in-house ship management services in respect of foreign

Provided that the shipping enterprise can substantiate that it intended to register its ship with the Singapore Registry of Ships.
ships owned or operated by any qualifying special purpose vehicle

- Dividend income or share of profits received from an approved network company that is an overseas affiliate that is at least 25% related to the MSI-AIS company and paid out of qualifying shipping profits
- Gains derived from the sale of foreign ships, ships under construction (including new building contracts) and sale of all of the issued ordinary shares in a qualifying special-purpose company that is the owner of any ships or is the buyer under a contract for the construction of any ships

Other benefits include automatic withholding tax exemption on qualifying payments made in respect of qualifying loans entered into on or before 31 May 2016 with foreign lenders to finance the purchase or construction of foreign ships, subject to conditions.

The MSI-AIS award may be granted for a renewable period of 10 years (up to a maximum of 40 years), and the MSI-AIS (Entry Player) status may be granted for a non-renewable period of 5 years, with the option of graduating to the MSI-AIS status if qualifying conditions are met. The application window for the MSI-AIS (Entry Player) award is from 1 June 2011 until 31 May 2016.

1.2.3 MSI-Maritime Leasing award

The MSI-Maritime Leasing (MSI-ML) award aims at promoting ship and sea container financing operations in Singapore. It is designed to encourage entities to use Singapore as their capital and funding base to finance their vessels and sea containers. Qualifying entities include companies, funds, business trusts and partnerships incorporated or registered in Singapore.

Under the MSI-ML (Ship) award, approved shipping investment enterprises may enjoy tax exemption on their qualifying income, which includes:

- Income derived from the chartering or finance leasing of seagoing ships to specified persons for use outside the port limits of Singapore
- Income derived from foreign exchange and risk management activities that are carried out in connection with and incidental to the qualifying ship leasing activities
- Gains derived from the sale of seagoing ships, seagoing ships under construction (including new building contracts) and sale of all of the issued ordinary shares in a qualifying special-purpose company that is the owner of any seagoing ship or is the buyer under a contract for the construction of any seagoing ship
- Dividend income or share of profits from approved foreign ship-owning entities that are distributed out of qualifying ship leasing activities

Under the MSI-ML (Container) award, approved container investment enterprises may enjoy a concessionary tax rate of 5% or 10% on their qualifying income, which includes:

- Income derived from the operating or finance leasing of sea containers that are used for the international transportation of goods
- Income derived from the leasing of intermodal equipment that is incidental to the leasing of qualifying containers
- Income derived from foreign exchange and risk management activities that are carried out in connection with and incidental to the qualifying container leasing activities
- Dividend income or share of profits from approved foreign container asset-owning entities that are distributed out of qualifying container leasing activities

Approved investment managers of approved shipping or container investment enterprises under the above schemes may also enjoy a 10% concessionary tax rate on their qualifying management income.

The application window for the MSI-ML award is from 1 June 2011 until 31 May 2016, and successful applicants will be granted the status for a period of five years.

1.2.4 MSI-Supporting Shipping Services award

The MSI-Supporting Shipping Services (MSI-SSS) award aims to promote the growth of ancillary shipping service providers and to encourage shipping conglomerates to set up their corporate services functions in Singapore. An approved MSI-SSS company will enjoy a 10% concessionary tax rate on incremental income
derived from the provision of approved shipping-related support services such as ship broking, forward freight agreement trading, ship management, ship agency, freight forwarding, logistics services and qualifying corporate services.

The application window is from 1 June 2011 until 31 May 2016, and successful applicants will be granted the MSI-SSS award for a period of five years.

1.2.5 Freight uplift income from Singapore

Shipowners and charterers are exempt from tax on their uplift of freight from Singapore. This exemption applies to nonresident shipowners and charterers, resident shipping companies as well as companies granted the MSI-AIS award. It does not, however, cover income from the carriage within the limits of the Port of Singapore.

1.2.6 Withholding tax

Singapore imposes withholding tax on certain payments to nonresident persons, including interest and rental or other payment for the use of movable property if the payment is borne directly or indirectly by a person residing or having a permanent establishment in Singapore.

Prior to 17 February 2012, time, voyage and bareboat charter payments to nonresident persons of Singapore for the use of ships were subject to withholding tax at rates ranging from 0% to 2% of the gross fee payable. Only companies enjoying the MSI-AIS status are not required to account for withholding tax on such payments.

With effect from 17 February 2012, withholding tax exemption has been granted on payments for time, voyage and bareboat charters of ships made to nonresidents, excluding permanent establishments in Singapore. There is also no requirement to withhold tax on charter payments made to a permanent establishment in Singapore. The permanent establishment has to declare the charter fees received in its annual income tax return and will continue to be assessed to tax on such fees.

1.2.7 Goods and services tax

With regard to the shipping industry, supplies that qualify for zero-rating relief (i.e., goods and services tax [GST] at 0%) include:

1) Services (not being ancillary transport activities such as loading, unloading and handling) comprising the transport of passengers or goods:
   - From a place outside Singapore to another place outside Singapore
   - From a place in Singapore or to a place in Singapore and substantially outside Singapore

2) Services (including ancillary transport activities such as loading, unloading and handling) comprising the transportation of goods within Singapore to the extent that these services are supplied by the same supplier as part of the supply of services in item 1) above

3) Services supplied within any free trade zone or designated area of a port or terminal for the handling of ships, or the handling or storage of goods carried in a ship

4) Pilotage, salvage or towage services performed in relation to ships

5) Services comprising surveying of any ship or the classification of any ship for the purposes of any register

6) The supply, including the letting on hire, of any ship

7) The repair and maintenance of any ship under prescribed scenarios

8) The making of arrangements for the supply (including the letting on hire) of, or of any space, in any ship

9) Management services, in relation to any ship, provided to the owner, operator or agent of the ship

10) The supply, including the letting on hire, of any sea container, which is used or to be used for the international transportation of goods, under prescribed requirements

11) Repair, maintenance or management of sea container, which is used or to be used for the international transportation of goods, under prescribed scenarios and requirements

Please also note that there is a specific definition of “ship” in the GST Act.
With effect from 1 October 2011, the Approved Marine Customer Scheme (AMCS) was introduced to further ease compliance for businesses procuring goods for use or installation on internationally bound commercial ships. Under the scheme, approved businesses in the shipping and marine industries are eligible to purchase or rent goods at 0% GST. The documentary requirements imposed on suppliers making these zero-rated supplies to these approved businesses have been simplified as well.

The standard rate for GST is currently 7%.

1.3 Taxation of seafarers
The employment income of crew working on Singapore ships is specifically exempt from tax where the employment is substantially outside Singapore.

For a seafarer who is employed on board a foreign ship, if the ship operates exclusively in foreign ports, the crew member’s remuneration will not be subject to Singapore income tax. However, if the foreign ship is plying between Singapore and foreign ports, in practice, the Inland Revenue Authority of Singapore (IRAS) will take into account the residency of the company that employs the seafarer in determining the taxability of the seafarer’s employment income. If the company is incorporated or resident in Singapore, the employment income may be deemed to be Singapore-sourced income, and the seafarer may be liable to Singapore tax on his or her full remuneration. Correspondingly, if the company is incorporated or resident outside of Singapore, the employment income relating to days spent in Singapore waters may be subject to tax in Singapore, subject to the 60-day de minimis rule and any applicable treaty relief. Please note that there are no clear guidelines on the taxation of seafarers working on foreign ships, and the IRAS may not necessarily agree with the above views.

Most of the double taxation agreements that Singapore has concluded also provide for special treatment of crew who are nationals of the other treaty countries.

1.4 Tax treaties and place of effective management
Singapore has concluded more than 70 comprehensive double taxation agreements. Each of these agreements contains an article on shipping. Under some of these agreements, a nonresident of Singapore may enjoy full exemption on income derived from qualifying shipping activities. Singapore has also entered into limited treaties relating to income arising from the operation of ships in international traffic with the following countries:

- Brazil (covers also income from air transport)
- Chile
- Hong Kong (covers also income from air transport)
- United States of America (covers also income from air transport)

Generally, the shipping article of a tax treaty ensures that profits arising from international traffic will be taxed in the jurisdiction where the enterprise operating the ships is resident.

The tax residency of a Singapore company is determined by the location where the control and management of the business is exercised. This is generally the place where the board of directors normally holds its meetings, unless it is clearly stated that the control and management are exercised in some other manner.

1.5 Freight taxes
There are no freight taxes in Singapore. However, an annual tonnage tax is payable for Singapore ships. Please refer to section 5.3.2 below.

2. Human capital
2.1 Formalities and regulations for hiring personnel
The domestic legislation governing the recruitment of seamen is contained within the Maritime and Port Authority of Singapore (Registration and Employment of Seamen) Regulations.

2.2 Collective labor agreements
Singapore is recognized as a non-flag of convenience (FOC) registry by the United Nations Conference on Trade and Development (UNCTAD) and the International Transport Workers' Federation (ITF). The collective agreements signed with the Singapore Organization of Seamen (SOS) and the Singapore Maritime Officers' Union are recognized by the ITF. However, owners of Singapore-registered ships are free to establish collective agreements with the unions.

2.3 Treaties relating to social security contributions
Singapore has no treaties with other countries governing social security contributions. No social security taxes are currently levied in Singapore. However, there is a statutory savings scheme, known as the Central Provident Fund (CPF), to provide for employees' old-age retirement in Singapore. Only Singapore citizens and permanent residents working in Singapore are required to make CPF contributions. All foreigners (including Malaysians) are exempt from CPF contributions and are not allowed to make voluntary contributions. Money can be withdrawn from the CPF for specified purposes, including payment of certain medical expenses as well as funding investments in shares and for purchasing residential housing.

2.4 Manning issues with flying the Singapore flag
Singapore ships must be manned by a minimum number of qualified officers in accordance with the scales stated under the Merchant Shipping (Training, Certification and Manning) (Amendment) Regulations 2011. All Singapore ships are required to be safely manned and hold an appropriate safe manning document (SMD) issued under the provisions of Regulation V/14 of the International Convention for the Safety of Life at Sea (SOLAS) 1974, as amended.

There are no restrictions on nationality of crew. Owners may engage officers and crews of any nationality to work on board Singapore ships, so long as they meet the standards laid down in the International Convention on Standards of Training, Certification & Watchkeeping for Seafarers (STCW) 1978, as amended.

3 Corporate structure

3.1 Most commonly used legal structures for shipping activities
The most common legal structure for owning and operating ships is the limited liability company. For private and listed shipping funds registered in Singapore, they are typically structured as registered business trusts.

3.2 Taxation of profit distribution
There is no dividend withholding tax in Singapore.

Dividends paid by a Singapore tax resident company are exempt from Singapore income tax in the hands of the shareholders. Distributions made by a registered business trust are also exempt from Singapore income tax in the hands of the unit holders.

4. Grants and incentives

4.1 Specific and/or general subsidies for shipping companies
The Maritime and Port Authority of Singapore (MPA) has set up a Maritime Cluster Fund (MCF) to facilitate the growth of Singapore's maritime sector by supporting the industry's manpower, business development and productivity efforts. Various schemes and programs are available, including subsidies for approved marine-related courses and seminars, and the co-funding of eligible expenses incurred in the initial development of new maritime companies, or existing maritime companies and organizations expanding into new lines of
maritime businesses. Support is also available to help the companies to raise their productivity by enhancing business processes and work-flow or adopting technology solutions.

4.2 Investment incentives for shipping companies and the shipbuilding industry
The Government is committed to attracting international shipping companies, international ship management companies and ship agencies to establish and expand their operations in Singapore by offering various shipping tax incentives.

There is no specific tax incentive for the shipbuilding industry.

4.3 Special incentives for environmental awareness
In 2011, the Government launched the Maritime Singapore Green Initiative to promote environmentally friendly shipping. The Green Ship Program, one of the programs under the Maritime Singapore Green Initiative, is targeted at Singapore ships and is available for five years from 1 July 2011 to 30 June 2016. It provides incentives to shipowners who adopt energy efficient ship designs that reduce fuel consumption and carbon dioxide emissions. Singapore ships registered on or after 1 July 2011 that exceed the requirements of the Energy Efficient Design Index (EEDI) of the International Maritime Organization (IMO) will enjoy a 50% reduction on the initial registration fees under both the normal registration and the Block Transfer Scheme during the registration of the ship. There will also be a 20% rebate on annual tonnage tax until the ship ceases to exceed the IMO’s EEDI, based on the phased-in time period.

Existing ships already utilizing energy-efficient ship designs or have undergone major modifications that meet the requirements under the Green Ship Program may also enjoy the 20% rebate on annual tonnage tax until the ship ceases to exceed the requirements of IMO’s EEDI reference lines.

Effective from 1 July 2013, the Green Ship Program has been expanded to recognize Singapore ships that adopt approved SOx scrubber technology that goes beyond existing IMO emission requirements. The SOx scrubber technology is to be an equivalent arrangement, in terms of SOx emission reductions, that is at least as effective as compared to using fuel oil with a sulphur content limit value of 0.50% m/m. Singapore ships with such approved SOx scrubber technology adopted will enjoy a 25% reduction of their initial registration fees and a 20% rebate on their annual tonnage tax. This is in addition to the 50% reduction of initial registration fees and the 20% rebate on annual tonnage tax for ships that exceed the IMO’s EEDI. Singapore ships that adopt both energy efficient ship designs and approved SOx scrubber technology that exceeds IMO requirements will enjoy a 75% reduction of their initial registration fees and a 50% rebate on their annual tonnage tax.

4.4 Issues with flying the Singapore flag
Only Singapore citizens, permanent residents and Singapore incorporated companies may be registered as owners of Singapore ships. For a company that is substantially owned by non-Singapore citizens, it must have a minimum paid-up capital of S$50,000 (€28,740) to be registered as owner of Singapore ships. Under the Block Transfer Scheme, this minimum paid-up capital requirement may be waived.

Singapore ships are subject to rules and regulations. Singapore is a party to all the major IMO conventions on ship safety and marine pollution prevention. The Singapore Registry is on the White List of key port state control regimes, with a dedicated flag state control unit that actively monitors, identifies and carries out enforcement actions on Singapore ships.

5. General information
5.1 Infrastructure
5.1.1 Major ports
The Port of Singapore has been the world's busiest port (by shipping tonnage) since 1986, receiving an average of 140,000 vessel calls annually. It is a world-leading hub for container transshipment, handling
32.6 million 20-foot equivalent units (TEU) in 2013 across five terminals. It is also one of the world's top bunkering ports, with more than 40 million tons of bunkers being lifted in Singapore each year.

5.1.2 Port facilities
The Port facilities include the container terminals, berths, cranes, storage facilities, Port information systems, an approach channel and an intermodal transport system.

The Port of Singapore includes terminals located at Tanjong Pagar, Keppel, Brani, Pasir Panjang, Sembawang and Jurong. These terminals can accommodate all types of vessels, including container ships, bulk carries, roll-on/roll-off ships, cargo freighters, coasters and lighters.

The anchorages of the Port of Singapore are divided into three sectors: the Eastern Sector, the Jurong Sector and the Western Sector. Each anchorage has its designated purpose.

The Port of Singapore is the first port in the world to offer wireless mobile broadband connectivity, enabling the industry to improve operational efficiencies, enhance communications and generate new business opportunities.

5.1.3 Airport close to the major ports
Singapore's container and multipurpose terminals are within 50km of Singapore Changi International Airport, which is rated as one of the world's best airports, and are connected by modern transportation infrastructures.

5.1.4 Support services for the shipping industry
The following support services for the shipping industry are readily available:

- Ship financing
- Ship management
- Ship broking
- Maritime legal and arbitration services
- Marine insurance services
- Ship building and repair

5.1.5 Maritime education
The MPA, in partnership with businesses, tertiary institutions and other maritime organizations, offers a wide range of maritime and shipping courses and executive programs, including maritime degree and diploma programs. This is to promote personnel development and expertise in the shipping industry.

The Integrated Simulation Centre in Singapore has a range of advanced simulators to provide realistic training for ship officers and crew.

5.2 Safety and environmental issues
5.2.1 Implementation of the International Safety Management Code on board vessels
All shipowners and companies undertaking international voyages with passenger ships and Singapore-registered ships (propelled by mechanical means) of 500 gross tons and above are required to comply with the International Safety Management (ISM) Code.

A company operating a Singapore-registered ship to which the ISM code is applicable needs to have a Document of Compliance (DOC) or an interim DOC. An up-to-date copy of the DOC should be placed on board the ships. A Singapore-registered ship to which the ISM code is applicable will receive a Safety Management Certificate (SMC) or interim SMC after it has been verified that its shipboard management and its company operate in accordance with the approved safety management system.

The original or certified true copy of the compliance documents must be submitted to gain electronic port clearance into Singapore or be allowed to leave Singapore.

5.2.2 Safety rules regarding manning
Singapore has relatively strict safety rules regarding manning. The MPA has authorized internationally recognized classification societies to conduct audit and certification of Singapore vessels and managing companies for compliance with the code.

5.2.3 Special regulations on safety and the environment

Singapore is a party to all major IMO conventions on ship safety and marine pollution prevention. These include the 1974 Safety of Life at Sea Convention (SOLAS), the 1978 STCW Convention, the 1966 Load Lines Convention, the 1973/1978 MARPOL Convention, and the 1969 Convention of Tonnage Measurement of Ships.

Singapore maintains a high level of vigilance over its port and waterways. The security measures that have been implemented include restricted access to waters surrounding port installations, targeted screening of containers, enhanced security at sea entry checkpoints, increased presence of patrol craft and selected escort of sensitive vessels by security agencies. The Port of Singapore was the first port outside of North America to sign the US Container Security Initiative.

5.3 Registration

5.3.1 Registration requirements

The registration of ships is governed by the Merchant Shipping Act. Only citizens or permanent residents of Singapore and companies incorporated in Singapore may be registered as owners of Singapore ships. A ship may be registered under a company incorporated in Singapore with more than 50% of the equity owned by non-citizens of Singapore, provided the company has a minimum paid-up capital of S$50,000 (€28,740) and the ship is at least 1,600 gross tonnage and self-propelled. Exemption from the latter requirement may be given on a case-by-case basis if the ship is operated from or based in Singapore.

Various types of vessels can be registered as Singapore ships. They include semi-submersible rigs, jack-up rigs, accommodation rigs and tender rigs used for oil exploration, as well as barges, dredgers and other vessels that are used for offshore oil and gas activities.

A locally owned company may register a tug or barge provided it has a paid-up capital pegged to 10% of the value of the first tug or barge under its ownership or S$50,000 (€28,740), whichever is the lesser, subject to a minimum paid-up capital of S$10,000 (€5,748). Its holding company, if any, must also have the same amount of paid-up capital.

5.3.2 Ship registration procedures

Application has to be submitted to the Singapore Registry of Ships (SRS) for an ordinary registration. The applicant must seek approval for a ship's name or to reserve a ship's name, and an official and call sign numbers would be issued upon successful reservation of the ship's name. The application form together with relevant documents – such as particulars of the owners, evidence of ownership, value of the ship, tonnage certificate, class certificate and others – must be submitted.

The initial registration fee and annual tonnage tax for the ordinary registration are as follows:

- **Fees for ordinary registration:** the initial registration fee is S$2.50 (€1.44) per net ton (NT), subject to a minimum of S$1,250 (€718.4) (500 NT) and a maximum of S$50,000 (€28,740) (20,000 NT).
- **Annual tonnage tax:** annual tonnage tax must be paid at the time of initial registration or re-registration and thereafter every year on or before the anniversary date that the ship was initially registered or re-registered, as the case may be. No refund of tax will be made if, during the year for which the tax was paid, the registry of the ship was closed for any reason. The annual tonnage tax is S$0.20 (€0.11) per NT, subject to a minimum of S$100 (€57) (500 NT) and a maximum of S$10,000 (€5,748) (50,000 NT).
- **Fees under the Block Transfer Scheme:** the fees are S$0.50 (€0.287) per NT, subject to a minimum of S$1,250 (€718) (2,500 NT) and a maximum of S$20,000 (€11,495) (40,000 NT) per ship. Ships that are registered within a reasonable period of time and meet the following criteria are eligible for the Block Transfer Scheme:
- Two ships with aggregate tonnage of 40,000 NT
- Three ships with aggregate tonnage of 30,000 NT
- Four ships with aggregate tonnage of 20,000 NT
- Five ships of any aggregate tonnage

Application for the Block Transfer Scheme has to be submitted prior to registering the first ship. This scheme has been enhanced from 1 January 2009 to allow a single ship of 40,000 NT or more to qualify for the scheme.

5.3.3 Parallel registration
A Singapore ship may be bareboat chartered out and registered outside Singapore in the name of the bareboat charterer. The Singapore registry must be suspended during the charter period. Bareboat charter means the hiring of the ship for a stipulated period, giving the charterer possession and control of the ship, including the right to appoint the master and crew.

5.3.4 Requirements for officers and crew serving on vessels
There is no restriction on the nationality of the crew on board Singapore ships. However, all crew must meet the standards laid down in the 1978 STCW Convention as amended. Foreign officers and engineers in possession of valid foreign certificates of competency are allowed to serve on Singapore ships as long as their certificates are appropriate to the capacity in which they are employed. No prior approval is required, but owners of ships must apply for a certificate of endorsement (COE) to allow holders of the foreign certificates to serve on Singapore ships. The COE is valid for five years or until the expiry date of the certificate of competency, whichever is earlier.

5.3.5 International conventions regarding registration
Ships have to comply with the relevant requirements laid down in the major IMO conventions, which Singapore is a party to (e.g., SOLAS 74, 1978 STCW Convention, 1966 Load Lines Convention, TM69 and MARPOL 73/78). Dispensations may be granted to ships of novel design or construction or under special operating circumstances. Equipment and arrangements approved by other maritime administrations that comply with the IMO convention are generally accepted.

5.3.6 Special requirements or rules with regard to registration
Every name to be used for a Singapore ship must be approved, even if there is no change in name from its previous registry. A copy of the ship's classification certificate issued by an authorized classification society may be accepted as evidence of seaworthiness.

6.0 Consulted Resources
Spain

1. Tax

1.1 Tax facilities for shipping companies

The following tax facilities are available to shipping companies:

- Tax lease system
- Tonnage tax
- Canary Islands allowances
- Tax credits for investments in safety and environmental issues related to ships

**Tax lease**

The Spanish Corporate Income Tax (CIT) Act provides a special depreciation regime for certain assets (including ships) acquired under special leasing agreements.

**The former regime**

Article 115 of the CIT Act established a special tax regime for certain leasing agreements. According to this article, the finance lease installments would be treated as tax deductible for CIT purposes, so long as they do not exceed twice the maximum straight-line depreciation rates of the leased asset (the excess over such limit would be tax deductible in the following years, always respecting the limit). The CIT Act also allows the accelerated depreciation to start earlier, before the vessel enters into operation, under certain conditions.

On 1 July 2011, the European Commission launched an in-depth investigation to determine whether the Spanish tax lease system for acquiring vessels was compatible with European Union (EU) state aid rules (see case SA.21233). In July 2013, the European Commission finally concluded that the Spanish scheme for the purchase of ships involving leasing and financing through tax relief was partly incompatible with EU rules. Under European rules, the beneficiaries must now repay the aid to the Spanish state. In accordance with the principle of legal certainty, the Commission will not require the repayment of aid granted between the start of the scheme in 2002 and April 2007, when the Commission publicly declared a similar French scheme incompatible.

As a consequence of this investigation, and even though it was not over yet at the moment of changing the legislation, Spain decided to introduce changes to the provisions of the CIT regulating the tax lease, through Law 16/2012 as of 27 December 2012. This new tax lease regime was approved by the European Commission in November 2012, which announced that it does not constitute state aid under the EU rules.

**The new regime**

The new tax system approved by Law 16/2012 still provides for the early and accelerated depreciation of certain assets (not only vessels) acquired under finance lease agreements, whose construction period is at least 12 months and meets the client’s technical specifications, specifically excluding assets that are serially manufactured. For those assets not complying with the particular conditions, accelerated depreciation up to twice the maximum straight-line depreciation rate is available, but only after delivery.

In addition, prior authorization is longer required, since the application of this system is automatic, only subject to the prior notification to the Ministry of Finance.

Finally, the possibility to tax the capital gain derived in the tonnage tax at a reduced rate was eliminated. In the new regime, after applying the tax lease, ships may opt for the application of the tonnage regime, but the capital gain obtained at their disposal will be taxable at the general regime rate (30%).

Law 16/2012 introduced a transitional provision under which assets that had obtained an authorization to apply the regime before 1 January 2012, will be governed by the previous legislation.

**Tonnage tax**
Under the Spanish CIT provisions, shipping companies are entitled to apply for the tonnage tax regime so that their profits from shipping activities can be determined at fixed rates according to the tonnage of their ships, rather than by variable business results.

Tonnage tax only applies to shipping companies registered with those registries (per Article 251 and Provision 16 of the Royal Legislative Decree 2/2011) that carry out the whole technical and crew management of the qualifying ships (see below).

Tonnage tax applies to qualifying ships, i.e., ships that meet all of the following conditions:

- They must be strategically and commercially managed from Spain or from another EU Member State.
- They must be suitable for navigation in high seas and used exclusively for one or more of the following services: carriage of passengers, carriage of cargo and rescue, towage, dredging or other services provided in high seas.

As of 31 March 2006, for ships providing towage services, in order to qualify for the application of the tonnage tax, at least 50% of the income of the ship must proceed from activities carried out in the ports. For ships providing dredging services, at least 50% of their income must proceed from the transport and deposit in the deep sea of sea materials.

Tonnage tax does not apply to ships used for sports, fishing or entertainment activities, nor is it applicable if all of the company’s ships are registered in a country other than Spain or any other EU Member State.

Profits from non-shipping activities will be computed by reference to normal rules, whereas tonnage tax profit will be computed as follows:

**Taxable base**

For ships applying the special tonnage tax regime, the taxable base is determined by following the rules of the objective estimation scheme, which means that the calculation of the taxable base is obtained by applying fixed modules to the registered tonnage scales.

<table>
<thead>
<tr>
<th>Tonnage</th>
<th>Taxable income per day per 100 tons (€)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0–1,000</td>
<td>0.90</td>
</tr>
<tr>
<td>1,001–10,000</td>
<td>0.70</td>
</tr>
<tr>
<td>10,001–25,000</td>
<td>0.40</td>
</tr>
<tr>
<td>Over 25,000</td>
<td>0.20</td>
</tr>
</tbody>
</table>

For the computation above, only days on which the vessels are available for navigation must be taken into account. Accordingly, days on which ships are being repaired must be disregarded.

The above computation includes income from services rendered to the vessels included in the tonnage tax regime (piloting, towage and mooring), as well as income from services related to the vessel’s cargo (loading and trimming).

**Capital gains derived from the transfer of vessels**

In order to calculate the taxable base of capital gains and losses arising from the disposal of a vessel used in tonnage tax, the timing of the application of the special regime must be taken into account:

- In the case of vessels subject to the tonnage tax at the time of acquisition, the capital gains and/or losses derived from the transfer of the vessel should be included in the taxable basis, calculated in accordance with the aforementioned method. Therefore, in practice, they are tax-exempt. This rule does not apply if the vessel is already being used at the time of acquisition.
- As previously stated, Law 16/2007 has also introduced changes regarding the tonnage tax, which affect the transition from one system to another. It has repealed the provision that, upon entering the tonnage system,
vessels that were acquired by exercising the purchase option under a lease agreement will not be regarded as used vessels, therefore eliminating the possibility to benefit from the early and accelerated depreciation and the tonnage tax for the gain derived in a future sale.

- In the case of vessels subject to the tonnage tax after acquisition, capital gains derived from the transfer of the vessel should be included in the taxpayer CIT base and would be taxable at the general tax rate of 30%. The following special rules must be observed:
  - The company must either provide funds for a non-distributable reserve equivalent to the positive difference between the market value and the net book value corresponding to the relevant ship, or include a special mention of such difference in the explanatory notes to the annual accounts.
  - Upon disposal of the ship, the value of the non-distributable reserve plus the difference between the book and tax depreciation will be added to tonnage profit.

Taxable income will be subject to a 30% CIT.

Tonnage tax is an optional scheme. The application, however, will be conditional upon an express authorization. Companies electing it will do so for a 10-year period, and the election may be renewed for an additional period of 10 years.

Canary Islands allowances

- Capital transfer and document tax: exemption for the acts and contracts made on the ships registered in the Special Registry of Ships and Shipping Companies of the Canary Islands (Special Registry)
- Personal income tax and nonresident income tax (crew members): allowance of 50% of the total income derived from the work on ships in the Special Registry. In the case of ships involved in the carriage of passengers between EU ports, this allowance only applies to crew members who are citizens of an EU or European Economic Area (EEA) Member State
- CIT: tax credit of 90% of the taxable turnover arising from the exploitation of ships registered with the Special Registry

For more information on tax credits for investments in environmental issues, see section 4.3.

1.2 Tax facilities for seafarers

For crew members on ships registered in the Special Registry, an allowance of 90% has been established for the employer’s contribution to national insurance. If those ships are involved in the carriage of passengers between EU ports, the allowance referred to above only applies to crew members who are citizens of an EU/EEA Member State.

Conversely, the Spanish personal income tax law establishes several allowances for the amount paid by the shipping company to compensate for living and transport expenses. These facilities only apply to crew members who are citizens of an EU/EEA Member State on ships carrying passengers.

1.3 Tax treaties and place of effective management

Most international treaties negotiated by Spain follow the Organisation for Economic Co-operation and Development (OECD) model treaty and include an article on international transport. In particular, Spain has concluded tax treaties with the following countries:

Albania, Algeria, Argentina, Armenia, Australia, Austria, Barbados, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Czech Republic, Ecuador, Egypt, El Salvador, Estonia, Finland, France, Georgia, Germany, Greece, Hong Kong (SAR), Hungary, Iceland, India, Indonesia, Iran, Ireland, Israel, Italy, Jamaica, Japan, Kazakhstan, South Korea (ROK), Latvia, Lithuania, Luxembourg, Macedonia, Malaysia, Malta, Mexico, Moldavia, Morocco, Netherlands, New Zealand, Norway, Pakistan, Panama, Philippines, Poland, Portugal, Romania, Russian Federation, Saudi Arabia, Serbia, Singapore, Slovenia, South Africa, Sweden, Switzerland, Thailand, Trinidad and Tobago, Tunisia, Turkey, United Arab Emirates, United Kingdom, United States, Uruguay, Venezuela, Vietnam.
1.4 **Freight taxes**
Freight taxes do not apply in Spain.

1.5 **Special vessel registration tax benefits for the shipowner**
The registration of the vessel in the Special Registry of the Canary Islands is not subject to the special tax on certain means of transport.

1.6 **Changes to tax law anticipated in the near future**
The possible changes to the law anticipated in the near future depend on the result of the investigation from the European Commission (case SA.21233), which is currently taking place. However, since Law 16/2012 has introduced changes in the tax lease and tonnage tax regimes that have been accepted by the European Commission, no major changes are foreseen in the near future.

1.7 **Other tax considerations**
As a temporary measure, for 2013 and 2014, the maximum authorized tax deductible depreciation for large companies is limited to 70% of the total tax deductible depreciation. The difference may be recovered in 10 years starting from 2015.

2. **Human capital**

2.1 **Formalities for hiring personnel**
The following documents are requested in order to sign the shipping employment contract:

- Maritime registration notebook
- Professional qualification or competence certificate
- Medical certificate

2.1 **National labor law**
In the case of a ship registered in Spain, Spanish labor law applies to crew members.

2.2 **Regulations on employing personnel**
There are no significant regulations to take into account when hiring personnel in Spain.

2.3 **Collective labor agreements**
There is no national collective agreement, but there are several collective company agreements governing the general employment conditions. In the absence of a collective company agreement, common labor law governs the employment conditions. Royal Decree 1561/1995 (modified by Royal Decree 285/2002) provides specific regulation regarding the working days of the ships registered in Spain.

2.4 **Treaties relating to social security contributions**
EU regulations and bilateral agreements apply to these employees. Please note that there is a special social security system for the shipping industry that is slightly different from the general provisions.

2.5 **Manning advantages and disadvantages of flying the Spanish flag**
Flying the Spanish flag involves the application of the Spanish labor law.

3. **Corporate structure**

3.1 **Most commonly used legal structure(s)**
The most common legal structures are the Sociedad de Responsabilidad Limitada (S de RL) or Sociedad Anónima (SA).
3.2 Taxation of profit distribution
Taxation on distribution of profits derived by Spanish-resident shipping companies depends on the recipient’s tax residence so that the distribution may be either tax-exempt under the EU Parent-Subsidiary Directive or benefit from reduced withholding tax rates under double taxation agreements.
Where no tax exemption or reduced tax rates can be applied, 19% (21% for years 2012 and 2013) withholding tax shall be charged.

4. Grants and incentives

4.1 Specific and/or general subsidies available to shipping companies
No subsidies or substantial grants for the shipping industry can be identified besides the tax advantages applicable to shipping companies (see section 1.1) and the incentives referred to in section 4.2.

4.2 Investment incentives for shipping companies and the shipbuilding industry
The Spanish government provides financial support to Spanish shipbuilding companies that comply with certain requirements in accordance with Spanish Royal Decree 442/1994.
A Spanish-resident company may obtain a State guarantee in the acquisition or renovation of vessels according to each year’s National Budget Law. The guaranteed amount cannot be greater than 35% of the financed price.

4.3 Special incentives for environmental awareness
The investments intended for the protection of the environment, which improve the minimum requirements of the regulations, will benefit from an 8% deduction if they are investments included in programs or agreements approved by the Spanish environmental authorities, who will have to certify them.

4.4 Advantages and disadvantages of flying the Spanish flag
Flying the Spanish flag does not have special advantages other than the ones mentioned above related to the special Canary Islands regime. The tonnage tax is available for any EU flag. In addition, flying the Spanish flag means more administrative burdens.

4.5 Major changes in shipping subsidy legislation anticipated in the near future
Not applicable.

5. General information

5.1 Infrastructure

5.1.1 Major ports

5.1.2 Port facilities
The following facilities are available:
• Maintenance and repair
• Docking
• Storage
• Cranes for every size of vessel

5.1.3 Airports close to the major ports
5.1.4 Support services for the shipping industry

<table>
<thead>
<tr>
<th>Ports</th>
<th>Airports</th>
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<tbody>
<tr>
<td>A Coruña</td>
<td>La Coruña Airport</td>
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<tr>
<td>Algeciras</td>
<td>Málaga Airport</td>
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<tr>
<td>Almería-Motril</td>
<td>Almería Airport</td>
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<tr>
<td>Avilés</td>
<td>Asturias Airport</td>
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<tr>
<td>Cádiz</td>
<td>Jerez de la Frontera Airport</td>
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<tr>
<td>Barcelona</td>
<td>Barcelona Airport</td>
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<td>Bilbao</td>
<td>Bilbao Airport</td>
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<tr>
<td>Cartagena</td>
<td>Murcia-San Javier Airport</td>
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<td>Castellón</td>
<td>Valencia Airport</td>
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<tr>
<td>Gijón</td>
<td>Asturias Airport</td>
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<td>Ferrol San Ciprián</td>
<td>La Coruña Airport</td>
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<tr>
<td>Huelva</td>
<td>Seville Airport</td>
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<tr>
<td>Las Palmas</td>
<td>Gran Canaria Airport</td>
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<tr>
<td>Málaga</td>
<td>Málaga Airport</td>
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<tr>
<td>Palma de Mallorca (Baleares)</td>
<td>Palma de Mallorca Airport</td>
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<tr>
<td>Pasajes</td>
<td>Bilbao Airport</td>
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<tr>
<td>S.C. Tenerife</td>
<td>Tenerife Airport</td>
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<tr>
<td>Santander</td>
<td>Santander Airport</td>
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<tr>
<td>Tarragona</td>
<td>Barcelona Airport (Barcelona)</td>
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<tr>
<td>Valencia</td>
<td>Valencia Airport</td>
</tr>
<tr>
<td>Vigo</td>
<td>Vigo Airport</td>
</tr>
</tbody>
</table>

The following support services for the shipping industry are readily available:

- Banks with a shipping desk
- Consulting firms specialized in shipping
- Maritime law services
- Insurance brokers for the shipping industry

5.1.5 Maritime education

Maritime education is provided in Spain by:

- E.T.S.I. Navales (Madrid)
- E.U.I.T. Naval (Cádiz)
- Escuela Politécnica Superior (Ferrol, La Coruña)
- Centro Superior de Náutica y Estudios del Mar (La Laguna, Santa Cruz de Tenerife)
- Escuela Superior de Marina Civil (Oviedo, Asturias)
- Escuela Técnica Superior de Náutica (Universidad de Cantabria)
- Escuela Universitaria Politécnica (Las Palmas de Gran Canaria)
- Facultat de Nàutica (Barcelona)
- Escuela Universitaria de Ingeniería Técnica Naval (Cartagena, Murcia)
5.2 Safety and environmental issues

5.2.1 Implementation of the International Safety Management Code on board vessels
Ships registered under the Spanish flag are required to comply with the International Safety Management (ISM) Code. All Spanish shipping companies currently comply with requirements of the International Convention for the Safety of Life at Sea (SOLAS) regarding the ISM Code.

5.2.2 Safety rules regarding manning
The safety rules regarding manning can be characterized as strict. There is a wide range of regulations covering safety issues in order to meet new international and EU standards.

5.2.3 Special regulations on safety and the environment
Spain has ratified the main international treaties regarding marine pollution and safety, such as the International Convention for the Prevention of Pollution from Ships (MARPOL) and SOLAS.

After the sinking of the Prestige vessel, the Spanish government made the commitment to reinforce safety and environmental policies. In this respect, Royal Decrees 90/2003 and 91/2003 established very strict procedures to prevent pollution in the maritime environment from oil or other hazardous substances from ships. During 2005, two other Royal Decrees were adopted: RD 119/2005, which establishes means of control over the risks linked to accidents with hazardous substances, and RD 276/2005, related directly to the sinking of the Prestige.

5.3 Registration
Registration can be applied for either at the Registry of Ships and Shipping Companies or at the Special Registry. The latter ensures social and tax conditions equal to or better than those provided by registration with the former. Both registries are managed by the Mercantile Maritime Authorities.

In addition, vessels flying the Spanish flag must register with the Registry of Movable Assets (Registro de Bienes Muebles). Any circumstances affecting the legal status of the vessels must be communicated to this Registry. In particular, the mortgages on vessels shall not be effective unless they are duly registered. Sections 5.3.1, 5.3.2 and 5.3.3 refer to the Spanish Ships Registry.

5.3.1 Registration requirements

General requirements
Both Spanish-resident individuals and legal entities domiciled either in Spain or in an EU Member State are entitled to register to fly the Spanish flag.

Corporations domiciled in an EU Member State that may apply for registration in Spain are required to appoint a representative in Spain.

When a vessel is registered under another flag, a deletion certificate from the other registry must be produced before final registry in Spain.

Special Registry
Notwithstanding the above, application for the Special Registry must comply with the following requirements:

• Shipping companies may register with the Special Registry provided that their effective place of business is situated in the Canary Islands or that they otherwise have a permanent representative there in order to comply with all statutory obligations.

• Shipping companies may apply for the registration of their ships provided that they have a title of ownership or otherwise are entitled to exploit them by virtue of a bareboat charter agreement or any other title.

5.3.2 Ship registration procedure
The application form must be accompanied by several documents relating to the ship details, including:

• For ships constructed in Spain: certified building project and title of ownership
• For imported ships: evidence of the import, deletion certificate from the previous registry, title of ownership or bareboat charter, as applicable

In addition, any liens, passage of title or mortgages on the Spanish-registered vessels must be communicated to the registry.

Spain

5.3.3 Parallel registration
Parallel registration is only possible in the Special Registry.

Bareboat charter registration can be applied for by shipping companies provided that they meet the requirements mentioned in section 5.3.1 and that the owner approves of flying the Spanish flag.

However, parallel registration cannot be extended for a period of time exceeding six months unless the relevant charter agreement exceeds such period and a provisional deletion certificate from the previous registry is duly submitted. Subsequent extensions can be applied for provided that evidence of the relevant provisional deletion certificate can be produced during the same period of time.

5.3.4 Requirements for the officers and crew serving on vessels
Crew on Spanish-registered vessels must get a competence certificate from the Mercantile Marine Authorities.

5.3.5 International conventions regarding registration
Spain has ratified most major international maritime conventions, such as the United Nations Convention on the Law of the Sea of 1982, and joined the International Maritime Organization in 1962.
Sri Lanka

1. Tax

1.1 Tax facilities for shipping companies

Corporate tax

The tax laws generally apply to shipping companies as they do to any other company, and the general rate of corporate income tax is 28%.

Where a nonresident person carries on the business of shipowner or charterer and any ship owned or chartered by said person calls at a port in Sri Lanka, an amount of 6% of the sums receivable on account of the carrying of passengers, mail, livestock and goods shipped into Sri Lanka (other than goods brought to Sri Lanka solely for transshipment) is deemed profit arising in Sri Lanka.

However, if a ship calls on a one-off basis and further calls by that ship are unlikely, the above provision does not apply.

The deemed profit is taxed as per the normal income tax rate of 28%. Relief for double taxation is available for certain countries, depending on the corresponding agreements.

Tax incentives:

- Ships acquired are eligible for a capital allowance rate of 33.33%.
- Remuneration received by any resident individual employed on a Sri Lankan ship is exempt from income tax.
- A reduced rate of corporate tax of 12% is applicable to shipping agents on their agency fees, received in foreign currency, attributable to transshipment.
- The profits from the performance of any service of ship repair, ship breaking repair and refurbishment of marine cargo containers for payment in foreign currency is liable to income tax at a concessionary income tax rate of 12%.
- The profits from the following activities are exempt from income tax as of 1 April 2011:
  - Operation of any port terminal in Sri Lanka
  - Any service provided in the course of any business carried on within such port
  - Construction of any port in Sri Lanka
  - The profits from the supply of any goods manufactured in Sri Lanka or the provision of services to any foreign ship for payment received in foreign currency deemed to be profit from export is taxable at the 12% reduced rate.
  - The profit of any company from any new undertaking providing repair services on aircrafts or maritime vessels or ship breaking are exempt from income tax for a period of 6 to 12 years based on the investment criteria.
  - The profit of any company registered as an offshore company under the Companies Act, No. 7 of 2007 shall be exempt from income tax when such ship or vessel is:
    - Engaged in international operations; Owned or chartered by such company; Deemed to be a Sri Lankan ship by reason of a determination made under paragraph (c) of section 30 of the Merchant Shipping Act, No. 52 of 1971; Other than profits and income arising to such offshore company from the carriage, by that ship, of passengers, mails, livestock and goods, to or from a port in Sri Lanka.
  - The profits from the provision of skilled development in the shipping industry to trainees by a ship operator or any agent of a ship is liable to income tax at a concessionary income tax rate of 10%. (It has been proposed in the 2014 budget presented to the parliament, however the bill has not passed yet in the parliment as of the date of this printing.)

Economic service charge

An economic service charge (ESC) is chargeable on the aggregate turnover (relevant turnover) of every
trade, business, profession or vocation carried on in Sri Lanka. The general rate is 0.25% of turnover. ESC is similar to an advance payment of income tax.

However, ESC is not chargeable to any person carrying on business as an owner or charterer of an aircraft or ship.

**Nation building tax**

The nation building tax (NBT) came into operation as of 1 February 2009 and is chargeable at 2% from 1 January 2011.

The following actions are chargeable for NBT on liable turnover:

- Import of any article into Sri Lanka (other than personal baggage and excepted articles)
- Business of manufacture of any article (other than excepted articles)
- Business of providing a service (other than excepted services)
- Business of wholesale or retail sale of any article other than such sale by the manufacturer of that article

The importation of aircraft or ship is exempt from NBT (for certain specified Harmonized System [HS] codes). Further, certain services and goods, including the following, are excluded from NBT liability:

- Services - transport of goods or passengers
- Services of a licensed shipping agent for the export of any article from Sri Lanka
- Any service rendered in or outside Sri Lanka to a person outside Sri Lanka for payment in a foreign currency (if remitted through a bank)
- Any spare parts imported by any shipping company to be used for the maintenance of any ship
- Services provided to the port or airline in relation to international transportation
- Services provided in relation to shipbuilding for the international market for payments made in foreign currency

**Value-added tax**

International transportation of goods and passengers, the repair of any foreign ship or any merchant ship registered in Sri Lanka or the refurbishment of marine cargo containers is zero-rated, and domestic supplies are taxable at 12%.

The value-added tax (VAT) is exempted on certain goods and services, including the following:

- The importation of any ship
- Income from chartering vessels

**Duty**

Imported vessels with certain specified HS codes are exempt from import point taxes, including the customs duty and Port and Airport Levy [PAL]).

Importation of any ship for the purpose of goods or passenger transportation that will be registered under the Sri Lankan flag is exempt from PAL and duties.

Further, no duty is due for vessels purchased under a Board of Investment-approved scheme.

**Stamp duty**

Any instrument in respect of the deed of mortgage or lease of any ship registered under the Merchant Shipping Act, No. 52 of 1971 shall be exempt from the stamp duty.

### 1.2 Tax facilities for seafarers

The general tax incentives available to any individual employee, such as deductions for social security contributions and life insurance, are also available to seafarers.

### 1.3 Tax treaties and place of effective management

Sri Lanka has concluded treaties with 40 countries on the avoidance of double taxation. Tax is levied based on the place of effective management.
1.4 **Freight taxes**
Where a nonresident person carries on the business of shipowner or charterer and any ship owned or chartered by said person calls at a port in Sri Lanka, an amount of 6% of the sums receivable on account of the carrying of passengers, mail, livestock and goods shipped into Sri Lanka (other than goods brought to Sri Lanka solely for transshipment) is deemed profit arising in Sri Lanka.

However, if a ship calls on a one-off basis and further calls by that ship are unlikely, the above provision does not apply.

1.5 **Special vessel registration tax benefits for the shipowner**
No special tax benefits are available for ships registered in Sri Lanka.

2. **Human capital**

2.1 **Formalities for hiring personnel**
Employees (crew members) should be under 45 years of age and should be qualified for their employment.

2.2 **National labor laws**
Under the contract of employment with the shipping company, the national labor laws, including those pertaining to social welfare and worker's compensation, apply during the course of employment. (The aforementioned provision applies to office employees and crew and is governed by Sri Lankan crew agreements specifying compensation, among other things.)

2.3 **Regulations on employing personnel**
There are no specific regulations or important customs with respect to the employment of personnel.

2.4 **Collective labor agreements**
Collective labor agreements contain a limited term of contract. No information is available relating to, for example, minimum wage, free days and working hours.

2.5 **Treaties relating to social security contributions**
The employer has to contribute to the Employees' Provident Fund (12%) and to the Employers' Trust Fund (3%).

2.6 **Manning issues with flying the Sri Lankan flag**
Fifty percent of the crew should be Sri Lankan. (This is not strictly enforced, and the Registrar of Ships may waive this requirement on a case-by-case basis.)

3. **Corporate structure**

3.1 **Most commonly used legal structures for shipping activities**
No special or specific legal structure is available. The prevailing corporate tax rate for general business is 28%.

3.2 **Taxation of profit distribution**
The dividends distributed to shareholders by any resident company are taxed at 10%.

A resident company will be subject to a deemed dividend tax (15% on the difference between 331/3% of distributable profits and the total dividend distributed) if the dividend distributed is less than 10% of the company's distributable profit.

4. **Grants and incentives**
No general or specific subsidies or specific investment or environmental incentives are available to the
shipping industry. A change in this policy is not expected in the near future.

5. General information

5.1 Infrastructure

5.1.1 Major ports
The major ports are:
- Port of Colombo
- Galle Regional Port
- Kankesanthurai (KKS) Harbour
- Port of Point Pedro
- Trincomalee Harbour
- Ruhunu Magampura International Port
- Oluvil Harbour

5.1.2 Port facilities
The following facilities are available:
- Maintenance and repair
- Docking
- Bonded warehousing
- Cranes for every size of vessel
- Electronic data interchange (EDI) services
- Special facilities (bunkering pollution and oil spill control, marine surveyors)

5.1.3 Airport close to the major ports
- The Bandaranayake International Airport at Colombo is within 20km of the Port of Colombo.
- The Mattala Rajapaksa International Airport at Hambantota is within 29km of the Ruhunu Magampura International Port.

5.1.4 Support services for the shipping industry
The following support services for the shipping industry are readily available:
- Banks with a shipping desk
- Maritime law services
- Insurance brokers for the shipping industry
- Repair and maintenance services
- Bunker supply services in Colombo, Galle, Trincomalee and Hambantota
- Surveyors of all major classification societies in Colombo
- Salvage services
- Shipping agencies

5.1.5 Maritime education
The University of Moratuwa offers a degree program in navigation and engineering.
Sri Lanka is on the White List of the International Maritime Organization (IMO).
A number of public and private institutions provide training for ratings and officers of all ranks.

5.2 Safety and environmental issues
5.2.1 Implementation of the International Safety Management Code (and International Ship and Port Facility Security Code) on board vessels
According to the Director of Merchant Shipping who is responsible for the safety of ships in Sri Lanka, all Sri Lankan-registered ships that were required under the Safety of Life at Sea requirements (SOLAS, chapter ix) to comply with the International Safety Management (ISM) Code by 1 July 1998 achieved certification by that date.

About 80% of the shipping companies have implemented the ISM Code. (This is compulsory and full compliance is required.)

5.2.2 Safety rules regarding manning
Sri Lanka is regarded by the industry as having strict safety rules regarding manning.

5.2.3 Special regulations on safety and the environment
Laws have been enacted to prevent sea pollution and to deal with other environmental concerns.

5.3 Registration
5.3.1 Registration requirements
Fifty percent of the crew members should be Sri Lankan nationals. (Waivers are possible.)

5.3.2 Ship registration procedure
Ownership can be registered with the Registrar of Ships, accompanied by the following documents:
- Original bill of sale
- Class maintenance certificate
- Confirmation of number of shares held in the ship
- Particulars of mortgages
- Certificate in evidence of free and unencumbered ownership
- Certificate of good standing of the buying company
- Board resolution for the purchase of the ship
- Powers of attorney of the persons signing for the purchase and the sale
- De-registration or cancelation letter of the registration in another country

5.3.3 Parallel registration
Parallel registration is possible. For registration under an offshore company with 50% Sri Lankan crew, wages are exempt from tax but no business can be conducted in Sri Lanka. (It will be treated like any other foreign shipowner.)

5.3.4 Requirements for the officers and crew serving on vessels
Officers and crew should hold a certificate issued in accordance with the International Convention on Standards of Training, Certification & Watchkeeping for Seafarers (STCW) (also, see section 5.3.1).

5.3.5 International conventions regarding registration
No information on this subject is available.

The principal legislation governing ship registration is the Merchant Shipping Act No. 52 of 1971. Registration of foreign vessels was allowed under the Companies Act 7 of 2007 (setting up an offshore company in Sri Lanka) based on international laws.

International conventions
Sri Lanka is a member of the IMO and International Labour Organization (ILO) and has ratified most of their important conventions. Some of them are listed below.

IMO conventions:
- COLREG 1972
- FUND 1971
- INMARSAT, CLS 1969
• ITC 1969
• LOAD LINES 1966
• MARPOL 1973/78
• SOLAS 1974
• STCW 1978/95
• STP 197
ILO conventions:
• No. 7, Minimum Age (Sea), 1920
• No. 8, Unemployment Indemnity (Ship Wreck), 1920
• No.16, Medical Examination (Sea), 1921
• No. 98, Right to Organize and Collective Bargaining, 1949
• No. 135, Workers' Representatives, 1971
• No. 108, Seafarers' Identity Documents, 1958

5.3.6 Special requirements and rules regarding registration
See section 5.3.2.
1. **Tax**

1.1 **Tax facilities for shipping companies**

Shipping companies are generally taxed in the same way as other companies. The corporate income tax rate is 22%. Under certain circumstances, Swedish registered shipping companies can be granted a subsidy for employers' contributions paid on salaries to the seafarers (sjöfartsstöd). Among other requirements, to qualify for the subsidy, the shipping company must make "training employment positions" available according to the directions issued by the Delegation for Swedish Maritime Support, and the vessel and its operations must be sufficiently insured.

1.2 **Tax facilities for seafarers**

1.2.1 **Resident seafarers**

As a main rule, resident seafarers who are employed on Swedish vessels are taxed as Swedish residents. However, resident seafarers on board Swedish and European Economic Area (EEA) registered vessels are also entitled to special deductions in their personal income tax returns depending on the vessel's route.

**Swedish and EEA registered vessels in local traffic**

The special income deduction is SEK35,000 (approx. €4,000) per annum. In addition to this deduction, there is a special tax reduction amounting to SEK9,000 (approx. €1,000) per annum.

**Swedish and EEA registered vessels in foreign traffic**

The special income deduction is SEK36,000 (approx. €4,100) per annum. In addition to this deduction, there is a special tax reduction amounting to SEK14,000 (approx. €1,600) per annum.

**Resident seafarers on foreign vessels**

Resident seafarers are not liable for tax in Sweden if the seafarers stay abroad for a period of at least 183 days during a 12-month period and the employer is situated within the EEA.

1.2.2 **Nonresident seafarers**

Seafarers not resident in Sweden are taxed at a flat rate of 15% on their salaries and benefits derived from work on:

- A Swedish merchant vessel (as defined in the Swedish Sea Act) except when the vessel is rented out mainly unmanned to a foreign shipowner and the seafarer is not employed by the owner of the vessel or an employer engaged by the owner
- A foreign merchant vessel rented mainly unmanned by a Swedish shipowner, if the seafarer is employed by the shipowner or an employer engaged by the shipowner

No deductions are allowed in the personal income tax return when a nonresident seafarer is taxed at the 15% flat rate.

It is, however, possible for nonresident seafarers to apply for the same treatment as resident seafarers on income derived from employment on vessels registered within the EEA. By doing so, they become entitled to the special income deduction, as well as the special tax reduction (see section 1.2.1).

1.3 **Tax treaties and place of effective management**

Sweden has an extensive treaty network with other countries and currently has income tax treaties in force with more than 80 countries. In general, Sweden's tax treaties are based on the Organisation for Economic Co-operation and Development (OECD) model tax convention on income and capital (OECD model tax treaty).

Sweden has concluded tax treaties with the following countries:

Albania, Argentina, Australia, Austria, Bangladesh, Barbados, Belarus, Belgium, Bolivia, Bosnia-

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1 EEA includes the countries of the European Union and Norway, Iceland and Liechtenstein.
Herzegovina*, Botswana, Brazil, Bulgaria, Canada, Chile, China, Croatia*, Cyprus, Czech Republic**, Denmark, Egypt, Estonia, Faeroe Islands, Finland, France, Gambia, Germany, Greece, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Jamaica, Japan, Kazakhstan, Kenya, Kosovo*, Latvia, Lithuania, Luxembourg, Macedonia, Malaysia, Malta, Mauritius, Mexico, Montenegro*, Namibia, Netherlands, New Zealand, Norway, Pakistan, Philippines, Poland, Portugal, Romania, Russian Federation, Serbia*, Singapore, Slovak Republic**, Slovenia*, South Africa, South Korea (ROK), Spain, Sri Lanka, Switzerland, Taiwan ROC, Tanzania, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Kingdom, United States of America, Venezuela, Vietnam, Zambia, Zimbabwe.

*Sweden applies the treaty with former Yugoslavia to Bosnia-Herzegovina, Croatia, Kosovo, Montenegro, Serbia and Slovenia.

**Sweden applies the treaty with former Czechoslovakia to the Czech Republic and the Slovak Republic.

Moreover, Sweden has also concluded specific tax treaties with the following countries regarding shipping activities to specifically avoid double taxation of companies using ships in international traffic: Guernsey, Isle of Man and Jersey.

According to domestic Swedish rules, a company is considered resident in Sweden if it is registered (incorporated) in Sweden according to Swedish law. A foreign limited liability company is not considered resident in Sweden simply based on the fact that it has a place of effective management in Sweden, but a foreign company with management and control in Sweden is considered to have a permanent establishment in Sweden.

However, most of the Swedish tax treaties are based on the OECD model tax treaty, which means that Article 8 is used to determine the tax treatment of shipping companies. Article 8 states that the profits of a shipping company shall be taxable only in one state, i.e., either where the shipping company is domiciled or in the state in which the place of effective management of the shipping company is situated.

1.4 Freight taxes
There are no freight taxes in Sweden.

1.5 Value-added tax
Supply, repairs, modification, maintenance, chartering and leasing are zero-rated for value-added tax (VAT) purposes (exempt with recovery rights) if related to:
- Commercial seagoing vessels
- Vessels used for deep-sea fishing activities
- Vessels used for professional fishing activities
- Vessels used for pilotage and rescue at sea

The supply of equipment and other parts to be used on board or incorporated in the vessel is in some cases zero-rated (exempt with recovery rights). The exemption is applicable when goods are supplied or rented to the owner of the vessel or to the person with the usufruct of the vessel according to contract with the owner of the vessel. Services (for example, repairs and maintenance) connected to the equipment and other parts incorporated in the vessel are exempt from VAT with no restrictions.

1.6 Tonnage tax
Currently, there are no rules regarding tonnage tax in Sweden. However, by initiative of the Swedish government, investigations have taken place with the purpose of reviewing a potential implementation of tonnage tax in Sweden. The latest investigation was initiated in January 2013, and a report is expected in November 2014.

Accordingly, the question of whether to introduce a tonnage tax system in Sweden is still under discussion.

1.7 Special vessel registration tax benefits for the shipowner
Registration of vessels in Sweden does not result in any special tax benefits for the shipowner.
1.8 Changes to tax law anticipated in the near future
By direction of the Swedish government, a committee has been appointed to investigate the Swedish corporate income tax system. The committee is expected to present an official report from the investigation in June 2014.

2. Human capital
Swedish shipping companies can, under certain circumstances, be granted a subsidy from the Delegation for Swedish Maritime Support on Swedish employers’ contributions paid on salaries to the seafarers (sjöfartsstöd). This subsidy leads to lower manning costs for Swedish shipping companies. One of the conditions to qualify for this subsidy is that the shipping company is registered in Sweden. This also means that local rules and regulations will have to be enforced for vessels as well as personnel.

3. Corporate structure
3.1 Most commonly used legal structure for shipping activities
The most commonly used legal structure is the limited liability company (AB), for which the standard corporate income tax rate is 22%.

3.2 Taxation of profit distribution
Dividends paid to foreign recipients are, according to the main rule, subject to withholding tax at a rate of 30%. However, under Swedish domestic law, no dividend withholding tax will be levied on dividends paid by a Swedish company to a foreign company that is equivalent to a Swedish company. A foreign company is always considered equivalent to a Swedish company if the company is resident and liable for income tax in a country with which Sweden has entered into a tax treaty, provided taxation is not limited to certain income and the entity is covered by the provisions under the tax treaty. Moreover, according to the Parent-Subsidiary Directive, dividends between companies within the EU are exempt from withholding tax if the parent company holds at least 10% of the share capital in the subsidiary.

3.3 Controlled foreign company
A Swedish company that holds or controls, directly or indirectly, at least 25% of the capital or the voting rights in a foreign low-taxed entity, also known as a controlled foreign company (CFC), is liable to Swedish tax on its share of the foreign entity’s worldwide net profit under certain conditions. Foreign entities are considered to be low-taxed if their net income is taxed at a rate of less than 12.1% (55% of the Swedish corporate income tax rate of 22%). There is, under certain conditions, an exception from the CFC rules regarding profits derived from an international shipping business.

3.4 Debt-to-equity rules
No thin-capitalization rules exist in Sweden. However, the Companies Act requires the compulsory liquidation of a company if more than 50% of the share capital is lost without replacement of new capital.

In January 2009, Sweden introduced interest deduction limitation rules on interest expense on intra-group loans, which have been used for intra-group acquisitions of shares and other share-based instruments. The rules have been extended as from 1 January 2013 and now apply to all loans between related parties. The main rule is that interest expense on loans between related parties is not deductible. There are, however, two exceptions from the main rule.
1.) Deductions for interest payments shall be allowed if the corresponding interest income would, hypothetically, be taxed at a rate of at least 10% in the hands of the beneficial owner, had the interest been the only income of the recipient/beneficial owner.
A further requirement is that the taxpayer can show that the debt relationship has not been created predominantly (more than 75%) to provide the group with a substantial tax advantage.

2.) Deductions for interest payments shall also be allowed if the debt relationship related to the interest in question is predominantly (more than 75%) motivated by business reasons, provided that the beneficial owner of the income corresponding to the expense is resident in a state within the EEA or, under certain conditions, in a state with which Sweden has a tax treaty.

4. General information

4.1 Infrastructure

4.1.1 Major ports

Göteborg (located on the west coast of Sweden) is the largest harbor in Scandinavia. The Malmö harbor merged with the Copenhagen harbor in 2001. As a result, the new Copenhagen-Malmö Port Company has harbors on both sides of the Öresund.

The major ports are:
- Brofjorden, Preemraff
- Gävle
- Göteborg
- Helsingborg
- Karlshamn
- Luleå
- Malmö
- Oxelösund
- Stockholm
- Trelleborg

4.1.2 Port facilities

The following port facilities are available:
- Maintenance and repair
- Docking
- Storage
- Cranes for every size of vessel

4.1.3 Airports close to the major ports

The following airports are near major ports:
- Arlanda (Stockholm)
- Kallax (Luleå)
- Landvetter (Göteborg)
- Sturup and Kastrup (Malmö)

4.1.4 Support services for the shipping industry

The following support services for the shipping industry are available:
- Banks with a shipping desk
- Consulting firms specializing in shipping
- Maritime law services
- Insurance brokers for the shipping industry
4.1.5 Maritime education

There are several universities and colleges that provide education in logistics in Sweden. Furthermore, there are several non-academic education programs called KY (qualified professional education) all around Sweden, specializing in the maritime industry.

4.2 Safety and environmental issues

The Swedish Maritime Administration is an agency under the Ministry of Enterprise, Employment and Communication. The tasks of the Swedish Maritime Administration are shown in the agency's directives. The agency's main responsibilities lie within the area of safety and environmental issues. These responsibilities are:

- To promote safe, environmentally compatible and efficient shipping within the framework of sector responsibility
- To be responsible for the needs of shipping for infrastructure in the form of sea routes, pilotage, ice-breaking, nautical information, communication and services
- To be responsible for Swedish maritime and sea rescue operations
- To strive for safety on board Swedish vessels independent of fairways
- To monitor competition in the Swedish shipping industry
Taiwan

1. Tax

1.1 Tax facilities for shipping companies
There are no special tax facilities for shipping companies.

1.2 Tax facilities for seafarers
The income of seafarers that is earned within the territory of Taiwan is subject to personal income tax for a certain percentage, but there is no wage cost deduction for seafarers' wages.

1.3 Tax treaties
As of 6 March 2014, there are 25 comprehensive income tax treaties and 14 international transportation income tax agreements, which have been signed and brought into force. All tax treaties are listed below.

Comprehensive income tax treaties that cover all income flows have been concluded with the following countries:
(1) Asia: India, Indonesia, Israel, Malaysia, Singapore, Thailand, Vietnam
(2) Oceania: Australia, New Zealand
(3) Europe: Belgium, Denmark, France, Germany, Hungary, Macedonia, the Netherlands, Slovakia, Sweden, Switzerland, United Kingdom
(4) Africa: Gambia, Senegal, South Africa, Swaziland
(5) America: Paraguay

International transportation income tax agreements have been concluded with: Canada, the European Union, Germany, Israel, Japan, Korea, Luxembourg, Macau, the Netherlands (shipping, air transport), Norway, Sweden, Thailand and the United States.

1.4 Tax exemption on cross-strait sea and air transport
According to the Article 29-1 of the Act Governing the Relations between the People of the Taiwan Area and the Mainland China Area (the Act), marine and air transportation service providers in the Taiwan Area and the Mainland Area receiving incomes from sources in the other party for their participation in cross-strait shipping and/or air transportation may, in accordance with the agreement between the Taiwan Area and the Mainland Area established under Article 4-2 of the Act, grant mutual privileges by reducing or exempting business tax and income tax based on the principle of reciprocity.

1.5 Freight taxes
Freight taxes will be levied in accordance with provisions under the Income Tax Act. According to Article 4 of the Income Tax Act, business income obtained from the operation inside the territory of Taiwan by a foreign enterprise engaged in international transportation, provided that reciprocal treatment is accorded by the foreign country for an international transport enterprise of Taiwan operating in its territory, will be exempted.

1.6 Special vessel registration tax benefits for the shipowner
There are no tax benefits for vessels registered in Taiwan.

1.7 Changes to tax law anticipated in the near future
No significant changes to tax law are anticipated in the near future.

2. Human capital

2.1 Formalities for hiring personnel
According to Article 12 of the Seafarer Act, when employing a seafarer, the employer must sign a written
employment contract with the seafarer. The seafarer employed must not work on board a ship until the contract is sent to the competent authority for future reference. The same applies for when the contract is terminated. An employer hiring a seafarer who is a non-resident of the Taiwan must apply to the competent authority for permission.

2.2 National labor law
The Seafarer Act applies to seafarers on ships. However, the Seafarer Act does not apply to seafarers serving on the following ships, provided that those are not involved with navigation safety and dealing of maritime casualties:
- Military vessels and boats
- Fishing ships
In addition, the Seafarer Act does not apply to the seafarers serving on a ship exclusively for governmental services, except in the following matters: qualifications, practice, cultivation and training and when dealing with navigation safety and maritime casualties.

2.3 Regulations on employing personnel
All seafarers must be age 16 or over. All masters must be nationals of Taiwan. The qualification of seafarers must be in conformity with the provision of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, and any amendments hereto. Seafarers must also pass the Seafarer Examination or have verification of obtaining Seafarer Training. Any person who possesses the above qualifications is permitted to take up employment as a seafarer only after the issuing of a competence certificate from the Ministry of Transportation and Communication (MOTC). Seafarers are entitled to serve aboard a ship after passing a medical fitness examination and on the condition that they possess a seafarer's service book in accordance with relevant regulations.

2.4 Collective labor agreements
The National Chinese Seamen's Union (NCSU) is credited for promoting the signing of the International Transport Workers' Federation-National Chinese Seamen's Union total crew cost (ITF-NCSU TCC) collective agreement with shipping companies. The collective labor agreement contains the following conditions:
1. A contract term is nine (plus or minus one) months.
2. Free days: apart from national holidays, seafarers will take at least one day off every seven days except if they are required to take turns in watchkeeping during navigation.
3. Essentials of the discharge law: retirement, completed contract or a document stating that the seafarer is “unfit to work on board” or due to an accidental injury as documented by a doctor.
4. Regular working hours: a normal total working week for seafarers consists of 44 hours, except if they are required to take turns in watchkeeping because of navigation needs.
5. National health insurance is only available for seafarers of Taiwanese-flagged vessels; in addition, the employer and seafarers will contribute to the retirement fund on a monthly basis, which contribution shall be deposited in a specific account.
6. The minimum standards, varied for different ranks of crew members, of seafarer wages, onshore pay and overtime charges will be provided by the MOTC; the minimum wage will not be less than the wages provided by the basic work criteria of the Labor Standard Law.

2.5 Treaties relating to social security contributions
Social security for seafarers is included in the ITF-NCSU TCC collective agreement and the Standard Fixed-Term Employment Contract for Seafarers drawn up by the MOTC.

2.6 Manning issues with flying the Taiwanese flag
One manning issue regarding flying the Taiwanese flag is that the International Maritime Organization (IMO) white list does not yet contain Taiwan. However, Taiwan obtained the STCW Statement of Compliance, Independent Evaluation of Taiwan, on 12 February 2004, after passing the evaluation of STCW Competent
Persons recognized by the IMO. This means that Taiwanese certificates will enjoy the same treatment as those issued by other white list territories.

3. Corporate structure

3.1 Most commonly used legal structure for shipping activities
The most commonly used legal structure is the company limited by shares. In general, the taxable income of the shipping companies using this structure is subject to corporate income tax (CIT) at a rate of 17% and value added tax (VAT) at a rate of 5%. However, under the tonnage tax system, taxes will be levied according to the net tonnage of its Taiwanese flagged ship. In addition, with pre-approval from the tax authorities, a company whose head office is outside of Taiwan but provides shipping services within the territory of Taiwan can calculate its taxable income by computing 10% of the revenues derived from Taiwan according to Article 25 of the Income Tax Act.

3.2 Tonnage tax (Article 24-4 under Income Tax Act)
The Taiwanese government has approved a provision within the income tax law that would allow shipping companies engaged in international maritime transportation to change the basis of their taxation. The new tax provision entered into force on 10 January 2011. The provision allows the profit-seeking enterprises headquartered in Taiwan (Taiwanese companies), with the permission of the competent authority, to re-base the taxation of their marine transport income from the current applicable corporate income tax to a lump sum tax calculated on the tonnage of their fleet. The tonnage tax was divided into four brackets as follows:
1. For ships with a net tonnage of 1,000 tons or less, assumed profit is fixed at TWD$67 per 100 tons up to 1,000 tons per day
2. For ships with a net tonnage of 1,001 to 10,000 tons, daily assumed profit per 100 tons between 1,000 and 10,000 tons is TWD$49.
3. For ships of 10,000 to 25,000 tons, daily assumed profit per 100 tons between 10,000 and 25,000 tons is TWD$32.
4. For ships over 25,000 tons, daily assumed profit per 100 tons above 25,000 tons is TWD$14.
Shipping companies that qualify for the tonnage tax may choose between the regular corporate income tax approach and the tonnage tax approach. Once the choice is made, however, it is binding for 10 years. In addition, shipping firms that choose to enter the tonnage tax regime are not eligible to apply offsetting between profits and losses or other tax incentives.

3.3 Taxation of profit distribution
Profit distributions (dividends) from shipping companies are subject to withholding tax at the general rate of 20%, which can be reduced to a special rate depending on the treaty country.

4. Grants and incentives

4.1 Specific and/or general subsidies available to shipping companies
Subsidies may be granted to qualified transportation companies engaged in air transportation between Taiwan and offshore islands in the territory of Taiwan.

4.2 Investment incentives for shipping companies and the shipbuilding industry
There are no special investment incentives for shipping companies and the shipbuilding industry.

4.3 Issues with flying the Taiwanese flag (Article 5 of The Law of Ships)
According to the Law of the Ships, a ship may apply for registering as a Taiwanese-flagged ship under any one of the following conditions:
1. The ship is owned by the Taiwanese government.
2. The ship is owned by a Taiwanese national.
3. The ship is owned by any of the following companies, which are established under Taiwanese laws, with principal offices situated within Taiwanese territory:
   - An unlimited company, of which all shareholders are Taiwanese nationals
   - A limited company, of which at least half of the capital is owned by Taiwanese nationals, and the director authorized to represent such company is a Taiwanese national
   - A joint company, of which all shareholders with unlimited liabilities are Taiwanese nationals
   - A company limited by shares, of which the chairman of the board and at least half of the directors are Taiwanese nationals, and at least half of the capital is owned by Taiwanese nationals
4. The ship is owned by a juridical corporate, which is established under the Taiwanese laws, with its main office situated within the Taiwanese territory and at least two-thirds of the members and the statutory representative being Taiwanese nationals

Any foreign-flagged ship will not fly a national flag of Taiwan, except otherwise stipulated in laws or under any one of the following circumstances:
   - On the National Day or any memorial day of Taiwan
   - When celebration or salute is needed

4.4 Major changes in shipping subsidy legislation anticipated in the near future
No major changes are anticipated in the near future.

5. General information

5.1 Infrastructure

5.1.1 Major ports
The major ports are:
   - Anping
   - Hualien
   - Kaohsiung
   - Keelung
   - Suao
   - Taichung
   - Taipei

5.1.2 Port facilities
The following facilities are available:
   - Maintenance and repair
   - Docking
   - Storage
   - Cranes for every size of vessel
   - Pilotage and towage
   - Navigation aids, such as lights and buoys
   - Moorings and anchorages
   - Shipbuilding
   - Monitoring of maritime activities and traffic service for ocean cruisers
   - Inspection service
5.1.3 **Airports close to the major ports**
The airports close to the major ports are:
- Hualien Airport (Hualien, Suao)
- Kaohsiung International Airport (Kaohsiung)
- Taichung Airport (Taichung)
- Tainan Airport (Anping)
- Taiwan Taoyuan International Airport (Keelung)

5.1.4 **Support services for the shipping industry**
The following support services for the shipping industry are readily available:
- Banks with a shipping desk
- Consulting firms specializing in shipping
- Maritime law services
- Insurance brokers for the shipping industry

5.1.5 **Marine education**
Two types of maritime education exist in Taiwan: higher maritime education and vocational maritime education.

Higher maritime education is provided by three major institutions:
- Taipei College of Maritime Technology (Taipei)
- National Kaohsiung Marine University (Kaohsiung)
- National Taiwan Ocean University (Keelung)

Vocational maritime education is mainly provided at the high school level by the following schools:
- China Commercial Maritime Vocational Senior High School (Taipei)
- National Keelung Maritime Vocational High School (Keelung)
- National Penghu Marine and Fishery Vocational High School (Penghu)
- National Suao Marine & Fisheries Vocational High School (Suao)
- National Tainan Senior Marine Fishery Vocational School (Tainan)
- National Tung Kang Maritime and Fishery Vocational High School (Pingtung)

5.2 **Safety and environmental issues**

5.2.1 **Implementation of the International Safety Management Code on board vessels**
All international ships that have implemented the International Safety Management Code, obtained the safety management certificate (SMC) and document of compliance (DOC) must follow those regulations accordingly.

5.2.2 **Safety rules regarding manning**
The IMO Code, STCW 95, the International Labour Organization (ILO) requirements, ITF requirements and crew employment contracts will be strictly verified. In addition, a Minimal Safe Manning Certificate should be obtained, which can be issued under the provisions of regulation V/14.2 of the International Convention for the Safety of Life At Sea, 1974, as amended.

To ensure safety of ship and navigation, the employer will man the ship with sufficient, qualified seafarers in accordance with relevant provisions before and at the beginning of the voyage. The minimum standards for the safe manning of a ship according to a ship's trading area(s), type and size will be provided by the MOTC.

5.2.3 **Safety rules regarding security**
The MOTC has adopted the International Ship and Port Facility Security (ISPS) code, requiring the inspection and approval of the China Corporation Register of Shipping on ship security and port facility.
5.2.4 Special regulations on safety and the environment
The Regulations for the Administration of the Pollution of the Sea have been set up based on the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78) and its amendment, MEPC.117 (52).

The International Convention on the Control of Harmful Anti-Fouling Systems on Ships (AFS convention) prohibits the use of harmful organotin compounds in anti-fouling paints used on ships and establishes a mechanism to prevent the potential future use of other harmful substances in anti-fouling systems.

5.3 Registration (The Shipping Registration Law)
The Shipping Administration Authority of the port of registry shall undertake to administrate the registration of a ship; however, the Shipping Administration Authority at the port of construction is the competent authority in charge of the registration of mortgage of the ship during construction.

5.3.1 Registration requirements
For any registration application, the following documents are required:
1. Application form
2. Documents evidencing the cause of registration
3. Registration of certificate of former registration, if any
4. Documentary proof, if the cause of registration involves any third person, and
5. Documentary proof of registration as to the right of the obligor.

The documents listed in items four and five above may be exempted if the causes of registration appearing in such documents are court decisions with the power of enforcement.

The following information shall be enumerated in the application form, and the form must be signed by the applicant:
1. Type, name and tonnage of ship
2. Port of registry
3. Cause and date of registration
4. Purpose of registration
5. The number of documents certifying the causes of registration
6. Amount of registration fees
7. The authority to which the registration is made
8. Date of application
9. Name, domicile of origin, address, residence and occupation of the applicant; or, in case of a juridical person as the applicant, the name and office of such person
10. Name, domicile of origin, address and residence of the ship managing person, if any; and
11. Name, domicile of origin, address, residence and occupation of the proxy making the application, if any

When more than one person is entitled to a registration as the obligee, which part belongs to which person must be noted in the application form.

5.3.2 Ship registration procedure
The registration must be made jointly by the obligee and obligor entitled to the registration or whose proxy or proxies through an application to the competent authority. Any proxy making an application must present the letter of authorization signed personally by the person delegating the authorization. If a number of ships are registered at the same time with the same cause and purpose, the application may be made on one single form.

The competent authority will issue certificates to applicants upon completing registrations. The following entries and the words marking the completion of registration must be recorded in the Registration Certificate, to which the official seal of the competent authority will be affixed:
1. Name, address and residence of applicant
2. Registration number
3. Date and number of receipt of application
4. Specifications of the ship
5. Port of registry
6. Cause of registration and the date of occurrence thereof
7. Purpose of registration
8. The number of the column of order of rights
9. Date of registration

If an application is made by the obligee only, the competent authority must notify the obligor in this regard with the Notice of Registration.

5.3.3 Special requirements/rules relating to registration
There are some more detailed rules for specific circumstances regarding ship registration. More information can be found in the Shipping Registration Law.

5.4 Consulted resources
Thailand

1. Tax

1.1 Tax facilities for shipping companies

*Corporate income tax*

A foreign company or partnership carrying on international maritime transportation is subject to corporate income tax (CIT) at a rate of 3% of the freight, fees and any other benefits collectible, whether in Thailand or elsewhere, in respect of the transport of goods from Thailand, before deduction of any expenses. Thai companies are subject to CIT at a rate of 20% on net profit for the accounting periods commencing between 1 January 2013 and 31 December 2014. Further reduction of CIT rates after 2014 is under consideration.

*Withholding tax*

The inbound freight paid to a Thai shipping company is subject to 1% withholding tax, while the payment made to an overseas shipping company is tax-exempt.  

The outbound freight is subject to 1% withholding tax.

1.2 Tax facilities for seafarers

There are no special tax facilities for seafarers apart from the fact that income in the form of salary or wages received by seafarers for the discharge of their duties on board a Thai ship, under the law governing the merchant navy in the international carriage of goods, is exempt from Thai personal income tax.

1.3 Tax treaties and place of effective management

Thailand has concluded agreements for the avoidance of double taxation with 54 countries, which reduce the transportation tax rate for international shipping income to 1.5%.

Armenia, Australia, Austria, Bahrain, Bangladesh, Belgium, Bulgaria, Canada, Chile, China, Chinese Taipei, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Hong Kong, Hungary, India, Indonesia, Israel, Italy, Japan, Kuwait, Laos, Luxembourg, Malaysia, Mauritius, Myanmar, Nepal, Netherlands, New Zealand, Norway, Oman, Pakistan, Philippines, Romania, Russian Federation, Seychelles, Singapore, Slovenia, South Africa, South Korea (ROK), Spain, Sri Lanka, Sweden, Switzerland, Turkey, Ukraine, United Arab Emirates, United States, Uzbekistan, Vietnam.

Thailand has also concluded treaties with Poland and the United Kingdom, but they exclude shipping income.

1.4 Freight taxes

There are no specific freight taxes in Thailand. For relevant taxes applicable in Thailand, please refer to section 1.1.

1.5 Special vessel registration tax benefits for the shipowner

Thai company income from international maritime transportation may be exempt from Thai CIT if the vessel used for business is registered as a Thai vessel and at least 50% of the crew are Thai nationals.

Moreover, tax exemption is provided on the proceeds of the sale of a vessel used for international sea transportation by a company or a partnership incorporated under Thai law that operates an international transportation business provided that the criteria are met. Below is a summary of conditions:

- The sale of a vessel must be for the purpose of procuring a new vessel in replacement of the sold vessel, either by purchasing a new vessel or building a new vessel
- In the case of purchasing a new vessel, it must be acquired and registered as a Thai vessel within one year of the sale date of the old vessel or within two years of the sale date of the old vessel
- In the case of building a new vessel, it must be registered as a Thai vessel within two years of the sale date of the old vessel; the shipowner must notify the Director-General of the Revenue Department in writing to obtain tax exemption
1.6 Changes to tax law anticipated in the near future
No major changes are anticipated.

2. Human capital

2.1 Formalities for hiring personnel
Under Thai labor laws, hiring personnel in Thailand is done by mutual agreement between employer and employee in the form of either a written or oral agreement.

In Thailand, there are rules and requirements relating to the use of labor in the scope of employment conditions and working conditions, e.g., wages, working hours, days off and a safe working environment. They are applicable to crew members, who are protected under Thai labor laws irrespective of whether they have a written or verbal employment contract.

An employer with 10 or more employees must provide a copy of the work rules in Thai and must announce the date of their enforcement within 15 days after hiring these 10 or more employees.

2.2 National labor laws
The most significant labor laws are the following:
- Labor Relationship Act B.E. 2518 (1975)

2.3 Regulations on employing personnel
Under the Labor Protection Act B.E. 2541 (1998), employment is generally regulated as follows:
- Minimum wages; currently, the rate is THB300 (€6.6) per day for employees working in all provinces throughout Thailand.
- Normal working hours may not exceed 8 hours a day and 48 hours a week.
- Overtime payment may not be less than 1.5 times the normal hourly rate on weekdays and 3.0 times the hourly rate on holidays.
- Minimum annual leave is 6 days of vacation leave and 30 days of sick leave.
- Traditional holidays, including National Labor Day, must not number less than 13 days per year, including annual official holidays, religious holidays and local traditional holidays.

- The Social Security Fund compensates for injury, sickness, disability, death, childbirth, child welfare and old age.
- Contributions are due from three parties – employer, employee and government – at the same rate on a monthly basis.
- The contribution rate is 5% of the basic salary per month, with a maximum salary base of THB15,000 (€333).

Under the Workmen's Compensation Act B.E. 2537 (1994):
- The Workmen's Compensation Fund compensates for injury, sickness, disability and death in the line of duty.
- Contributions are due from the employer on an annual basis.
- The contribution rate varies from 0.2% to 1% of wages based on the risk rating of the establishment type as set by industrial classification. The current rate applies to the employees in the shipping industry and stands at 1% of the basic salary per month, with a maximum salary base of THB20,000 (€442).

Under the Skill Development Act B.E. 2545 (2002):
- As of 2005, businesses prescribed by law, including shipping businesses that operate with 100 employees or more, have been required to make contributions to the fund, except for when they provide skill development programs to their employees in compliance with the law.
• Contributions are due from the employer on an annual basis.
• The contribution rate is 1% of wages per employee per month, with a maximum salary base of THB6,660 (€147).

2.4 Collective labor agreements
The collective labor agreements include the following:
• An unlimited term of contract
• Minimum wages as announced by the Ministry of Labor (THB300 per day in all provinces of Thailand), severance pay on termination of employment ranging from 30 to 300 days, based on the period of service
• Leave, at least 6 days a year, with 13 official public holidays
• The Thai Labor Act sets out a number of offenses, with fines of THB5,000 (€110) to THB200,000 (€4,430) and a term of imprisonment of one month to one year
• Normal working hours may not exceed 8 hours a day, and the total hours worked in 1 week may not exceed 48 hours

According to the enforcement of Maritime Labor Convention 2006 (MLC), Thailand is in the process of drafting the Maritime Labor Act to be in agreement with the MLC. In the meantime, the Ministry of Labor has issued a Notification regarding the maritime labor standard as a special regulation for maritime labor protection during the legislation process of the Maritime Labor Act.

2.5 Treaties relating to social security contributions
There are no treaties in place, but Thailand is a member of the International Social Security Association (ISSA).

2.6 Manning issues with flying the Thai flag
To fly the Thai flag, a shipowner has to comply with the regulations of the Thai Social Security and Workmen's Compensation Funds to protect his or her employees.

3. Corporate structure

3.1 Most commonly used legal structure(s) for shipping activities
In Thailand, a branch of a foreign company is the most commonly used legal structure for the shipping business. The reason is that a branch of a foreign company is subject to CIT at 3% on gross revenue, while a company incorporated in Thailand is subject to CIT at the rate of 20% on net profit, with a further 10% withholding tax on dividends distributed to shareholders. The rate of 20% on net profit is for the accounting periods commencing between 1 January 2013 and 31 December 2014.

3.2 Taxation of profit distribution
Thai individuals and Thai companies are exempt from the 10% withholding tax, provided that such dividends are paid by a Thai company that carries on an international maritime transportation business by using Thai ships on which at least 50% of the crew members are Thai nationals (see section 5.3.1).

No withholding tax applies to profits distributed by a Thai branch to a head office overseas, since foreign shipping companies do not pay income tax on net profit.

4. Grants and incentives

4.1 Specific and/or general subsidies available to shipping companies
There are no subsidies available to shipping companies in Thailand.
4.2 Investment incentives for shipping companies and the shipbuilding industry
Maritime transport services are eligible for investment incentives from the Board of Investment of Thailand, including exemption from import duties on machinery, and CIT for eight years, provided that the vessel is registered with and classified by any recognized vessel classification society.

Building or repairing ships of not less than 500 gross tons, and ships of less than 500 gross tons that are not made of wood or steel, are eligible for investment incentives as a priority activity that has special importance and benefit to the country. The investment incentives include an exemption from import duties on machinery and an exemption from CIT for eight years without cap.

4.3 Special incentives for environmental awareness
There are no special incentives.

4.4 Issues with flying the Thai flag
The incentives provided by the Board of Investment of Thailand relate to flying the Thai flag.

4.5 Major changes in shipping subsidy legislation anticipated in the near future
The Board of Investment of Thailand recently proposed a new investment promotion policy to be effective in the beginning of January 2015. In the future, industry-based investments rather than zone-based investments will be used as criteria for determining which incentives will be granted.

According to the proposed investment promotion policy, maritime transport services will be eligible for CIT exemption for five years (with a cap), and building or repairing ships of not less than 500 gross tons, and ships of less than 500 gross tons that are made of metal or fiberglass, will be eligible for an exemption from CIT for eight years with a cap.

5. General information

5.1 Infrastructure

5.1.1 Major ports
The major ports are:
- Laem Chabang (Chonburi, www.laemchabangport.com)
- Map Ta Phut (Rayong, www.maptaphutport.com)
- Phuket
- Port of Bangkok (www.pat.or.th)
- Songkhla
- Sriracha (Chonburi, www.srirachaport.com)

5.1.2 Port facilities
The following facilities are generally available at the ports:
- Maintenance and repair
- Docking
- Storage
- Cranes for every size of vessel
- Loading
- General, bulk and coal cargos
- Radio pratique and sanitary inspection
- Water supply and bunker
- Tankers berthing
- Ship chandlers
5.1.3 **Airports close to the major ports**

The following airports are located close to major ports:

- Hat Yai International Airport — located in Songkhla and close to Songkhla Port
- Phuket International Airport — located in Phuket and close to Phuket Port
- Suvarnabhumi International Airport — located in Samut Prakan and close to Laem Chabang Port, Port of Bangkok and Sriracha Port
- U-tapao International Airport — located in Chonburi and close to Map Ta Phut Port

5.1.4 **Support services for the shipping industry**

The following support services for the shipping industry are readily available:

- Consulting firms in shipping (Office of Maritime Consultants Co., Ltd)

5.1.5 **Maritime education**

In Thailand, there are schools and institutions offering maritime educational programs, including:

- Barter International Maritime Studies, located in Bangkok (www.bimsmaritime.com)
- International Maritime College, Kasetsart University, Sriracha Campus (www.imc.src.ku.ac.th)
- Transportation Institution of Chulalongkorn University, located in Bangkok (www.tri.chula.ac.th)
- Merchant Marine Training Center, located in Samutprakarn (www.mmtc.ac.th)
- Raja Maritime School, located in Chonburi (www.rajamaritime.ac.th)
- Thai Marine School, located in Bangkok (www.thaimarineschool.ac.th)

5.2 **Safety and environmental issues**

5.2.1 **Implementation of the International Safety Management Code on board vessels**

The International Safety Management (ISM) Code has been implemented on all vessels of 500 gross tons and more since 1 July 2002.

5.2.2 **Safety rules regarding manning**

Thailand has adopted the International Ship and Port Facility and Security (ISPS) code and the Declaration of Security (DOS).

5.2.3 **Special regulations on safety and the environment**

Thailand adheres to the International Convention for the Safety of Life at Sea (SOLAS) 1974, which is incorporated in Thai ship navigation law.

5.3 **Registration**

5.3.1 **Registration requirements**

For the purpose of trading in Thai territorial waters, the owners of registered Thai vessels must be Thai nationals or juristic persons established under Thai law. In addition, such juristic persons have to meet the following criteria:

- If it is an ordinary partnership, all partners must be Thai nationals.
- If it is a limited partnership, all partners whose liability is unlimited must be Thai nationals, and not less than 70% of the capital of the partnership must belong to Thai nationals.
- If it is a limited company, the majority of the directors must be Thai nationals, and not less than 70% of the capital must belong to Thai nationals.
For a registered Thai vessel used only to operate international marine transport and not to conduct business in Thai territorial waters, the owner must be a limited company or public limited company under Thai law with its head office in Thailand. The majority of the directors must be Thai nationals and not less than 51% of the capital must belong to Thai nationals. The ratio of Thai crew on Thai vessels must not be less than 50% as prescribed by ministerial regulation.

5.3.2 Ship registration procedure
The application should be accompanied by the title deed of the vessel (i.e., the shipbuilding agreement, the sale agreement and related supporting documents), and submitted to the Marine Department.

The vessel/ship for which an application has been submitted must be surveyed by the officer of the Marine Department for certification.

A ship certificate will be issued by the Marine Department.

5.3.3 Parallel registration
For bareboat charter use in Thai territory, approval from the Thai authorities is required.

5.3.4 Requirements for the officers and crew serving on vessels
The officers and crew working on Thai ships of at least 60 gross tons must be registered in the ship register by the employer and report to the Marine Department on an annual basis. Non-Thai ships are not required by law to register officers and crew with the Marine Department.

5.3.5 International conventions regarding registration
No conventions regarding registration have been adopted.

5.3.6 Special requirements/rules regarding registration
Ship mortgages
The mortgage of Thai ships must be registered with the Marine Department for a fee not exceeding THB20,000 (€444).

Survey
Thai ships are required to be surveyed once a year by the Ship Registration Division of the Marine Department.
Turkey

1. Tax

1.1 Tax facilities for shipping companies

Shipping companies are basically taxed according to the same general principles that apply to other Turkish companies operating in different sectors. However, the taxation may vary with the type of shipping registry.

In Turkey, there are two shipping registries: the National Shipping Registry (NSR) and the Turkish International Shipping Registry (TISR, also called the “second registry”). All commercial vessels of 18 gross tons or more must be registered in the NSR in order to operate in Turkish territory. However, the TISR, which is optional, provides various advantages to shipping companies. For example, a shipping company registered in the TISR is not subject to the standard corporate income tax of 20%.

1.1.1 Shipping companies not registered in the TISR - standard corporate income tax legislation

According to the Corporation Tax Law, there are two sorts of corporate tax liability: full and limited.

Fully liable taxpayer (resident taxpayer)

Legal entities whose legal or business headquarters are located in Turkey, or whose operations are centered and managed in Turkey, are subject to corporate tax on their worldwide income. Turkish tax legislation describes these companies as fully liable taxpayers.

Limited liability taxpayer (nonresident taxpayer)

Limited liability taxpayers include branch offices whose legal head office or legal center is located abroad. These are subject to corporate tax on their income generated within Turkey only. In other words, worldwide income is taxed in Turkey if the legal or business center is in Turkey. If both the legal and business centers are not in Turkey, the company is qualified as nonresident and is taxed only on the income generated in Turkey.

Corporate tax rate

The corporate income tax rate is 20%.

Withholding tax rate

The local dividend withholding tax rate is 15%. However, the rate may be reduced by available bilateral tax treaty provisions. In order to apply the lower withholding tax rate stipulated by the treaty, dividends should be distributed either actually or on an account basis. The benefit provided by the tax treaty will vary based on the ratio of the foreign shareholding, the maximum withholding tax rate specified by the treaty and the amount of dividend distributed.

Special taxation of nonresident foreign transportation companies

According to Corporation Tax Law No. 5520, foreign transportation companies are taxed under the scope of limited taxation liability. The earnings of foreign transportation companies constituting the tax basis are calculated by applying the average equivalent ratios, which is 15% for marine transportation, on the revenue. These companies will be taxed at a rate of 20% on 15% of their revenues.

The revenues of foreign transportation companies consist of all amounts received as passenger, freight and luggage fees, including payments for expenses that they charge along with the ticket price, in marine transportation, from the loading ports in Turkey to the destination ports in foreign countries or to the foreign ports where transfers are to be made.

1.1.2 Shipping companies registered in the TISR

The TISR legislation was introduced in December 1999 and an accompanying directive was enacted in June 2000.

The main objective of the TISR, which is regulated according to Turkish International Maritime Law, is to
accelerate the development of the Turkish maritime industry and to increase its contribution to the economy by facilitating the management of the ships registered in the TISR.

The scope of the law encompasses all types of cargo, passenger and open sea fishing vessels operating for commercial purposes and commercial yachts, which are registered with tourism companies, and the number of those yachts does not exceed 36. Those vessels that are registered in the TISR benefit from the right to fly the Turkish flag.

According to Article 12 of the TISR law, ships and yachts shall benefit from the following tax advantages by being registered in the TISR:

- Revenues obtained from the operation and the transfer of ships and yachts (excluding private yachts) are exempt from income tax and corporate tax
- The purchase, sale, mortgage, registration, loan and freight contracts for ships and yachts are not subject to stamp duty, charges and banking transactions tax
- Wages paid to the staff employed on ships and yachts (excluding private yachts) are exempt from income tax

Ships and yachts may be insured abroad as well.

Leasing of the ships

The scope of the corporate tax exemption is determined by the Corporation Tax Law General Communiqué No. 1. According to this communiqué, the revenues derived from the lease of a ship registered in the TISR are not within the scope of ship operation. These revenues are therefore not exempt from corporate tax.

1.1.3 Value-added tax

According to value-added tax (VAT) law, the following transactions are exempt from VAT, and the taxpayer has the right to claim a credit or refund for the VAT incurred to render the following services:

- Supply of vessels, floating plants and crafts manufactured for leasing or operating purposes, deliveries and services provided in relation to the manufacturing and construction of such means and services related to maintenance and repair of such vessels to taxpayers whose activities partly or entirely consist of leasing or operating these various types of vessels
- Services supplied in harbors for vessels, including loading, unloading and similar services rendered for loads and passengers
- Services rendered to taxpayers who either actually perform or purchase services regarding construction, renovation and enlargement of harbors, delivery of goods and contracted business done, therefore, in relation to such operations

1.1.4 Special consumption tax

According to the Special Consumption Tax General Communiqué No. 6, provided that the quantity of fuel is determined according to the ship's technical properties and entered in the logbook of the ship that will use the fuel, the rate of the consumption tax on the fuel used for any kind of load, including passengers or service (such as towboats, scientific research ships and salvage ships), and open sea fishing vessels and commercial yachts registered in the TISR and NSR and restricted to cabotage, will be reduced to zero.

Thus, the fuel supplied to vessels operating in cabotage and satisfying the conditions mentioned in the general communiqué is exempt from special consumption tax.

1.1.5 Motor vehicle tax

The subject of the tax is the motor vehicle. Taxpayers are real and legal persons who have motor vehicles registered to their own names in the traffic register.

With the amendment introduced under the Code no. 5897, which has been published in the Official Gazette dated 16 May 2009, yachts, cruisers and all kinds of private motor boats in the tariff no. 3 included in Article 6 of the Motor Vehicles Tax Code are excluded from the scope of motor vehicle tax as of 30 June 2009.
1.2 Tax facilities for seafarers
The wages of seafarers working on ships and yachts registered in the TISR are exempt from income tax and funds according to Article 12 of the TISR Law. The crew of private yachts and the employees and executives working in the offices of shipping companies are not within the scope of this exemption. They are subject to income tax.

According to Article 10 of the TISR Law, the seafarers working on ships and yachts registered in the TISR are subject to the Turkish social security system. However, foreign seafarers can be exempt from disability, old age and death insurance upon their application, provided that they prove to be insured in their own country or in another country. While crew members are subject to Sea Labor Law, other personnel working in shipping companies are subject to Labor Law.

1.3 Tax treaties
Turkey has signed double taxation agreements with 80 countries and thus, an extensive network of tax treaties that in many cases effectively reduces the rates enacted in domestic legislation. The list below contains those countries that have concluded double tax treaties (DTT) with Turkey:

Albania, Algeria, Austria, Azerbaijan, Bahrain, Bangladesh, Belarus, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, China, Croatia, Czech Republic, Denmark, Egypt, Estonia, Ethiopia, Finland, France, Georgia, Germany, Greece, Hungary, India, Indonesia, Iran, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Latvia, Lebanon, Lithuania, Luxembourg, Macedonia, Malaysia, Moldova, Mongolia, Montenegro, Morocco, Netherlands, New Zealand, Norway, Oman, Pakistan, Poland, Portugal, Qatar, Romania, Russian Federation, Saudi Arabia, Serbia, Singapore, Slovak Republic, Slovenia, South Africa, South Korea (ROK), Spain, Sudan, Sweden, Switzerland, Syria, Tajikistan, Thailand, Tunisia, Turkish Republic of Northern Cyprus, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom, United States of America, Uzbekistan, Yemen.

Almost all of the treaties mentioned above have a special provision for shipping. In most of the tax treaties, the profits arising from international transport will be taxed in the country of residence. However, in others, exclusive taxation rights belong to the country where effective management, headquarters or commercial centers are situated.

In some treaties, such profits may also be taxed in the other country, but in that case the tax chargeable in that other state should be reduced by 50%.

1.4 Freight taxes
No freight taxes are levied in Turkey.

2. Human capital

2.1 Formalities for hiring personnel
The “seamen regulations,” published in the Official Gazette dated 31 July 2002, govern the adequacy, education, examination, certification, hiring and working and health conditions of the seafarers working on vessels that fly the Turkish flag.

As Turkey is a member of the International Convention on Standards of Training, Certification & Watchkeeping for Seafarers (STCW), the formalities for hiring are regulated by the STCW as well.

The following conditions apply to crew members:

• They should be citizens of the Turkish Republic or the Turkish Republic of Northern Cyprus (TRNC) or of Turkish nationality.
• They should comply with the conditions concerning age, educational level, service time and other conditions as stated in the seamen regulations.
• They should be able to produce documents in evidence of compliance with the necessary health
conditions as stated in the seamen regulation.

- They must not have been found guilty of any crime mentioned in the seamen regulations.
- They must not have been found guilty of any crime committed against the state.
- They must not have been found guilty of any crime related to criminal organizations.

2.2 National labor law
In general, the activities and employment relationships regarding sea transport are not subject to national labor law, except for:

- Ship loading and unloading operations in ports and on landing stages
- Operations related to seafood producers whose activities are not covered by the Sea Labor Law and not deemed to be agricultural work

Turkey has a separate law called the Sea Labor Law (20 April 1967/854), regulating the working conditions of crew members.

2.3 Regulations on hiring personnel
In ships and yachts that are registered in the TISR, regardless of the nationality of the owners of ships and yachts, the captain is required to be a Turkish citizen. If the shipowner is a Turkish citizen or a company falling under the scope of Article 940 of the Turkish Commercial Code, at least 51% of the personnel, excluding the cabotage line, must be Turkish citizens. However, there is no restriction in terms of the nationality of crew members, apart from the captain, if the shipowner is not a Turkish citizen.

2.4 Collective labor agreements
There is a collective labor agreement between The Directorate General of Maritime and Inland Waters Regulation and the Seamen Union of Turkey.

Although ship loading and unloading operations in ports and on landing stages are subject to Turkish National Labor Law, other marine operations are subject to Turkish Sea Labor Law.

Turkish Sea Labor Law stipulates the basic requirements concerning labor agreements, including the form and layout of agreements, the number of copies and who will get those copies, the term of the agreements, wages, holidays and so on.

2.5 Treaties relating to social security contributions
The seafarers employed on vessels and yachts registered in the TISR are subject to the legislation on Turkish social security and individual and collective labor law.

However, foreign crew members working on vessels registered in the TISR are not covered by disability, old age and death insurances, unless such coverage is incorporated into the provisions of international or bilateral social security contracts and they are not covered by compulsory insurance in their country or special insurance in any other country.

To provide relief from double social security premiums and to assure benefit coverage, Turkey has entered into bilateral totalization agreements with the following countries:

Albania, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Canada, Croatia, Czech Republic, Denmark, France, Georgia, Germany, Libya, Luxembourg, Macedonia, Netherlands, Norway, Quebec **, Romania, Sweden, Switzerland, Turkish Republic of Northern Cyprus*, United Kingdom.

* Turkey is the only nation that recognizes the Turkish Republic of Northern Cyprus as an independent nation.
** Though not a country, Turkey has concluded an agreement with the Canadian province Quebec, in addition to Canada itself.

2.6 Issues with flying the Turkish flag with regard to hiring personnel
The wages of crew members working on vessels registered in the TISR are exempt from income tax.
3. Corporate structure

3.1 Most common legal structures for shipping activities

There is no special legal structure for the formation of companies engaged in shipping activities. However, most of the shipping companies operating in Turkey are established as a joint stock company (A.Ş.) or a limited liability company (Ltd). The joint stock company limits its shareholders’ liability to the share capital. On the other hand, since one of the requirements of the TISR is that the owning company must be established in Turkey, the limited liability company provides establishment conveniences.

3.2 Taxation of profit distribution

In accordance with Article 94/6-b of the Income Tax Code, if the earnings derived from the operation of the vessels by the fully liable taxpayer entities are distributed to the following entities and real persons — (i) resident real taxpayers and (ii) nonresident real taxpayers and entities — they are subject to a 15% withholding tax. However, if there is a DTT between Turkey and the country of which the nonresident real taxpayer or entity is resident, the provisions of that agreement are effective. In the event that the agreement stipulates a lower withholding tax ratio, the lower ratio applies.

The withholding tax on dividends will be levied at the time of distribution regardless of whether the company earnings are subject to exemption.

Nevertheless, dividends distributed to the following entities by the resident taxpayer entities are exempt from withholding tax:

- Resident taxpayer entities
- Nonresident taxpayer entities that gain dividends by a business office or permanent representative

In this context, according to the Corporation Tax Law General Communiqué No. 1, in the case of distribution of the earnings to be acquired from the operation and transfer of the vessels, dividends distributed to the resident real taxpayers are subject to withholding tax in accordance with Article 94/6-b of the Income Tax Code regardless of whether the company earnings are derived from the operation of the vessels completely or partially.

4. Grants and incentives

4.1 Specific and/or general subsidies available to shipping companies

There are no subsidies available to shipping companies in Turkey other than the tax incentives mentioned in sections 1.1 and 1.2.

4.2 Investment incentives for shipping companies and the shipbuilding industry

There are no specific investment incentives for the shipbuilding industry in Turkey except social security premium support for a certain period. On the other hand, investments related to cargo and/or passenger sea transportation utilize incentives, including tax deduction, customs duty and VAT exemption, social security premium support and interest support and allocation of investment location under certain conditions. Additionally, the importation boat shells are exempted from custom duty for ships and yachts that are longer than 50 meters.

4.3 Special incentives for environmental awareness

There are no special incentives for environmental awareness regarding shipping companies and the shipbuilding industry. However, the incentive package published in the Official Gazette dated 19 June 2012 defines the environmental investments as those not directly related to the production of commercial goods and which aim at the disposal or clearance of waste materials of an existing facility or facility under construction. The environmental investments incentives include the VAT incentive, the custom duty incentive and interest support, as well as income tax withholding support and social security premium support if the
investment is realized in the less developed regions.

4.4 **Issues with flying the Turkish flag**
It is compulsory to fly the Turkish flag in order to operate within Turkish cabotage lines. However, although all the ships and yachts that are registered in TISR are entitled to fly the Turkish flag, they do not benefit from cabotage rights unless they are in compliance with Article 940 of the Turkish Commercial Code (section 5.1).

4.5 **Major changes in shipping subsidy legislation anticipated in the near future**
As Turkey is in a negotiation process with the European Union (EU) on the terms of full membership, the current shipping legislation will most probably be revised in accordance with EU Directives.

5. **General information**

5.1 **Shipping regulations**
According to Cabotage Law No. 815, effective since 1926, providing all kinds of harbor services, performing trailer and pilotage activities by the coasts, between and inside the harbors, and transporting passengers and loads to and from Turkish coasts are reserved exclusively to vessels flying the Turkish flag.

According to Article 940 of the Turkish Commercial Code, all Turkish ships are required to fly the Turkish flag. Any legal entity established with at least 51% Turkish nationality shareholding and with a Turkish majority on the board of directors is considered to be a Turkish ship and entitled to benefit from the Turkish cabotage line, regardless of whether the vessel in question is registered in the national or international registry.

According to TISR Law, the ships and yachts registered in the TISR are entitled to fly the Turkish flag and benefit from the privileges given by national legislation, with the exception of the cabotage line. In other words, the ships and yachts that do not qualify under Article 940 of the Turkish Commercial Code are not able to benefit from cabotage rights even though they are registered in the TISR.

5.2 **Infrastructure**

5.2.1 **Major ports**
The major ports are:
- Aliaga (İzmir, Aegean region)
- Alsancak (İzmir, Aegean region)
- Ambarlı (İstanbul, Marmara region)
- Antalya (Antalya, Mediterranean region)
- Botas (Mersin, Mediterranean region)
- Gümüşlük (Bursa, Marmara region)
- Haydarpaşa (İstanbul, Marmara region)
- İsdemir (İskenderun, Mediterranean region)
- İskenderun TCDD (İskenderun, Mediterranean region)
- İzmit (İzmit, Marmara region)
- Mersin (Mersin, Mediterranean region)
- Trabzon (Trabzon, Black Sea region)
- Tuzla (İstanbul, Marmara region)

Of the list above, Ambarlı, Haydarpaşa, Alsancak and Mersin are the leading ports for container carriage.

5.2.2 **Port facilities**
The following facilities are available in most of the ports:
- Pilotage
• Towing and tugging
• Provisioning, fueling, watering
• Garbage collection, ballast waste disposal
• Port captain’s services
• Navigation aids
• Shore-based operational services essential to ship operations, including communications, water, electrical supplies
• Emergency repair facilities
• Anchorage, berth, berthing services
• Container handling, storage and warehousing, freight transport

5.2.3 Airports close to the major ports
The following airports are near the major ports listed above:
• Adana Airport (ADA) (Adana, Mediterranean region)
• Adnan Menderes International Airport (ADB) (Izmir, Aegean region)
• Antalya International Airport (AYT) (Antalya, Mediterranean region)
• Ataturk International Airport (IST) (Istanbul, Marmara region)
• Esenboga International Airport (ESB) (Ankara, Black Sea region)
• Sabiha Gokcen International Airport (SAW) (Istanbul, Marmara region)
• Trabzon International Airport (TZX) (Trabzon, Black Sea region)

5.2.4 Support services for the shipping industry
The following support services are available:
• Maritime agency
• Maritime freight forwarding
• Custom clearance
• Consulting firms specialized in shipping
• Maritime law
• Insurance brokers for the shipping industry

5.2.5 Maritime education
Maritime education is available in Turkey both at the high school level and university level. For most of the colleges and faculties listed below, English is a mandatory course. For the high schools listed below, a special education system is implemented in English.

University departments and vocational colleges:
• Black Sea Technical University Faculty of Maritime Sciences (Trabzon)
• Çanakkale Onsekiz Mart University Faculty of Maritime Sciences and Technology (Çanakkale)
• Dokuz Eylül University Faculty of Maritime Business and Management (Izmir)
• Gelibolu Piri Reis Vocational College of Maritime Education (Gelibolu)
• ITU Faculty of Maritime (Istanbul)
• ITU Vocational College of Maritime Education (Istanbul)
• Karamursel Vocational College of Maritime Education (Karamürsel)
• Mersin Vocational College of Maritime Education (Mersin)
• Piri Reis University Vocational College of Maritime Education (İstanbul)
• Recep Tayyip Erdogan University Vocational College of Maritime Education (Rize)
• TÜDEV Maritime Education Center (Tuzla)
• Uludag University Vocational College of Maritime Education (Bursa)
• Yıldız Teknik University Faculty of Ship Building and Maritime (Istanbul)
Vocational high schools (providing education in English):
  • Bulancak Vocational High School of Maritime Education
  • Fatsa Ataturk Vocational High School of Maritime Education
  • Hatice Erdem Vocational High School of Maritime Education
  • Istanbul Vocational High School of Maritime and Water Products
  • Izmir Vocational High School of Maritime Engineering
  • Mersin Vocational High School of Maritime Engineering
  • Pendik Vocational High School of Maritime Education
  • Ziya Kalkavan Vocational High School of Maritime Education

5.3 Safety and environmental issues

5.3.1 Implementation of the International Safety Management Code on board vessels

The rules of the International Convention for the Safety of Life at Sea (SOLAS) apply to Turkish vessels registered in the country, and the International Safety Management (ISM) Code is compulsory for these vessels (Chapter 9 of SOLAS).

5.3.2 Safety rules regarding manning

The existing safety rules for manning can be characterized as strict. High standards exist for education, qualifications and training of seafarers. In addition, Turkey is in compliance with the STCW.

5.3.3 Special regulations on safety and the environment

Turkey has ratified a large number of international treaties regarding marine pollution and safety of lives at sea, including the International Convention for the Prevention of Pollution from Ships (MARPOL) and SOLAS. In addition, Turkey is in full compliance with the International Maritime Organization (IMO) regulations.

In adapting to the acquis communautaire, Turkey has adopted many IMO rules and regulations and correspondingly harmonized its local legislation. The Directorate General of Maritime and Inland Waters Regulation continues to tailor its activities and studies for integration into the EU.

The Maritime Traffic Regulations for the Turkish Straits Act No. 98/11860 dated 8 October 1998 governs safety of navigation and safety of life, property and marine environment by aiming to improve the safety of vessel traffic in the straits. These regulations apply to all vessels entering or navigating within the limits of the Turkish straits.

Turkey has also entered into a number of regional conventions to achieve progress in the protection of the marine environment of the Black Sea and Mediterranean Sea and in the conservation of its living resources, including:
  • Convention on the Protection of the Black Sea Against Pollution
  • Convention for the Protection of the Mediterranean Sea Against Pollution
  • Protocol Concerning Cooperation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency

The Turkish Marine Environment Protection Association (TURMEPA), which was established by well-known seafarers and businessmen of Turkey, is the first organization conducting studies on the Aegean, Mediterranean and Black Sea and aims to be an effective power in protecting these seas and coasts from pollution by ensuring that the national and international laws and agreements on this subject are enforced. Moreover, this non-governmental organization has important goals, such as protecting endangered sea environments and ensuring that Turkey satisfies the requirements for international environmental laws and EU membership.

5.4 Registration

5.4.1 Registration requirements

In Turkey, there are two types of shipping registries: the NSR and the TISR.
All commercial vessels weighing 18 gross tons or more must be registered in the NSR in order to operate in Turkish territory. However, the optional TISR, also called the “second registry,” provides significant facilities for shipping companies.

Additionally, the owners or operators of ships, sea and inland vessels for commercial or private use, other than those registered to the TISR and those that are obliged to register to the NSR, are obliged to register such vessels to the registry file.

5.4.1.1 National Shipping Registry

The following ships and yachts can be registered in the NSR:

- Commercial vessels that have the right to fly the Turkish flag, in accordance with Article 940 of the Turkish Commercial Code
- Yachts and vessels consigned for the purpose of travel, sport, education and science
- Vessels built in Turkey on account of a foreign country or its citizens

5.4.1.2 Turkish International Shipping Registry

Pursuant to Turkish legislation, ships and yachts owned by Turkish and foreign people resident in Turkey and companies incorporated in Turkey may elect to be registered in the TISR. Furthermore, real people and corporations who are not resident in Turkey can register their ships in the TISR through a Turkish company’s holding stocks.

Also, according to Turkish International Maritime Law No. 4490, the following may elect to be registered in the TISR:

- Shipping companies registered in the NSR at the time that the law is effective
- Ships and yachts built in Turkey regardless of any tonnage limit
- Any kind of load and open sea fishing vessels above 3,000 DWT (deadweight tons) to be imported for commercial purposes, and passenger crafts and specially built vessels above 300 gross tons

Bareboat chartered vessels and yachts may not be registered in the TISR.

5.4.1.3 Registry file

The owners or operators of ships, sea and inland vessels for commercial or private use, other than those registered to the TISR and those obliged to register to the NSR, are obliged to register such vessels to the registry file. The relevant registry files are to be kept by port authorities or by municipalities in inland waters.

An agreement for transfer of title of a vessel, marine vehicle or inland water vehicle registered in the registry file will not be deemed effective unless it is made before the relevant port authority or the relevant office of the mayor. Non-commercial vessels, marine vehicles or inland water vehicles belonging to foreign real persons can be registered in the registry file upon application and approval by the Directorate General of Maritime and Inland Waters Regulation. These vessels, marine vehicles or inland water vehicles will fly the Turkish flag, notwithstanding the provisions of Article 940 of the Turkish Commercial Code. However, the provisions of the Cabotage Law are reserved.

Each vessel, marine vehicle, or inland water vehicle registered in the registry file will be granted a license. A license will be prepared for each ship, sea and inland vessel registered in the registry file and will be endorsed every year by the port authority or municipality in which the file is kept. The visa will remain valid for one year. The visas for the licenses granted to non-commercial vessels, marine vehicles or inland water vehicles can be endorsed for up to five years. Registered and duly licensed vessels, marine vehicles or inland water vehicles are exempt from all kinds of vessel health and beaconage fees.

The owner and operator of the vessels, marine vehicles or inland water vehicles without licenses or visas will be fined twice the amount of the unpaid license and visa charges. Moreover, those vessels, marine vehicles or inland water vehicles will not be granted the documents necessary under the Maritime Law and will not be allowed to sail even within the port or inland waters.

Licenses and their visas shall be subject to the fee determined under the Fees Act (tariff no. 8, section XIII),
according to the length of ship, sea and inland vessel. The fee amounts to be paid are provided below:

- On those from 5 meters up to 9 meters (TRY325.50)
- On those from 9 meters up to 12 meters (TRY651.10)
- On those from 12 meters up to 20 meters (TRY1,302.50)
- On those from 20 meters up to 30 meters (TRY2,605.20)
- On those larger than 30 meters (TRY5,210.50)

5.4.2 Registration fees

The owners of the ships registered in the TISR are charged the registration fee and annual tonnage fee according to Article 12/a of TISR law.

Registration fee

In addition to the Turkish lira equivalent of US$10,000, the Turkish lira equivalent of US$1 is charged for every net ton. For yachts, the registration fee is US$5,000.

Annual tonnage fee

For every net ton, the Turkish lira equivalent of US$1 is charged to the ships for each calendar year that they are registered in the TISR.

The role of Turkish Lloyd in TISR

Turkish Lloyd is an independent, specialized, national institution that renders audit and certification services, aiming to safeguard life, property and the environment. The objectives of the organization include neutrality and continual improvement of its expertise.

If a ship or yacht is registered in the TISR, and is also registered with Turkish Lloyd as a direct or dual class, a 50% reduction is granted in the registration fee and annual tonnage fee.

5.4.3 Ship registration procedure

Ownership can be registered by filing the following documents:

- The petition for registration
- For real persons: a copy of their birth certificate and residence certificate
- For commercial companies: a copy of the announcement of their establishment in the Trade Registry Gazette and a list of authorized signatures
- A tonnage certificate
- The invoice or construction certificate of the vessel
- The tax sign/tax identification number
- The statement of clearance of the bill of sale or sales invoice for vessels purchased abroad
- A certificate of deletion from the registry of another country, if applicable
- An incentive certificate for vessels that are entitled to incentives

5.4.4 Parallel registration

There is no possibility of parallel registration in Turkey. According to Article 962 of the Turkish Commercial Code, a vessel cannot be registered in a Turkish shipping registry as long as it is registered in a foreign shipping registry.

5.4.5 Requirements for the officers and crew serving on vessels

See section 2.3.

5.4.6 International conventions regarding registration

No international conventions regarding registration have been adopted.

5.4.7 Special requirements/rules relating to registration

There are no special requirements regarding registration.
United Arab Emirates

1. Tax considerations

1.1 Shipping companies taxation

UAE shipping companies

The tax laws generally apply to shipping companies as they would apply to any other company operating in the United Arab Emirates (UAE). There is currently no federal UAE taxation. Each of the individual Emirates (Abu Dhabi, Ajman, Dubai, Fujairah, Ras Al Khaimah, Sharjah and Umm Al Quwain) has issued corporate tax decrees that theoretically apply to all businesses established in the UAE. However, in practice, these laws have not been applied.

Taxes are currently enforced at the Emirates level only on the following:

- Oil- and gas-producing companies (oil and hydrocarbon companies with actual production in the Emirates), as per specific government concession agreements (which are confidential)
- Branches of foreign banks under specific tax decrees or regulations or fixed in agreements with the rulers of the Emirates in which the branches operate

This is merely how taxation has evolved in the UAE. There is no general exemption in the law. Anyone investing in the UAE should be aware of the risk that the law may be more generally applied in the future and of the remote risk that it may be applied retroactively.

Foreign shipping companies

As mentioned above, only oil- and gas-producing companies and branches of foreign banks should be subject to tax in the UAE.

1.2 Capital gains

There is currently no capital gains tax imposed in the UAE.

1.3 Withholding tax

There is currently no withholding tax in the UAE.

1.4 Taxation of individual income of a seafarer

The UAE does not currently impose personal income tax.

1.5 Value-added tax

There is currently no value-added tax (VAT) imposed in the UAE.

1.6 Customs duty

The UAE is part of the Gulf Corporation Council (GCC) Customs Union along with Bahrain, the Kingdom of Saudi Arabia, Kuwait, Oman and Qatar. Under the unified GCC Customs Law, most foreign imports are subject to a customs duty of 5% of cost, insurance and freight (CIF) invoice value (apart from those goods on an exemption list and certain items, such as alcohol and tobacco that are subject to higher rates of customs duty). The GCC Customs Law is based on the principle of a single entry point upon which all customs duty on foreign imported goods is collected. There is no export duty applied to goods leaving the GCC Customs Union.

UAE free zones are generally seen as foreign territories for customs duty purposes (i.e., are not considered within the scope of the GCC Customs Union). Goods (both raw materials and finished goods) should not incur customs duty on import into a UAE free zone, and there is no export duty applied on goods removed from a UAE free zone. If goods leave a UAE free zone for a destination within the GCC Member States, customs duty will be levied on the import at the first point of entry into the GCC.

There are specific customs administration procedures that must be followed for ships entering both the UAE and the UAE free zones. The shipmaster must submit an original copy of its manifest reflecting the details of the ships entire load to the relevant UAE Customs Authority when the ship enters the UAE's customs area. In
addition to the manifest, full customs documentation must be submitted for each consignment intended for import into the UAE or the UAE free zones.

1.7 Freight taxes
No freight taxes are levied in the UAE at present.

1.8 Special vessel registration tax benefits for shipowners
As mentioned above, shipping companies should not be subject to corporate taxation in the UAE, and as such, no vessel registration tax benefits are available to shipowners in the UAE.

1.9 Tax treaties and place of effective management
As of January 2014, the UAE has more than 50 tax treaties currently in force, including those with the following countries: Algeria, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, China, the Czech Republic, Egypt, Estonia, Finland, France, Georgia, Germany, India, Indonesia, Ireland, Italy, Kazakhstan, Korea, Latvia, Lebanon, Luxembourg, Malaysia, Malta, Mauritius, Mongolia, Morocco, Mozambique, the Netherlands, New Zealand, Pakistan, Panama, Philippines, Poland, Portugal, Romania, Russia (limited), Serbia, Seychelles, Singapore, Spain, Sri Lanka, Sudan, Switzerland, Syria, Tajikistan, Thailand, Tunisia, Turkey, Turkmenistan, Ukraine, Venezuela, Vietnam and Yemen.

In addition, treaties with the following countries are in various stages of negotiation, renegotiation, signature, ratification, translation or entry into force: Bangladesh, Benin, Cyprus, Fiji, Greece, Guinea, Hong Kong, Hungary, Japan, Jordan, Kenya, Mexico, Palestine, Peru, Slovenia and Uzbekistan.

1.10 Miscellaneous matters

1.10.1 Anti-avoidance legislation
There is no specific anti-avoidance legislation in the UAE at the domestic level. However, the UAE’s tax treaties are starting to include specific anti-abuse provisions. First, some treaties exclude certain persons from their scope (e.g., UAE tax treaties with Germany and Ireland). Second, some contain general rules to prevent treaty shopping (e.g., UAE tax treaties with Luxembourg and Belgium). Third, some deter treaty shopping by including anti-abuse provisions that disallow treaty relief in the absence of a bona fide business activity (e.g., UAE tax treaty with India). Fourth, some require the UAE person to be the beneficial owner of income in order to qualify for certain types of treaty relief (this is the case for most UAE tax treaties).

1.10.2 Thin capitalization rules
There are currently no thin capitalization rules in the UAE.

1.10.3 Transfer pricing
There are currently no transfer pricing regulations in the UAE.

1.10.4 Bilateral agreements for investment and trade
As of January 2014, the UAE has signed the following bilateral free trade agreements and bilateral investment protection treaties:

Bilateral free trade agreements:
- The Greater Arab Free Trade Agreement (GAFTA) – Members include Algeria, Egypt, Iraq, Jordan, Lebanon, Libya, Morocco, Palestine, Sudan, Syria, Tunisia, Yemen, and the GCC member states (1997)
- GCC-Singapore Free Trade Agreement (GSFTA) – Members include the GCC member states and Singapore (2013)

Bilateral investment protection treaties
The UAE has also entered into several agreements for the protection and promotion of investment with Algeria, Armenia, Austria, Azerbaijan, Belarus, Belgium, Britain, China, Czech Republic, Egypt, Finland, France, Germany, Italy, Jordan, Korea, Lebanon, Malaysia, Mongolia, Morocco, Pakistan, Poland, Romania, Sudan, Sweden, Switzerland, Syria, Tajikistan, Tunisia, Turkey, Turkmenistan, Ukraine, Uzbekistan, Vietnam and Yemen.
1.11 Domestic law and international maritime conventions

The UAE Federal Law No. 26 of 1981 as amended in 1988 (known as the UAE Maritime Law) governs and regulates all shipping practices in the UAE. The law is applicable to all Emirates of the UAE. The law is based on modern international law and maritime principles set out in international conventions. It is also very similar to the maritime laws of the other Arabian GCC states (other than Saudi Arabia).

In addition to the UAE Maritime Law, there are several relevant Ministerial Decrees or local laws regulating registration of vessels, crewing, classification of vessels, restrictions with regards to activities undertaken by foreign flag vessels and other activities in port according to the relevant port ordinances applicable in the individual emirates.

We understand that the UAE has not yet signed all the major international maritime conventions. However, in practice, the UAE typically adheres to the following international treaties and conventions:

- CLC Convention 69
- CLC Protocol 76
- CLC Protocol 92
- COLREG Convention 72
- FUND Convention 71
- FUND Protocol 92
- IMMARSAT Convention 76
- IMMARSAT OA 76
- IMO Amendments 93
- INTERVENTION Convention 69
- LC Convention 72
- LL Convention 66
- LLMC Convention 76
- SALVAGE Convention 69
- SAR Convention 79
- SOLAS Convention 74
- SOLAS Protocol 78
- STCW Convention 78
- TONNAGE Convention 69

2. Human capital

2.1 Regulations on employing personnel

Currently, there are no special employment regulations for crew members in the UAE. Companies employing crew members in the UAE must follow the laws and regulations set out in the UAE Labour Law or the relevant free zone labor laws where applicable.

2.2 UAE social security

Social security contributions for pensions are applicable in the case of UAE and other GCC nationals. Payroll deductions and employer contributions must be made to the UAE Federal Pension Fund according to the following rates on a monthly basis (except those working in Abu Dhabi who are subject to different rates):

- 5% of the employee's wage mentioned in the employment contract must be deducted towards this fund.
- 12.5% of the employee's wage mentioned in the employment contract must be contributed by the employer.

1 For more information, go to www.uae-shipping.net
2.5% of the employee’s wage mentioned in the employment contract is contributed by the federal government.

Regarding other GCC nationals, UAE social security contributions and payments for pensions must also conform to the social security regulations in the GCC national employee’s home country.

2.3 Wage protection system
The wage protection system (WPS) is an electronic salary transfer system that allows institutions to pay workers’ wages through authorized banks, bureau de change and financial institutions. The Central Bank of the UAE will regularly issue an updated list of financial institutions that are approved and authorized to offer wage payments serviced through WPS (agents). WPS enables the Ministry of Labor to create and maintain a database of wage payments in the private sector.

Any individuals employed on an offshore basis are not required to follow the WPS rules. However, if an individual is employed and obtains a UAE residency permit, the WPS rules would apply.

2.4 End-of-service benefits
All employees who complete a period of continuous service that is longer than one year are entitled to gratuity computed as follows:

- Twenty-one days’ basic wages for every year of the first five years of service
- Thirty days’ basic wages for every year thereafter, provided that the gratuity does not exceed two years in total

Gratuity is calculated according to the last basic wage paid to the employee and is payable on the termination or expiry of the contract of employment. The employee will be entitled to gratuity for any fraction of the year of service, provided he or she has completed at least one year of continuous service.

Rules may vary depending on the type of contract of the employee and the manner of termination of the employment agreement.

2.5 Facilities for seafarers
The provisions of the UAE Labour Law regarding rules and regulations between employer and employee also apply to seafarers. The general incentives available to any employee in the UAE (e.g., social security contributions, working hours, annual leave) are also available to seafarers.

3. Corporate structure

3.1 Legal structure for shipping activities
According to the Department of Economic Development in the UAE, the most commonly used legal structure for shipping companies is a limited liability company (LLC). The standard foreign ownership restriction of 49% applies in such cases. In LLCs, 51% of the capital should be owned by UAE nationals and the managers should be UAE nationals.

3.2 Taxation of profit distribution
The UAE does not impose any withholding tax on dividends distributed.

4. Grants and incentives

4.1 Specific and general subsidies available to shipping companies
As described above, corporate tax is currently only levied against oil- and gas-producing companies and branches of foreign banks, and on this basis, shipping companies should not be subject to tax in the UAE. As such, there are no specific or general subsidies available to shipping companies in the UAE from a tax perspective.
4.2 Maritime aids to navigation
In February 2013, the Dubai Maritime City Authority (DMCA) announced new rules and initiatives concerning the deployment of navigation aids as it focused attention on safety in navigation channels and seeks to eliminate the risk of maritime accidents.

A no-objection certificate from the DMCA will be required of any entity that plans to deploy navigation aids in the UAE. The DMCA will also seek a detailed deployment plan and an annual maintenance plan as well as monthly updates.

4.3 Major changes in shipping legislation anticipated in the near future
We have been advised that the relevant authorities are in discussions regarding draft amendments to the UAE Maritime Law. We are not aware of any time frame for these amendments to be finalized.

5 General information
The UAE National Transport Authority (NTA) was established in accordance with the Federal Law No.1 of 2006. The NTA, in relation to maritime issues, is responsible for the following:

- To propose the general policies, bill laws and regulations on marine services and land transport in coordination with the competent authorities and to supervise implementation of the same
- To ensure compliance of the overseas navigation regulations with the international standards applicable by the Emirates in general and to take the necessary procedures to apply the same
- To develop rules regulating navigation in the UAE ports for good traffic and provision of the proper marine facilities and to develop programs for maintaining the land roads inside the ports and promoting their services, in agreement and coordination with the local competent authorities
- To issue all licenses, permits and certificates on navigation and the international sea and land transport services between the Emirates and to specify the issuance conditions and collection of the prescribed taxes, fees and rates
- To develop overseas navigation rules, particularly nationality conditions, registration rules and flag fixing and the powers of the UAE on the ships carrying its flag and rules for good navigation conditions and the safety of people, and to have ships equipped with the necessary systems for avoiding accidents and to maintain their means of communication
- To draw the plans necessary for organization and improvement of the land and sea transport between the Emirates for easy and developed transport
- To represent the UAE in international and regional conferences relevant to the NTA’s discipline
- To prepare projects or propose joining the international treaties in connection with the NTA’s discipline
- To address any other disciplines assigned to the NTA under any laws or resolutions passed by the Cabinet

5.1 Infrastructure
5.1.1 Major ports
There are two main ports operated by the Dubai port authority. These are:
- Port Rashid
- Jebel Ali Port

There are also several other ports within the UAE, which are:
- Jebel Ali, Dubai
- Mina Rashid, Dubai
- Mina Zayed, Abu Dhabi
- Mina Khalid, Sharjah
- Khor Fakkan, Sharjah

For more information, go to: www.uae-embassy.org
• Khalifa Port, Abu Dhabi
• Free Port, Abu Dhabi

There are port facilities within the Ras Al Khaimah and Ajman Emirates of the UAE.

5.1.2 Port facilities
The following facilities are available:
• Maintenance and repair
• Docking
• Storage
• Cranes for every size of vessel

7.3 Implementation of the International Safety Management Code
Compliance with the requirements of the International Safety Management (ISM) Code by shipping companies is required in the UAE.

5.2 Registration
5.2.1 Licensing of vessels
The licensing of vessels ensures:
1. The vessels are inspected and surveyed periodically (once a year), ensuring:
   • Vessels maintain adequate safety of vessels, crew and passengers.
   • Vessels meet international standards of ship construction.
   • Vessels are equipped to ensure they are environmentally sound and do not cause any pollution.
   • The vessels are “fit for purpose.”
2. The vessels are built to recognized and approved international standards.
3. The vessel ownership is recorded in a database and transfer of ownership is well-regulated.
4. Unauthorized persons do not operate the vessels for any illegal activities.
5. Vessels are operated by licensed crew.
6. All vessels are insured for any accidents and damages.
7. The local coast guard or police authorities are able to identify the vessels at any time.
8. The vessel complements the safety and security of the coast of Dubai in conjunction with local and federal authorities.

5.2.2 Vessel inspection
Vessels that wish to operate or conduct any maritime activities in the Dubai waters shall be subject to an inspection by the DMCA and the NTA. An inspection shall be mandatory for the application and renewal of a license for a vessel to operate in Dubai waters or if there is a major modification in the vessel or change of ownership of the vessel. A written report shall be furnished to the owner, charter or agent of the vessel upon completion of the inspection.

5.2.3 Registration of vessels and seagoing units under the UAE flag
Each vessel should carry a name, have a nationality and fly the country’s flag and the name of the port at which it is registered. As such, any vessel registered in the UAE should carry the UAE flag.

Ships flying UAE flag
All ships that acquire UAE nationality should fly the UAE flag and shall not be permitted to fly flags of other states except in cases where maritime custom prevails.

Ship registration procedure
Every UAE resident vessel is required to register in the office of maritime authority. The NTA shall also decide

3 For more information, go to: www.dmca.ae
the ship’s tonnage, and a certificate for tonnage is issued to the owner of the vessel by a competent marine authority.

Application for registration is required to be submitted within 30 days from the date of building or ownership of the vessel.

The owner should submit an application to the ships registration section at port, along with the following documents:

- Maritime Transportation Vessel purchase invoice attested to by the competent authorities
- Certificate of Manufacture of the Maritime Transportation Vessel certified by the competent authorities
- Certificate of Balance for the Maritime Transportation Vessel certified by the competent authorities
- Certificate of Clearance for the Maritime Transportation Vessel, if it was imported from outside the state
- Maritime Transportation Vessel technical inspection documentation

There are separate requirements for fishing vessels and pleasure boats.

The navigation license and the safety certificate are granted upon the application submitted to the maritime authority. The navigation license is valid for one year and is renewable upon satisfaction of certain conditions.

Upon registration, every vessel is required to carry official documents, including the certificate of registration, crew log, navigation license for the current year, health certificate and declaration of cargo while on the voyage.

5.2.4 Foreign vessels entering UAE territorial waters

Foreign vessels must carry documents as prescribed under the laws of their respective countries, in addition to licenses and certificates of safety compliance under international conventions.

Foreign vessels registered in the UAE cannot operate in UAE territorial waters unless they carry a valid navigation permit issued by the NTA. A permit can be obtained by submitting an application form to the NTA.

5.2.5 Navigational warnings

The DMCA and the relevant port authority organize the navigation of vessels inward and outward of the ports of the UAE and in the territorial waters. This is carried out by issuing maritime navigational warnings defining the safe waterways/sailing prohibited areas and guiding ships passing over the territorial waters.
1. Tax

1.1 Tax facilities for shipping companies

There are two alternative corporate income tax regimes for shipping companies.

Corporate tax based on tonnage

The United Kingdom (UK) tonnage tax regime was introduced in August 2000. It follows a model adopted by a number of other European countries. The benefits of the regime are dependent on fulfilling certain training requirements and have been effective from 1 January 2000.

Election

A qualifying company or group must elect for the new regime to apply. An election generally has effect for 10 years, unless a company or group ceases to qualify for the tonnage tax regime. Elections can only be withdrawn in limited circumstances. Qualifying companies or groups must make the election within 12 months of the date on which they become qualifying or 12 months from the day of the merger that created the new group.

Requirements

To benefit from the regime, a company must be subject to UK corporate income tax and operate qualifying ships which are strategically and commercially managed in the UK. HM Revenue and Customs (HMRC) manuals emphasize the importance of independent decision-making and a range of commercial management being conducted in the UK with the emphasis on high levels of decision-making.

A group qualifies if one or more members are qualifying companies. There are restrictions on the percentage of ships that may be chartered in and other anti-avoidance provisions have been introduced, for example in relation to ship-leasing structures.

Calculation of tonnage tax

A company or group in relation to which a tonnage tax regime election has effect is known as a tonnage tax company (TTC) or tonnage tax group (TTG). For the purposes of corporate income tax, a TTC’s relevant shipping profits (RSP) are replaced by its tonnage tax profits (TTP). TTP is calculated by reference to the qualifying daily net tonnage of each ship operated by a TTC according to the following table:

<table>
<thead>
<tr>
<th>Total net tonnage</th>
<th>Profit per day per 100 tons £</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 1,000</td>
<td>0.60</td>
</tr>
<tr>
<td>1,001 to 10,000</td>
<td>0.45</td>
</tr>
<tr>
<td>10,001 to 25,000</td>
<td>0.30</td>
</tr>
<tr>
<td>Over 25,000</td>
<td>0.15</td>
</tr>
</tbody>
</table>

TTP is the aggregate of the calculations for each ship. The normal rate of corporate income tax is then applied to TTP.

Relevant shipping profits

Relevant shipping profits (RSP) is made up of four elements:

1. Income from tonnage tax activities
2. Dividends received from non-UK shipping companies which would qualify for tonnage tax if they were UK tax resident and subject to UK corporate income tax. The dividends must be paid out of profits generated in a period when the paying company would have qualified (e.g., if UK resident) for tonnage tax.
3. Interest, foreign exchange gains and losses, and profits on interest rate and currency contracts, which are so closely related to core tonnage tax activities that they are not treated as investment income.

4. Chargeable gains arising on the disposal of assets used for the tonnage tax trade

Tonnage tax activities are broadly the operation of qualifying ships and specified ancillary activities. The tonnage tax activities of a company are treated as a separate trade distinct from all other activities and no relief, deduction or set-off of any description is allowed against TTP. An accounting period ends when a company enters or leaves tonnage tax and any pre-tonnage tax losses attributable to tonnage tax activity are extinguished on entry. There are special provisions covering the suspension of capital allowances which depend on the length of time the company remains within the tonnage tax regime. Gains on assets held prior to entering the regime are reduced according to how long an election has been in force.

Minimum training obligation

Companies will be eligible for tonnage tax benefits only if they meet the minimum training obligation. According to the size of the fleet and the number of officers employed, the company will have to find, or fund, places for an agreed number of officer trainees, and consider measures to develop ratings. The Department for Transport (DFT) must approve a TTC’s training plan before it can be admitted to the tonnage tax regime by HMRC.

Taxpayers are required to submit training plans to the DFT annually. Training plans generally have to be submitted, and subsequently updated, to the DFT by 31 August each year and apply from 1 October in the same year.

European Union flagging

Under European Union (EU) law, tonnage tax is considered to be a form of state aid, and as such the European Commission issued guidelines on maritime state aid in 2004. These guidelines sought to encourage countries to have a greater percentage of their fleet flagged within the EU.

The UK response has been to introduce legislation requiring a greater percentage of a tonnage tax operator’s fleet to be EU-flagged. This legislation will come into force unless the Secretary of State specifies that it will not have effect for a particular fiscal year. This will only happen if the proportion of vessels in the tonnage tax regime that are EU-flagged has decreased on the previous year. For the fiscal years 2005–07, ending on 31 March 2008, the Secretary of State specified that the legislation would not apply.

However, for fiscal years 2008–14, the Secretary of State announced that the legislation would apply. Consequently, any new vessel added to a tonnage tax operator’s fleet would need to be EU-flagged in order to be a qualifying ship, unless either of the following conditions is met:

- The company already has an average of at least 60% of its tonnage flagged in the EU beginning with the start of the financial year and ending on the day the company begins to operate the new vessel.

Or

- The percentage of the company’s tonnage that is EU-flagged has not decreased since the later of 17 January 2004 or the date the company or group entered tonnage tax.

Guidance regarding the tonnage tax regime may be found in the UK HMRC Tonnage Tax Manual. This can be accessed at www.hmrc.gov.uk/manuals/lttmmanual/index.htm.

Corporate tax based on profits

The UK tax regime provides for capital allowances (tax depreciation) to be given against the cost of acquiring assets for trading purposes. Note that “trade” for UK tax purposes is generally regarded as a narrower concept than “business.” Capital allowances reduce taxable profits or increase tax losses. Ships qualify for capital allowances as “plant and machinery” and receive an annual 18% writing down allowance (WDA) on a reducing-balance basis.

In addition to the general rules, capital expenditure on ships attracts special treatment.

A special depreciation system exists for ships. As shipping companies are heavy investors in capital items,
they are allowed to carry forward unused allowances that may arise in periods of low profitability. Any brought-forward allowance can be used in addition to the full WDA for the next year.

There is further flexibility allowed in respect of any balancing charge (clawback of tax depreciation in excess of true economic depreciation) arising on disposal of a qualifying ship, whereby the charge may be deferred against expenditure on qualifying new ships incurred in the following six years.

For the special treatment to apply, ships must be seagoing and 100 gross registered tons or more, and not used for sport or recreational purposes.

Ship expenditure may be subject to provisions that give reduced rates of allowances on assets with a long economic life (at least 25 years). Expenditure on long-life assets is written down in a separate pool at a rate of 8% a year on a reducing-balance basis.

As from 1 April 2013, certain 100% first-year allowances in respect of the cost of acquiring certain types of plant and machinery (generally energy-saving or environmentally beneficial assets) have now been extended to ships, subject to relevant conditions.

When a capital gain arises on the disposal of a ship, the gain may be rolled over into the tax base cost of a new business asset if the proceeds received from the disposal of the ship are used to acquire the new asset. The new asset must, in general, be acquired in the period beginning 12 months before and ending three years after the disposal of the ship.

As indicated above, the provisions are displaced or modified if a tonnage tax election is in force.

Leasing

Very detailed rules apply to the leasing of ships, both from the point of view of obtaining lease finance and from the point of view of companies that charter vessels. Detailed advice should be sought in this area.

Potentially significant changes were announced in the 2013 Autumn Statement, intended to apply from 1 April 2014, which, while subject to industry consultation, could result in a restriction on the deduction allowable to companies operating in the UK Continental Shelf in respect of bareboat charter costs.

Value-added tax

Many supplies in connection with shipping are zero-rated (exempt with credit), including:

- The supply of qualifying ships (gross tonnage not less than 15 tons and not designed or adapted for recreation or pleasure)
- The supply of parts and equipment of a kind ordinarily installed or incorporated in a qualifying ship
- The supply of life jackets, life rafts, smoke hoods and similar safety equipment for qualifying ships
- The repair or maintenance of qualifying ships
- The modification and conversion of a qualifying ship, provided that when modified or converted, it will remain a qualifying ship
- The supply of services under charter of a qualifying ship (unless services are wholly performed in the UK and consist wholly of any one or more of: transport of passengers, accommodation, entertainment or education)
- Letting on hire of qualifying ships
- Handling services provided for qualifying ships subject to conditions and excluding the letting on hire of goods
- Surveys and classification services provided in connection with a qualifying ship
- Salvage and towage services, whatever the type of ship
- Pilotage services, whatever the type of ship

Provision of passenger transport is normally zero-rated (including where this is provided in any vehicle designed or adapted to carry not fewer than 10 passengers, or by providers of universal postal services, or from a place within the UK to outside the UK (or vice versa) to the extent that those services are supplied within the UK). There are some exceptions: freight and ancillary services are usually standard-rated for
VAT but may be zero-rated or outside the scope in certain circumstances (such as for business to business transactions where the customer belongs in a different EU country or a non-EU country). Freight transport and associated services taking place wholly outside the EU are outside the scope of UK VAT when performed for UK businesses and charities.

**Rates of corporate income tax**

Companies are generally charged UK corporate income tax on their taxable profits at the following rates:

- Twenty-three percent full rate until 31 March 2014, reducing to 21% as of 1 April 2014, above £300,000 (marginal relief for companies with taxable profits of up to £1.5 million)
- Twenty percent small companies rate where taxable profits are between £0 and £300,000

Between each of these profit levels there is a marginal rate of tax. If a company is a member of a UK or overseas group, the limits above are divided by the total number of affiliated companies (including the relevant company) in the entire group. A single rate of 20%, to apply to small and large companies from 1 April 2015, has been announced.

**1.2 Tax facilities for seafarers**

**Wage costs deduction**

As with any other wage expense incurred wholly and exclusively for the purposes of a trade of a company in the UK, the wage costs of seafarers are deductible when calculating taxable profits.

**Seafarers’ earnings deduction**

Seafarers are still entitled to a special tax relief that can reduce or eliminate the UK tax payable on their employment income, even if they remain a resident of the UK for tax purposes. A foreign earnings deduction exists for seafarers who are able to meet the following conditions:

- The seafarer is resident for tax purposes in the European Economic Area (EEA) or an EU state, and subject to UK income tax in respect of what is known as general earnings.
- The duties of the employment are performed wholly or partly outside the UK. For this to be the case, the employee must carry out duties on at least one journey that begins or ends at a non-UK port.
- Any of those duties are performed in the course of an eligible period falling wholly or partly in the tax year.

For tax years up to 2010–11, the seafarer had to be both resident and ordinarily resident in the UK to qualify for relief, and any 365-day period commencing before 6 April 2011 required the seafarer to be both resident and ordinarily resident in the UK for it to be a qualifying period. Non-UK resident seafarers who are resident in the EEA or EU are taxable in the UK on earnings for seafaring duties performed in UK waters, and the seafarers’ earnings deduction may be claimed against these earnings only.

The deduction is available where, for any part of a tax year, a seafarer works wholly or partly outside the UK as part of a qualifying period of working outside the UK that lasts for at least 365 days. Special rules, which allow for return trips to the UK, apply for determining a qualifying period.

The seafarer’s income from employment relating to the period of working outside the UK is excluded from income tax. The allowable deduction is equal to the amount of the earnings attributable to the eligible period.

Please note that prior to applying the foreign earnings deduction to the relevant income, the following deductions should first be taken into consideration:

- Pension contributions
- Allowable expenses
- Capital allowances

**1.3 Tax treaties**

The UK has one of the most extensive networks of tax treaties. In addition, it has limited agreements specifically relating to taxes on income from international transport, including shipping. Most UK treaties follow the Organisation for Economic Co-operation and Development (OECD) model treaty and include an
The UK has concluded tax treaties with the following countries:

Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Bolivia, Bosnia and Herzegovina, Botswana, British Virgin Islands, Brunei, Bulgaria, Canada, Cayman Islands, Chile, China, Croatia, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Ethiopia, Falkland Islands, Faroe Islands, Fiji, Finland, France, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guernsey, Guyana, Hong Kong, Hungary, Iceland, India, Indonesia, Ireland, Isle of Man, Israel, Italy, Ivory Coast, Jamaica, Japan, Jersey, Jordan, Kazakhstan, Kenya, Kiribati, Korea (ROK), Kuwait, Latvia, Lesotho, Libya, Liechtenstein, Lithuania, Luxembourg, Macedonia, Malawi, Malaysia, Malta, Mauritius, Mexico, Moldova, Mongolia, Montserrat, Morocco, Myanmar, Namibia, Netherlands, New Zealand, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saudi Arabia, Serbia and Montenegro, Singapore, Slovak Republic, Slovenia, Solomon Islands, South Africa, Spain, Sri Lanka, St. Kitts and Nevis, Sudan, Swaziland, Sweden, Switzerland, Taiwan (ROC), Thailand, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Tuvalu, Uganda, Ukraine, United States of America, Uzbekistan, Venezuela, Vietnam, Zambia, Zimbabwe.

Broadly, the tax treaties between the UK and other countries follow the 2010 OECD Model Income and Capital Tax Convention to ensure that profits from the operation of ships arising from international transport will be taxed in the jurisdiction where effective management is situated. There are some exceptions to this, and, in certain circumstances, some treaties confer the exclusive taxing rights on the state of residence and not the place of effective management (if different).

1.4 Freight taxes
Freight taxes do not apply in the UK.

1.5 Special vessel registration benefits for the shipowner
There are no special tax benefits for the shipowner.

2. Human capital

2.1 Formalities for hiring personnel
The UK Equality Act came into effect from October 2010. It offers protection to the same groups that were previously protected by existing equality legislation, protecting against discrimination based on: age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership, pregnancy and maternity. In addition, the new law gives additional types of legal protection that were not previously covered by legislation and strengthens aspects of equality law. Policies and procedures for hiring personnel, as well as in other HR activities, that have not been reviewed since this time should therefore be checked to ensure that these are legally compliant.

New employees must be provided with a written statement of employment terms within two months of starting employment. At a minimum, the written statement must include the following:

- The legal name of employee and employer
- Date on which employment began
- Date on which continuous employment began
- Employee’s rate of remuneration and interval of pay (e.g., weekly, monthly)
- Job title (or brief job description)
- Place of work (or state if more than one location, stating the employer’s address)
- Hours of work
- Holiday entitlement and holiday pay
- Injury and sick pay arrangements
• Certain pension scheme arrangements
• Notice periods (from employee and employer)
• Any collective agreements that directly affect the terms and conditions of employment (specifying parties to agreement and where the employer was not a party)
• Where the employee is required to work outside the UK for more than one month, specifications of the period of work abroad, currency of remuneration, any additional remuneration or benefits payable, terms and conditions relating to return to the UK
• Where employment is not permanent, specifications of the expected duration or, in the case of a fixed term contract, expiry date
• Certain information about disciplinary and grievance procedures
• Whether there is a contracting-out certificate in force under the Pension Schemes Act 1993

2.2 Regulations on employing personnel

There is a wide range of laws and regulations governing employment of personnel in the UK. Three areas that may be of particular interest to the shipping industry are outlined below.

Regulation preventing illegal working

Employers have a responsibility to prevent illegal migrants from working in the UK (Immigration, Asylum and Nationality Act 2006).

Employees must be registered for tax and national insurance and must be entitled to work in the UK through, for example, a work permit, passport or citizenship. The employer must request, and the individual must provide, certain original documents to establish their eligibility to undertake the work on offer, before the employment begins. There are two lists of legal documents specified by the Home Office for this purpose: A and B. An individual who is not subject to immigration control, or is not subject to restriction on stay in the UK, should produce documents from list A. If an employee provides documents from list B, the employer must carry out follow-up checks every 12 months. The employer must check the validity of the original documents and satisfy itself that the individual is the person named in them by undertaking various validity checks. It must also make copies of the documents.

Employees without a National Insurance number must apply for one immediately upon commencing work, by contacting the Jobcentre Plus office at 0845 600 0643.

Regulations protecting seasonal employees

Traditionally, some seafarers have been employed on a short-term basis, with officers transferring regularly between ships and companies. Employers should be aware that seasonal employees are protected from less favorable treatment than comparable permanent employees under the Fixed-Term Employees (Prevention of Less Favorable Treatment) Regulations 2002.

New employer pension duties

New laws that came into force on 30 June 2012 require all employers in Great Britain to automatically enroll eligible job holders into a qualifying pension scheme and make minimum mandatory contributions, unless the employee is already an active member of the employer’s qualifying scheme. (Employers in Northern Ireland are subject to separate legislation.) The new duties are being formally implemented over 5.5 years, having started on 1 October 2012, with larger employers being affected before smaller employers and new businesses. The Pensions Regulator has published a Staging Date timeline to confirm the indicative staging dates that will apply for different sizes of employer, although the exact dates will depend on an employer’s PAYE data as at 1 April 2012. As a general guide, the position is as follows:

• More than 250 employees: staging dates between 1 October 2012 and 1 February 2014
• Between 50 and 249 employees: staging dates between 1 April 2014 and 1 April 2015
• Fewer than 50 employees: staging dates between 1 June 2015 and 1 April 2017
• New employers set up between 1 April 2012 and 30 September 2017: staging dates between 1 May 2017 and 1 February 2018.
Employers must comply with detailed requirements to provide information to employees about auto enrollment, including their rights to opt in or join as the case may be. A jobholder will be free to opt out of a scheme once he has been automatically enrolled. But while the individual remains an active member, the employer is required to pay a minimum level of pension contributions. By default, workers who have opted out will be automatically re-enrolled every three years.

The requirements for minimum contributions will be phased in over two transitional periods spanning six years as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Employer contribution</th>
<th>Total employer and jobholder contribution (including tax relief)</th>
</tr>
</thead>
<tbody>
<tr>
<td>First transitional period: from employer's staging date to 30 September 2017</td>
<td>1%</td>
<td>2%</td>
</tr>
<tr>
<td>Second transitional period: from 1 October 2017 to 30 September 2018</td>
<td>2%</td>
<td>5%</td>
</tr>
<tr>
<td>Steady state period: 1 October 2018 onwards</td>
<td>3%</td>
<td>8%</td>
</tr>
</tbody>
</table>

Agency workers

The Agency Worker Directive and Regulations 2010 came into force in Great Britain on 1 October 2011. From this date, an agency worker who has been in a particular job for 12 weeks will be entitled to equal treatment (i.e., at least the same basic working and employment conditions) as if the worker had been recruited directly by the hirer. The agency worker must also be able to access a hirer’s collective facilities and amenities and have access to information about its job vacancies from the first day of his or her assignment.

While the implementation of the new regulations does not give an agency worker full employment protection rights, it has created cost implications for businesses using the services of agency workers and certain contractors. Non-statutory guidance on the new regulations was published by the Department for Business, Innovation and Skills (BIS) in May 2011. (Separate regulations are in place in Northern Ireland.)

2.3 Collective labor agreements

Collective agreements between employers and unions in the UK are generally not legally enforceable between the parties. Nevertheless, employers may incorporate the terms of these agreements into the terms of individual contracts:

- As of 1 October 2013, the following statutory minimum wage rates apply:
  - £2.68 per hour for apprentices under 19 (and those aged 19 and over but in the first year of their apprenticeship)
  - £3.72 per hour for workers aged 16 to 17
  - £5.03 per hour for workers aged 18 to 20
  - £6.31 per hour for workers aged 21 years and over

- Depending on the nature of shipping employees’ work, circumstances and duties, their statutory working time and entitlement to annual leave are set out in The Working Time Regulations 1998 and other applicable regulations (e.g., The Merchant Shipping (Hours of Work) Regulations 2002, The Merchant Shipping (Working Time: Inland Waterways) Regulations 2003 – see section 2.4 below, and The Merchant Shipping (Inland Waterway and Limited Coastal Operations) (Boatmasters’ Qualifications and Hours of Work) Regulations 2006). In practice, the statutory working time and annual leave entitlement may be more generously agreed with trade unions and set out in individual employment contracts.

- It is best practice for employers to adopt the ACAS (Advisory, Conciliation and Arbitration Service) Code...
of Practice on disciplinary and grievance procedures (2009). In certain types of claims, an employment tribunal awarding compensation has the power to increase or reduce compensation by up to 25% where either party has unreasonably failed to follow the ACAS code. Employers should be aware that there is a statutory right for employees to be accompanied at disciplinary and grievance hearings.

2.4 Application of the Merchant Shipping (Working Time: Inland Waterways) Regulations 2003

The Merchant Shipping (Working Time: Inland Waterways) Regulations 2003 offer certain protections in general to workers on ships covered by these regulations, including:

- A maximum of 48 hours working time a week averaged over:
  - A 17-week period
  - A 26-week period in prescribed circumstances (e.g., if there is a foreseeable surge of activity)
  - Such other period up to 52 weeks as may be agreed in a collective agreement
  - A 77-hour rest entitlement in every seven-day period
  - At least four weeks' paid annual leave
  - Opportunity of free health assessment for night workers

2.5 Treaties relating to social security contributions

Generally, UK-resident or domiciled seafarers working within UK territorial waters must pay Class 1 National Insurance contributions (NIC). Under certain conditions, the mariner may continue to pay Class 1 NIC even when working outside of UK territorial waters. The employer will pay Class 1 NIC if they are based in the UK.

**EU social security agreement**

Under EU Social Security Regulation 883/2004, a mariner who is an EU national, or certain persons who are legally resident in the EU and employed on board a vessel flying the flag of an EU Member State, will normally fall liable to the social security legislation of that Member State even though he or she may not reside there. Regulation 883/2004 now also applies to Iceland, Liechtenstein, Norway and Switzerland. The UK does not apply 883/2004 to third-country nationals who are employed on board an EC-flagged vessel. Therefore, they may continue to fall within the previous Regulation 1408/71 or within a reciprocal agreement.

**Reciprocal agreements**

The UK has reciprocal social security agreements with several non-EU countries, although the terms of the agreements can vary considerably. The majority do not contain special provisions for mariners. Therefore, to determine an individual's liability or benefit entitlement, it is important to consult the particular agreement relating to the individual's home country.

To prevent double social security taxes and to assure benefit coverage, the UK has concluded reciprocal agreements with the following countries:

Barbados, Bermuda, Canada, Guernsey, Israel, Jamaica, Japan, Jersey, Mauritius, Philippines, South Korea (ROK), Switzerland*, Turkey, United States of America, Yugoslavia**.

* Effective from 1 June 2002, the EC social security rules apply to Switzerland.

** The UK honors the Yugoslavia treaty with respect to Bosnia-Herzegovina, Croatia***, Serbia and Montenegro and Macedonia.

*** Effective from 1 July 2013, the EC social security rules apply to Croatia.

2.6 Flying the British flag

In order to fly the British flag, there are three main criteria that must be met. These criteria concern the nationality of the shipowner or bareboat charterer, the manning of the vessel and a survey requirement.

**Eligibility**

Eligibility to register a ship in the UK needs to be considered at the outset. Applications may be made by
either merchant or pleasure vessel shipowners or bareboat charterers who fall into one of the following categories:

- British citizens
- British Dependent Territories citizens
- British citizens living overseas
- Citizens of an EU Member State exercising their rights under Articles 48 or 52 of the EU Treaty in the UK
- Companies incorporated in one of the EEA countries
- Companies incorporated in any British overseas possession that have their principal place of business in the UK or those possessions
- European economic interest groupings

**Manning**

An application must be accompanied by safe manning documents (SMD).

In accordance with the international convention on Standards of Training, Certification & Watchkeeping (STCW), unless the officers hold UK certificates of competence, certificates of equivalent competence (CEC) will be required to be issued by the Maritime and Coastguard Agency (MCA).

The documents that have to be produced in order for a CEC to be issued include:

- Passport or discharge book
- Non-UK certificate of competence
- Evidence of competence in the English language
- Completed application form from the seafarer

Subject to CECs, there are no nationality restrictions associated with officers or crew sailing on UK vessels except that in the case of strategic ships the master must be a British, British Commonwealth, NATO (North Atlantic Treaty Organization) or EU national, or a national of a state which is party to the EEA agreement.

**Survey**

Every ship must be surveyed before it can be registered. MCA's general policy is for this survey to be carried out by an MCA surveyor. However, under certain circumstances, arrangements can be made for this survey to be carried out by a class surveyor on behalf of the MCA.

### 2.7 Offshore manning arrangements in the shipping industry

UK companies that use the personal services of employees of nonresident UK companies are subject to employers’ NICs, regardless of whether the UK company directly employs the workers. There are, however, special NIC rules in the case of mariners. Where offshore manning companies are used to supply UK-resident shipping companies with UK-resident or UK-domiciled mariners to operate ships, providing the mariners do not wholly or mainly perform their duties in UK waters classified as A, B, C or D, neither the UK shipping company nor the offshore manning company is required to pay NICs. However, shipping companies are liable to NICs if those mariners perform their duties wholly or mainly in UK waters classified as A, B, C or D. Where companies are unsure whether workers have been engaged in A, B, C or D water, they can seek clarification from HMRC.

Category A, B, C and D waters are classified under the Merchant Shipping (Categorization of Waters) Regulations 1992 and included in the Merchant Shipping Notice 1776 (M).

A non-UK resident manning company that is based within the EEA, providing mariners with EU nationality to a UK shipping company, will be treated as if it had a place of business in the UK and employer NIC will be payable. The employer will be required to register with HMRC in the UK and have the same obligations as a UK employer. In the event that payment is not made, the EEA country where the non-UK resident manning company is based will collect employer contributions on behalf of HMRC in the UK. The new EC regulations will not, however, apply to non-UK resident manning companies that are based outside of the EEA and employer NIC will continue not to be payable.
From 6 April 2014, new regulations are to be introduced for certain types of vessels located within the UK Continental Shelf. The offshore manning arrangements will no longer apply, and employer Class 1 NIC will be payable by the employer even if it is located outside of the UK or EC.

3. Corporate structure

3.1 Most commonly used legal structure for shipping activities
The most common legal structure is the limited liability company.

3.2 Taxation of profit distribution
Corporate income tax is charged at the same rate on all profits in the UK, whether distributed or retained. There is no withholding tax on dividends.

4. Grants and incentives

4.1 Specific and/or general subsidies available to shipping companies
Government support is generally limited to shipbuilding and training rather than operation. There is, therefore, no direct link between registration and eligibility for support. However, this is subject to comments in section 1, “Tax,” in relation to the UK tonnage tax regime.

Support for Maritime Training scheme
The Support for Maritime Training (SMarT) scheme, administered by the Marine Technology Support Unit (MaTSU) on behalf of the MCA, is designed to provide funding for maritime training. A fixed annual budget of £12million until 31 March 2015 has been allocated by the Department for Transport, the majority of which will support initial training for cadets studying at a junior officer level.

Employer NIC reduction
A reduction of 0.5% is made in employers' NICs in respect of seafarers on foreign ships sailing outside Europe in recognition of the health care provided on board these ships.

Wage cost support
A foreign earnings deduction provides tax relief on earnings to seafarers working wholly or partly overseas (see section 1.2 above).

4.2 Investment incentives for shipping companies and the shipbuilding industry
The OECD Shipbuilding Agreement removing all shipbuilding subsidies resulted in the end of the Shipbuilding Intervention Fund as well as the Shipbuilding and Ship Repair Innovation and Technology Support initiative.

4.3 Special incentives for environmental awareness
No specific incentives are available to the shipping industry for environmental awareness. However, the Carbon Trust does provide low rate or interest free loans to businesses to assist in the development and implementation of clean technologies to reduce emissions and enhance environmental sustainability. There may also be tax reliefs available for the development of clean technologies through the Research and Development scheme.

4.4 Major changes in shipping subsidy legislation in the near future
No changes have been noted.

5. General information
The DFT has a website at http://www.dft.gov.uk that contains a number of links to other websites that provide
shipping-related information. The shipping area is www.shipping.dft.gov.uk.

The MCA website is www.mcga.gov.uk.

The Marine Society provides information and library services for professional seafarers. Its website is www.ms-sc.org.uk.
United States of America

1. Tax

1.1 Tax facilities for shipping companies

Foreign shipping companies that trade vessels to ports in the United States of America (US) may be taxed on a net basis on income effectively connected with the conduct of a trade or business within the US or, alternatively, may be subject to a tax of 4% on US-sourced gross transportation income (IRC §887).

Foreign shipping companies may be exempt from taxation in the US on income derived from the international operation of a ship, provided that they qualify for the benefits of an applicable US tax treaty or meet the statutory and regulatory requirements for exemption under Internal Revenue Code (IRC) §883.

US corporations engaged in shipping are subject to tax in the US on their worldwide income. For taxable years beginning after 31 December 2004, US parent companies (and other US shareholders) may defer the US tax on unrepatriated shipping income and certain leasing income earned by their foreign subsidiaries. US corporations may qualify for capital construction fund benefits (IRC §7518). This provision allows any US citizen owning or leasing one or more vessels to establish a capital construction fund, with an agreement from the Department of Transportation, for the purpose of providing replacement vessels, additional vessels or reconstructed vessels built in the US and documented as such for operation in the US or for non-contiguous domestic trade. Deposits to this fund may be taken as a deduction from US taxable income, subject to the specific requirements of the IRC. We note that a specific portion of this provision addressing the taxation rate of non-qualified withdrawals changed in 2012.

Effective for taxable years beginning after 22 October 2004, corporations that would otherwise be subject to the normal US corporate income tax may elect an alternative tonnage tax regime for qualifying shipping activities (limited to the operation of US-flagged vessels in US foreign trade and related secondary and incidental activities) (IRC §1352-1359).

This alternate regime tax consists of regular corporate rates applied to the daily notional shipping income multiplied by the number of days of operation of the qualifying vessel. Daily notional shipping income is defined as:
- US$0.40 for each 100 tons of the net tonnage that does not exceed 25,000 net tons
- US$0.20 cents for each 100 tons of the net tonnage that exceeds 25,000 net tons

1.2 Tax facilities for seafarers

Maintenance and care payments made to hospitalized seafarers and maintenance payments to outpatient seafarers are not wages subject to withholding. The wages of seafarers are not subject to state income tax withholding, only federal income tax withholding.

1.3 Tax treaties and place of effective management

The US has income tax treaties in force with 68 foreign countries as from 1 January 2013. Treaties with three countries and amendments to the existing tax treaties with four countries have been signed and are awaiting ratification and the exchange of instruments of ratification or US Senate approval, and treaties with another 23 countries are under active negotiation. Additionally, the US has 41 reciprocal tax exemption agreements for international shipping in force as from 1 January 2013, and agreements with two other countries under active negotiation.

The main issues in the tax treaties follow the Organisation for Economic Co-operation and Development (OECD) model, while some contain flag restrictions. Many contain limitations on benefits articles that look to ultimate beneficial ownership in order to limit treaty shopping. Generally, effective management is not an issue. Treaties are with the following countries:

1 Note that there are 43 agreements in force, but 2 relate only to aviation.

* A prior income tax treaty was in force before the new treaties took effect.

** A new income tax treaty with Hungary, signed in early 2010, has been considered by the Senate Foreign Relations Committee and reported to the full Senate for approval. A new income tax treaty with Chile, also signed in early 2010, has been sent to the Senate for advice and consent to ratification. A new income tax treaty with Poland was signed in early 2013. The new Hungary and Poland treaties contain limitation on benefits provisions that differ substantially from the existing treaties. The Chile treaty is entirely new.

*** New protocols to the current income tax treaties with Japan, Luxembourg, Spain and Switzerland have all been signed, and they are awaiting further action at various stages of the ratification process.

**** A new income tax treaty with Norway has been initialed, indicating that an agreement on the text of the treaty has been reached by the government officials involved in the negotiation; the treaty is awaiting signature.

1.4 Freight taxes
Freight taxes do not apply per se, but there is a 4% gross income tax on US-source gross transportation income. This tax may generally be eliminated by treaty or statutory exemption (see section 1.1). In addition, the US imposes a harbor maintenance tax on certain cargo unloaded in a US port on an ad valorem basis (currently 0.125% of the cargo’s value) (IRC §4461). Previous court decisions have limited the scope of the harbor maintenance tax, and multiple proposals are pending to amend both the scope and rate of the tax.

1.5 Special vessel registration tax benefits for the shipowner
US-flagged vessels can qualify for a 10-year depreciable life (i.e., cost recovery period), whereas foreign-flagged vessels have an 18-year depreciable life. In addition, only US-flagged vessels qualify for the elective tonnage tax regime (see section 1.1). There are no other special tax benefits for US-registered vessels (aside from the subsidies limited to US-flagged vessels discussed in section 4).

1.6 Recent changes to tax law
The tax rate for individuals on certain nonqualified withdrawals from a capital construction fund under IRC §7518 increased from 15% to 20% for tax years beginning after 31 December 2012.

2. Human capital

2.1 Formalities for hiring personnel
Besides compliance with the labor laws of the US, the US Coast Guard requires pre-employment drug tests for any personnel in “safety-sensitive” positions as part of the Drug and Alcohol Prevention Program.

2.2 National labor law
US labor laws apply to crew members of all US-flagged vessels.

2.3 Regulations on employing personnel
The US has recently enacted stricter immigration regulations for foreigners working in the country or on board US-flagged vessels.

2.4 Collective labor agreements
Collective bargaining agreements differ among employers.

2.5 Treaties relating to social security contributions
The US has social security totalization agreements in force with 24 countries as from 1 January 2013. In addition, totalization agreements with two other countries have been signed and are awaiting ratification, and agreements with an additional four countries are under discussion.

2.6 Manning issues with flying the US flag
Due to manning requirements and labor laws, it is generally more expensive to man US-flagged vessels.

2.7 Healthcare coverage for shipboard employees
The US has recently enacted a broad new health care law that may affect health insurance coverage requirements for certain shipboard employees.

3. Corporate structure

3.1 Most commonly used legal structures for shipping activities
A corporation is the most commonly used legal structure for shipping activities. US corporations are subject to a top tax rate of 35% of taxable (net) income. Foreign shipping companies are typically subject to a 4% tax on US-sourced gross transportation income, in the absence of an applicable exemption. However, foreign shipping companies that do not qualify for an exemption and operate vessels that trade with the US on a regular schedule (e.g., liner companies) may be subject to regular corporate income and branch tax at rates in excess of 50%.

3.2 Taxation of profit distribution
Profits can generally only be distributed free of tax within a consolidated group of companies. Dividends paid by a US corporation to a foreign shareholder are generally subject to a 30% withholding tax; this rate may be reduced by treaty.

4. Grants and incentives

4.1 Specific and/or general subsidies available for shipping companies
There are several subsidies available, including:
- Capital construction fund (see sections 1.1 and 1.6)
- Construction Reserve Fund - this program provides tax deferral benefits to US-flag operators. Eligible parties can defer the gain attributable to the sale or loss of a vessel, provided the proceeds are used to expand or modernize the US merchant fleet.
- Title XI Financing - this program provides US government-guaranteed loans to be used to construct, reconstruct or recondition commercial vessels in US shipyards. The vessels must be either:
  - For domestic use and US-owned and flagged
  - Or
  - For export and documented under the laws of a country other than the US
- Assorted subsidies for certain cargo (generally only applies to US-flagged ships)

Qualifications, restrictions and limits apply to each subsidy program and are subject to change.

4.2 Investment incentives for shipping companies and the shipbuilding industry
The Title XI Financing program described above is intended to promote the use of US shipyards. It applies to vessels constructed or reconditioned in the US (although foreign components may be used), whether for domestic use or export.
4.3 **Special incentives for environmental awareness**
There are no special incentives for environmental awareness.

4.4 **Issues with flying the US flag**
Some subsidy programs will only apply to US-flagged ships.

4.5 **Major changes in shipping subsidy legislation in the near future**
No major changes are expected.

5. **General information**

5.1 **Infrastructure**

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<td>Alaska</td>
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</table>

5.1.1 **Major ports**

5.1.2 **Port facilities**
The following facilities are available:
- Maintenance and repair
- Docking
- Storage
- Cranes for every size of vessel

5.1.3 **Airports close to the major ports**
There are major airports close to all of these ports.

5.1.4 **Support services for the shipping industry**
The following support services for the shipping industry are readily available:
- Banks with a shipping desk
- Consulting firms specializing in shipping
- Maritime law services
- Insurance brokers for the shipping industry
5.1.5 Maritime education
Major maritime educational institutions include:
- California Maritime Academy (Vallejo)
- Maine Maritime Academy (Castine)
- Massachusetts Maritime Academy (Buzzards Bay)
- Northwestern Michigan College – Great Lakes Maritime (Traverse City)
- State University of New York Maritime College (New York)
- United States Merchant Marine Academy (Kings Point)
- Texas Maritime Academy (Galveston)

5.2 Safety and environmental issues
5.2.1 Implementation of the International Safety Management Code on board vessels
The US has implemented all requirements of Chapter IX of the International Convention for the Safety of Life at Sea (1974), and US shipping companies are generally in compliance with Phases I and II of the International Safety Management (ISM) Code. Since 1 January 2002, the US Coast Guard has required that all applicable vessels provide their ISM Code certificate information prior to their arrival at US ports.

5.2.2 Safety rules regarding manning
All US Coast Guard regulations regarding safety and manning must be followed. These regulations are relatively strict.

5.2.3 Special regulations on safety and the environment
There are numerous environmental and conservation regulations that may be relevant to shipping companies, including but not limited to Oil Pollution Act of 1990 (OPA); Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990; Port and Tanker Safety Act of 1978; Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); Ocean Pollution Reduction Act; Federal Water Pollution Control Act; Federal Clean Air Act; Protection of Navigable Waters and of Harbor and River Improvements; Aquatic Nuisance Prevention and Control; Prevention of Unintentional Introductions of Non-indigenous Aquatic Species and Hazardous Materials Transportation Act.

5.3 Registration
5.3.1 Registration requirements
The owner of the vessel must be a US corporation or entity. For coastwise vessels, the entity must be 75% owned by US citizens, and generally, the ship must be built in the US.

5.3.2 Ship registration procedure
Vessel documentation is processed by the US Coast Guard, which provides a standard set of forms that must be completed in order for registration to be accomplished.

5.3.3 Parallel registration
There is no possibility of parallel registration.

5.3.4 Requirements for the officers and crew serving on vessels
All officers and licensed individuals must be US citizens.

5.3.5 International conventions regarding registration
There are no conventions of which we are currently aware.

5.3.6 Special requirements/rules relating to registration
There are some special requirements and rules with regard to ship registration. Contact the US Coast Guard for details.
5.4 General comments

Due to terrorism concerns, the Bureau of Customs and Border Protection (formerly known as the US Customs Service) has instituted new programs to improve the inspection of inbound cargo. The Customs-Trade Partnership Against Terrorism program directly affects all companies involved in the supply chain (primarily transportation companies and US importers). The Importer Self-Assessment Program focuses on US importers but does have an indirect relation to transportation providers. Generally, these programs require transportation companies to implement and document certain security procedures for all US-bound vessels and cargo. Failure to qualify for these programs may subject cargo to additional customs inspections and delays.
# Ernst & Young shipping industry network

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<tr>
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<td>Sushi Shyamal, Transactions</td>
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## Indonesia

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<td>Nathanael Albert, Tax</td>
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<tr>
<td>Benyanto Suherman, Assurance</td>
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## Ireland

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<td>Sandra Dawson, Tax</td>
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<tr>
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<tr>
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<td><a href="mailto:michael.moroney@ey.com">michael.moroney@ey.com</a></td>
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## Isle of Man

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<td>Paul Duffy, Assurance</td>
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<tr>
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## Italy

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<tr>
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<tr>
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### Japan

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<td>Yoshihiro Ninagawa, Tax</td>
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<td>Nazih Borghol, Assurance</td>
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<td>Michel Feider, Assurance</td>
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<td>Susanna Lim, Advisory</td>
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### Mexico

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<td>Francisco Alvarez, Assurance</td>
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<td>Netherlands</td>
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<td>New Zealand</td>
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<td>Marcin Borek</td>
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<td>Pedro Fugas</td>
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<td>Ksenia Baginian</td>
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### South Africa

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### South Korea (Republic of Korea)

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### Sweden

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<tr>
<th>Name</th>
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<tbody>
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### Switzerland

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<tr>
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### Taiwan

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<tr>
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### Thailand

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<tr>
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### Turkey

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<tr>
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## United Arab Emirates

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## United Kingdom

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## United States

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