

Luxembourg shipping

Although Luxembourg is a landlocked country, since the early nineties, it has provided an attractive legal framework for the maritime industry and its seafarers.

About Luxembourg

In November 1990, Luxembourg adopted a complete body of maritime legislation and established its own ship register as governed by the Luxembourg Maritime Act of 1990 creating the public shipping register, as amended in June 1994 (**Maritime Law**). Responsibility for the establishment of the Luxembourg Maritime Register lays with the Ministry of Economy and Foreign Trade, and the management of the Maritime Register was assumed by the Luxembourg Maritime Administration (*Commissariat aux Affaires Maritimes - CAM*).

Throughout the years, there has been a move towards the development of synergies between the logistics, the financial and the insurance sectors, which has resulted in the integration of the maritime sector in the Luxembourg government's policy of economic diversification.

As a result of this framework, its developed financial industry and attractive business climate, Luxembourg has always been on the shortlist as a jurisdiction of choice for the maritime industry. The proximity to the harbours of Antwerp, Zeebrugge and Rotterdam also plays an important role in Luxembourg's attractiveness. Many important ship-owners, classification companies and maritime suppliers are located in Luxembourg.

The Luxembourg Maritime Administration and Cluster

Compliance with the Maritime Law is supervised and monitored by the CAM. The CAM is headed by the Commissioner of Maritime Affairs and is placed under the authority of the Minister of Economy and Foreign Trade.

Being the focal point of all shipping matters in Luxembourg, the CAM is in charge of a number of statutory functions outlined in the Maritime Law. More specifically, the CAM is responsible for, amongst others, processing requests for the registration of vessels, for ascertaining that the persons responsible for the management of shipping companies applying for an accreditation meet the criteria of professional integrity and experience, and for the supervision of accredited shipping companies.

Since 2008, Luxembourg also has a well-established Maritime Cluster, bringing together ship-owners, ship-logistics, ship-surveillance and service providing companies. The Maritime Cluster is the voice of the Luxembourg maritime economy and promotes the interests of the Blue Economy in Luxembourg. For more background on the Maritime Cluster we refer to www.cluster-maritime.lu.

The Luxembourg flag

In accordance with the Maritime Law, a vessel has the Luxembourg nationality if it is registered with the Luxembourg Maritime Register and is authorised to operate under the Luxembourg flag (the Red Lion).

Throughout the years, the Luxembourg Flag has steadily consolidated itself as a serious quality flag, while not being offshore, and as a solution to the EU flag requirement.

The Luxembourg flag advantages

- **Excellent regulatory performance** - Luxembourg is a quality white-listed flag committed to high safety, security, environmental and crew welfare standards. Diligent regulatory compliance monitoring by the Luxembourg flag helps mitigate operational disruptions that may negatively impact vessel profitability and residual value. A clean performance record can notably help extend a vessel's commercial life and protect its resale value.
- **Low port state control risk profile** - Luxembourg's modern fleet boasts one of the lowest detention rates and deficiency ratios among EU Member States.

- **Personalised registration support** - Dedicated teams of Luxembourg maritime managers closely assist and guide through the registration process, pre-clearing all required documents to ensure timely and efficient closings.
- **Online seafarer application processing** - Luxembourg seafarer applications can be submitted electronically through the Seafarers Electronic Application (SEA) System, ensuring rapid processing and issuance of Luxembourg Seaman's Books and Endorsements. Teams of specialist Luxembourg maritime managers review applications for STCW compliance.
- **Electronic vessel certificates** - Luxembourg vessel certificates are hosted on a secure government website. Each vessel is assigned its own secure dedicated web page, exclusively accessible via a unique QR code issued to owners upon registration.

The vessel's secure page allows all relevant stakeholders, including Port State authorities, to verify the authenticity of Luxembourg vessel certificates by scanning the QR code with a mobile phone.
- **24/7 duty officer** - In case of emergencies or urgent matters, a 24/7 duty officer service is available for Luxembourg-flagged ships.
- **No gold-plated maritime standards** - Luxembourg is committed to a legislative framework established upon European and international standards. This pragmatic regulatory approach avoids additional compliance costs for owners and helps safeguard their global competitiveness.
- **Proven track record of reliability** - Availability, responsiveness and readiness to assist ensure that complex registration transactions are completed efficiently and operational requests are resolved promptly, even outside of office hours. This track-record of reliability makes Luxembourg a safe choice as a long-term flag partner.
- **Stable, business-friendly jurisdiction** - Luxembourg is a politically stable jurisdiction with an international focus. The Luxembourg government is efficient and responsive with a proven track-record of promoting business-friendly policies. Home to leading funds and over 140 international banks, Luxembourg is a known and trusted jurisdiction for investors.
- **Strong security package** - Luxembourg boasts a reliable public register and robust legal framework for perfecting and enforcing securities. It also recognises the use of security trustees, fleet mortgages and private sales.
- **Modern fleet** - Luxembourg boasts one of the world's youngest fleets. The low average fleet age reflects creditor confidence in Luxembourg as a trustworthy jurisdiction in which to register valuable new tonnage.
- **Registration Fee** - The Registration Fee payable to Luxembourg Administration is calculated according to the vessel's net tonnage and keel-laying date.

Registration of ships

In principle, registration is open for ships (i) with a tonnage of at least 25 tons, (ii) that are not older than 15 years, and (iii) which are used for commercial shipping activities.

The following ships can be registered with the Luxembourg Maritime Register:

- Ships that are owned for more than 50 per cent by a company or an individual which is a resident of an EU Member State;
- Bareboat chartered ships;
- The ships operated by the above mentioned persons, provided that all, or at least a significant part of the management of the ship is carried out in Luxembourg (which triggers the need for a Luxembourg maritime manager).

A Luxembourg registered or flagged ship does not necessarily need to be owned by a Luxembourg company. In practice, certain non-resident ship-owners choose to register their vessels directly in the name of a foreign company. In this case, they choose an authorised representative to carry out a number of commercial, technical and administrative functions.

Most commonly, however, the ship-owner sets up a Luxembourg shipping company, which is then granted a license from the Minister of the Economy and Foreign Trade.

It is possible for a Luxembourg shipping company to own ships that are neither registered nor flagged in Luxembourg.

Registration of a ship or its renewal may be done online via a secure platform and is processed by the CAM. If approved, the application and authorisation shall be presented to the Register of Mortgages (*Bureau de la Conservation des Hypothèques Maritimes*) within 30 days. The Register of Mortgages will issue the registration certificate to the applicant. The period of validity of the registration certificate cannot exceed two years, but it is renewable.

The public maritime register accommodates three types of registration:

- **Full registration (*immatriculation pleine*)** - The ownership and *in rem* rights are registered in Luxembourg and that the vessel is authorised to sail under the Luxembourg flag.
- **Bareboat in registration (*immatriculation coque nue*)** - The ownership and *in rem* rights are registered with a public maritime register outside of Luxembourg, but the vessel is authorised to operate under the Luxembourg flag on the basis of a bareboat charter party arrangement.
- **Bareboat out registration (*frètement coque nue*)** - The vessel is registered with a public maritime register outside of Luxembourg while the ownership and *in rem* rights are registered at the same time with the Luxembourg public maritime register. Under a bareboat out registration, a vessel is not authorised to sail under the Luxembourg flag, but will sail under the flag of the country where it is registered

A provisional certificate of registration valid for a maximum of a year may be issued for a ship that is still under construction, or in cases where it has not been possible to supply all information required by the application of registration. Nevertheless, the ownership structure of the vessel has to be clearly documented.

An operator may also apply for full registration in his own name, of a vessel owned by a third party, provided that he has been expressly authorised to do so by the owner of the vessel and provided that he is willing to accept responsibility for the ship and for the crew in accordance with the provisions of Luxembourg law and on the same terms and in the same manner as the owner of the ship would have, if the ship had been registered in the owner's name.

Certification of ships

Although Luxembourg has its own network of flag state inspectors, certification of ships has been delegated to following approved classification societies:

- American Bureau of Shipping
- Bureau Veritas
- DNV-GL
- Korean Registry
- Lloyd's Register
- NKK
- RINA

Each ship applying for registration to fly the Luxembourg flag must undergo / have undergone an inspection by the maritime administration of an EU Member State or an approved classification society.

Accredited shipping companies and shipping managers

The Maritime Law provides for an accreditation and supervision framework for shipping companies.

A Luxembourg shipping company is defined as a company that carries out activities in relation to the purchase, sale, chartering-in, chartering-out and management of seagoing ships, as well as the financial operations that are directly or indirectly related to such activities.

The Maritime Law does not require that a shipping company adopt a specific legal form, which leaves extensive flexibility to choose from the various legal forms the Luxembourg company toolbox has to offer.

Before it can start its activities, a Luxembourg shipping company must be accredited with the CAM.

The accreditation process requires amongst others that the Luxembourg company must appoint a Luxembourg accredited shipping manager (*dirigeant maritime agréé*) who can either be (i) an external service provider, or (ii) a designated person/entity applying for such licence.

The accredited shipping manager does not necessarily need to be a member of the management body of the Luxembourg shipping company. Shipping management may either be carried out individually or under the form of a company. An accredited shipping manager may manage several shipping companies. Individuals or legal persons willing to become an accredited shipping manager must have their professional residence in Luxembourg. Individual shipping managers or members of the management bodies of the corporate shipping managers must be able to provide evidence of their personal probity and professional experience.

Taxation of a shipping company

While certain countries have opted for a preferential tax system which applies to qualifying shipping activities (commonly referred to as the “tonnage tax” system), others apply the general provisions of their tax legislation. The latter is the case for Luxembourg which offers an advantageous tax regime including the possibility of accelerated depreciation and tax credits for investments.

Luxembourg has a statutory corporate income tax rate close to the European average. The tax system is nevertheless very attractive and contributes to the overall favourable investment climate. The reason for this is that the taxable base for a typical Luxembourg company tends to be narrower than those prevailing in most comparable jurisdictions.

Crew

The master of a ship flying the Luxembourg flag must be a national of an EU Member State. In some cases, the Minister can grant an exemption to the nationality requirement.

All seafarers employed on a ship flying the Luxembourg flag must have a Luxembourg seaman's book.

All seafarers employed on a ship flying the Luxembourg flag must be covered by a social security scheme.

Notwithstanding the capacities and/or functions of the seafarers on board the ship, the maritime company must ensure that the crew members on the Luxembourg flagged ship meet the requirements in terms of:

- Health (medical certificate);
- Training (including complementary training and refresher programmes);
- Experience, and;
- Certification.

The master and all the officers must hold an endorsement of their certificate of proficiency issued by Luxembourg and present said document on request from a Port State Control Officer (PSCO) during the inspection.

Seamen who are responsible for preparing the meals must hold the cook's certificate, which provides proof of the required training and qualification for said position.

All certificates and diplomas of seafarers issued by a Member State of the European Union are also recognised by Luxembourg (certificates of competency/proficiency).

Certificates of competency/proficiency issued by third countries can also be recognised in Luxembourg if:

- The authorisation of endorsement was granted by the European Commission;
- A signed agreement of recognition of certificates has been entered into with the third country.

Certificates of competency/proficiency issued by a third country which is not on the list cannot be recognised. Applications for a seaman's book or a recognition of certificates of competency/proficiency must be submitted online on [MyGuichet.lu](https://myguichet.lu).

Ship financings

“Tailor-made” is the key word of this industry in Luxembourg. Various national and cross-border ship-financing solutions exist, such as bank lending, bond issuances, securitisations, joint venture structures and regulated or unregulated investment funds structures. The choice depends on the needs of the parties involved.

Luxembourg also offers various types of maritime mortgages. Such mortgages are internationally well known by banks and financial institutions, and explain why Luxembourg is regarded as a popular jurisdiction for finance parties with respect to security interests over vessels

Harneys has extensive experience in providing corporate, finance, funds, and tax services to shipowners and investors, allowing them to efficiently structure their shipping related transactions through Luxembourg.



For more information and key contacts please visit [harneys.com](https://www.harneys.com)

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