

World Maritime University

The Maritime Commons: Digital Repository of the World Maritime University

Maritime Safety & Environment Management
Dissertations (Dalian)

Maritime Safety & Environment Management
(Dalian)

8-28-2016

Study on the legal problems of implementing the international ship registration system in Guangzhou pilot free trade area

Shibo Zhao

Follow this and additional works at: https://commons.wmu.se/msem_dissertations



Part of the [Law Enforcement and Corrections Commons](#), and the [Public Policy Commons](#)

This Dissertation is brought to you courtesy of Maritime Commons. Open Access items may be downloaded for non-commercial, fair use academic purposes. No items may be hosted on another server or web site without express written permission from the World Maritime University. For more information, please contact library@wmu.se.

WORLD MARITIME UNIVERSITY

Malmö, Sweden

**STUDY ON THE LEGAL PROBLEMS OF IMPLEMENTING
THE INTERNATIONAL SHIP REGISTRATION SYSTEM IN
GUANGZHOU PILOT FREE TRADE AREA**

By

ZHAO SHIBO

The People's Republic of China

**A dissertation submitted to the World Maritime University in
partial
Fulfillment of the requirements for the award of the degree of**

MASTER OF SCIENCE

In

**MARITIME SAFETY AND ENVIRONMENT
MANAGEMENT**

2016

© Copyright ZHAO SHIBO, 2016

Declaration

I certify that all the materials in this research paper that are not my own work has been identified, and that no materials are included for which a degree has previously been conferred on me.

The contents of this research paper reflect my own personal views, and are not necessarily endorsed by the University.

(Signature): Zhao Shibo

(date): AUG 5, 2016

Supervised by: YAN TIE YI

Professor

Dalian Maritime University

ACKNOWLEDGEMENTS

First of all, I want to thank my tutor Professor Yan Tieyi. Professor Yan is knowledgeable and rigorous, during the period of thesis writing, Professor Yan's care and teaching has played a vital role for my thesis writing. From the thesis topic selection, material collection, and revision to the arrangement of the chapters, Professor Yan invested a lot of energy, and gave me a lot of valuable suggestions. Kindness unforgettable, hence, I extend my deep respect and the sincere gratitude to Professor Yan! At the same time, my heartfelt thanks go to my beautiful English teacher Miss Bianca Liu for revising and polishing my paper in respect of language, that her excellent professional quality and serious and responsible attitude let I admire, her hard work makes the paper graces many, hence, I express the greatest respect to Miss Bianca Liu once again.

Thanks to all the professors of MSEM2016, WMU, thank you for your wonderful lecture, profound knowledge, rigorous attitude on research, which let us learn the rich professional knowledge. Thank Project Team of MSEM 2016, Ms. Wang Yanhua and Mr. Zhao Jian's diligent work let us can learn live without disturbance the period of school life, hence, I wish you all with my best wishes!

In addition, my special thanks go to my classmates and colleagues, whose hard work in providing and searching information for the paper, have successfully help to complete the study, I wish you all with my greatest respect!

ABSTRACT

Title of Dissertation: **STUDY ON THE LEGAL PROBLEMS OF IMPLEMENTING THE INTERNATIONAL SHIP REGISTRATION SYSTEM IN GUANGZHOU PILOT FREE TRADE AREA**

Degree: MSc

In December 2014, China's State Council decided to set up China (guangdong) FTA, including three areas: Guangzhou Nansha Free Trade Area, Shenzhen Qianhai Free Trade Area, and Zhuhai Hengqin Free Trade Area (Hereinafter referred to as FTA). Thereinto, Guangzhou Nansha FTA focuses on developing producer services, shipping logistics, characteristic finance and high-end manufacturing, constructing world-class integrated service hub and international distributing center of elements of high-end producer service (NPC, China., 2015). In 2015, the Guangzhou Government issued "The 3-year action plan of construction for international shipping center in Guangzhou (2015-2017)", saying the city will speed up the construction of international shipping center, in order to upgrade the construction of the city (SCIO, 2015). Both the normal operation of FTA, and the construction of international shipping center need the support of specific legal system. Of which, the international ship registration system is an important legal system of maritime administration, and also an important way of the ship registration administration widely used around the world.

At present, China is implementing the Close Registry system with high standard of control on ships and strict requirements of the nationality registration of ships, which has a positive influence on maintaining the stability of the shipping market, however, it also leads to a large number of Chinese ocean transferring the nationality to

overseas, which causes a serious impact on the international shipping competitiveness and international shipping status of China. Through establishing International Ship Registration system, the traditional shipping powers like Norway, Denmark, which once faced the same problem, has effectively solve it.

It is urgent for China's shipping to introduce the international ship registration system in FTAs, that it will not only be beneficial for the development of shipping economy and the construction of FTA, and the international shipping center as well. At present, China has been experimentally implementing the international ship registration system in Shanghai, and Jianjin FTA, and will timely set up legal system of international ship registration. However, at present the related research in academia and industry is still relatively weak, and the domestic legislation in this respect are blank, but the study also is weak, the domestic legislation in this respect is vacant.

Hence, on the basis of analyzing the international conventions, national laws and regulations, the author will make a comprehensive and systematic research on the international ship registration system from legal level, and study on the necessity and feasibility of implementation of the international ship registration system in Guangzhou FTA, in order to explore the basic legislation and the judicial system of international ship registration, to meets the needs of shipping development in China, so as to provide necessary theoretical basis and reference for related practice in future.

KEY WORDS: ship registration, international ship registration, legal system, FTA

TABLE OF CONTENTS

DECLARATION	I
ACKNOWLEDGEMENTS	II
ABSTRACT	III
TABLE OF CONTENTS	V
CHAPTER I: INTRODUCTION	1
1.1. Background	1
1.2. Objectives of Research	3
1.3. Methodology	3
CHAPTER II: SUMMARY OF ISR SYSTEM	4
2.1. The Connotation and Legal Leaning of Ship Registration System	4
2.2. The Concept and Property of Ship Registration	5
2.2.1. The Concept of Ship Registration	5
2.2.2. The Properties of Ship Registration	6
2.2.3. The Classification of Ship Registration System	7
2.3. Analysis on the Concept of ISR	8
2.3.1. The Concept of ISR	10
2.3.2. Analysis on the Differences between ISR and the Close Registry	11
2.3.3. Analysis on the Differences between ISR and the Open Registry	12
2.3.4. The Development of the ISR System	12
2.3.4.1. The Background of ISR system	14
2.3.4.2. Current Situation of ISR System	15
CHAPTER III: THE LEGAL BASIS OF THE ISR SYSTEM	15
3.1. The Basis in International Law for the ISR System	20
3.2 The national law bases of ISR in foreign counties	20
CHAPTER 4: ANALYSIS ON THE NECESSITY AND FEASIBILITY OF ESTABLISHMENT OF ISR SYSTEM IN CHINA GUANGZHOU FREE TRADE AREA	21
4.1. The Positive Influence of the Implementation of ISR system in China	22
4.1.1. Positive Impact in Macro Level	22
4.1.1.1. It is Helpful to Solve the Problem of Ships Flagging Out, And Increase the Capacity and Consolidate the Shipping Scale.	22
4.1.1.2. It is Beneficial to Avoid Huge Loss of Tax Receipts	25
4.1.1.3. It is Beneficial for the Effective Supervision of State-owned Assets	25
4.1.1.4. It is Helpful to Improve the Safety Condition of Ships	25
4.1.1.5. It is helpful for the development of related shipping industry	26

4.1.1.6. It is Helpful to Protect the Interests of National Defense and Security	26
4.1.2. Positive Impact in Micro Level	26
4.1.2.1. It is Beneficial for Shipowner’s Interests	26
4.1.2.2. It is Helpful for the Interests of the Crew	27
4.2. Analysis on Necessity of Implementation of ISR System in Guangzhou Free Trade Area	27
4.2.1. The Necessary Approach the Construction of International Shipping Center in Guangzhou	27
4.2.2. The Inadaptability of the Close Registry System in Free Trade Area	28
4.3. Analysis on Feasibility of the Implementing ISR System in Guangzhou FTA	29
4.3.1. The Superior Geographical Conditions of the Port	29
4.3.2. The Developing International Shipping Center	30
4.3.3. National Strategic Positioning of Guangzhou Nansha	30

CHAPTER V: THE SYSTEM DESIGN ISR SYSTEM IMPLEMENTING IN CHINA GUANGZHOU FREE TRADE AREA 31

5.1. The Legal Design of ISR System	31
5.1.1. Independent Legislation	31
5.1.2. Specific Rules	31
5.1.2.1. Ships of Registration	31
5.1.2.2. Tax of preferential	31
5.1.2.3. Crew Manning	32
5.1.2.4. The Safe and Technical Standards of Ship	33
5.2. Improvement the Supporting Legal System	33
5.2.1. Rationalize the ship registration system	34
5.2.2. Further rationalize and specify the relevant provisions of registration	35
5.2.3. Improvement of the Inquiry System of Ship Registration	35
5.3. Improvement the Legal System of Tax	35
5.3.1. Increase the tax breaks	36
5.3.1.1. Improvement of the Mechanism of Tax Breaks	36
5.3.1.2. Innovation of Preferential Tax Policy	36
5.4 Improvement of Ship Financing	37

CHAPTER VI: THE CONCLUSION 38

REFERENCE 40

CHAPTER I

INTRODUCTION

1.1. Background

The Ship Nationality Registration is not only a legal protection for ships to obtain nationality and navigation right, but also one of the main means of one country's domestic shipping policy. Generally, the ship nationality registration system is the generic terms of legislation, judicial and legal enforcement system for the adjustment, standardization and implementation of the ship nationality registration.

At present, there are three main international ship nationality registration systems, in terms of the stringency of registration condition. The first is the Close Registry, with high standard, implemented in United States, Britain, Norway, Japan and other traditional maritime countries. The second is the Open Registry (also known as the system of flag of convenience), implemented in Panama, Liberia and other countries, with lower requirements of registration. And the third one is the Secondary Registry, with requirements of registration between the strict ship nationality registration system and the open ship nationality registration system, implemented in Britain, France, Norway and other traditional maritime countries, with the purpose to prevent their ocean-going ships registering abroad, and to attract the Flags of Convenience (Hereafter referred to FOC) back to register in its territory or in their colonies. In accordance with the location of implementation, this system can be divided into the offshore ship registration system and the international ship registration system (Hereafter referred to as ISR). The former is implemented in one country's colony or annexed territory, while the latter is in its own territory.

Currently, China implements Close Registry system nationwide (Wang, Yang, & Li,

2015). Compared with the lower taxes and fees, and softer conditions on the ship registration abroad, ship registration is much stricter in China, with high fees and taxes, lower efficiency, leading a large number of ships which should fly Chinese flags transfer their nationalities to foreign countries (Haralambides, & Yang, 2003). To reverse this situation, changes in the traditional strict ship registration system become necessary in shipping economy development. With acknowledged advantages (Power, 1992), ISR applies in many countries, and has a wide range of practice in the world (Lillie, 2004). However, because of the limitation of tax sovereignty and the existing legislation, it is impractical to implement ISR nationwide, otherwise it will bring many negative effects.

Since 2013, China has set up several free trade areas in Shanghai, Guangdong, Fujian, that provides an opportunity for the transformation of the ship registration system in China. Because Free Trade Area is a designated narrow area of specific range with particular open policies, implementation of ISR in these areas as experimental zones would reduce the cost and risk of reform to a great extent. In 2013, the China Government published “The overall plan of China (Shanghai) Free Trade Area Experimental Zone”, and explicitly put forward to explore the implementation of ISR system in Shanghai free trade area, which means the free trade area will be formally implementing ISR system. However, the plan is a framework for ISR, which does not have an actual operability. In 2015, the Guangzhou Government issued “The 3-year action plan of construction for international shipping center in Guangzhou (2015-2017), saying the city will speed up the construction of international shipping center, in order to upgrade the construction of the city (SCIO, 2015)

In this paper, the author will make a comprehensive discussion on the necessity and feasibility of implementation of the ISR system in the free trade area of China, and

put forward constructive suggestions for the implementation of ISR system in Guangzhou free trade area, China.

1.2. Objectives of Research

The ISR system is an important legal system of maritime administration, and also an important way of the ship registration administration widely used around the world. At present, China is implementing the Close Registry system with high standard of control on ships and strict requirements of the nationality registration of ships, which has a positive influence on maintaining the stability of the shipping market, however, it also leads to a large number of Chinese ocean transferring the nationality to overseas, which causes a serious impact on the international shipping competitiveness and international shipping status of China. Through establishing ISR system, the traditional shipping powers like Norway, Denmark, which once faced the same problem, has effectively solve it.

At present the related research in academia and industry is still relatively weak, and the domestic legislation in this respect are blank, but the study also is weak, the domestic legislation in this respect is vacant. Hence, on the basis of analyzing the international conventions, national laws and regulations, the author will make a comprehensive and systematic research on the ISR system from legal level, and study on the necessity and feasibility of implementation of the ISR system in Guangzhou FTA, in order to explore the basic legislation and the judicial system of ISR, to meets the needs of shipping development in China, so as to provide necessary theoretical basis and reference for related practice in future.

1.3. Methodology

This thesis includes six chapters. The Chapter I is the introduction, which mainly

introduces the scope and value of the study, and the study methods and a brief introduction of the the problem to be solved in this paper. The Chapter II is a general overview of the ISR system, through clarifying the basic theories of ISR system to lay the necessary theoretical foundation for later in-depth analysis; The Chapter III analyses the legal basis of ISR system, discussing the pros and cons of the system; The Chapter IV studies on the necessity and feasibility of establishing and implementing the ISR system in Guangzhou Nansha FTA, from multiple angles; The fifth chapter proposes legislative and judicial suggestions on the ISR system, based on the current situation of China's shipping and the legal environment of Guangzhou Nansha FTA. Finally, Chapter VI, the conclusion summarizes the main points of this paper on the basis of generalizing the full text.

CHAPTER II

SUMMARY OF ISR SYSTEM

2.1. The Connotation and Legal Leaning of Ship Registration System

Although there is no unified and clear definition for the ship itself, the international conventions and domestic legislation usually define the ship by defining the scope of the ship, according to the need of law enforcement (Tetley, 2004). But this does not prevent ships becoming the vital role in world's shipping industry. The importance of the ship has been shown from the trend of the modern maritime law legislation, that is the trend from goods-centered legislation to ship-centered legislation (Si, 1999). Ships belong to movable property, however, because of their huge value and main use of transportation, and the change in ownership is not frequent, therefore, they are often treated as real estate, with certain characteristics of real estate. And one of the important embodiments of these characteristics is ships' registration requirements.

When a ship is registered, given with a name and nationality, and then the port of registry is identified, all these endow the ship with anthropomorphized characteristics (Zhang, 2004), which has a great influence on many maritime law systems, such as Action in rem (Tetley, 2004).

The so-called ship registration system can be simply defined as a social system formed by laws and regulations of the specification of the ship registration. Ship registration system can be traced back to the maritime law implemented in the earliest Phoenicians along Mediterranean coast, in the 7th century BC, and modern law of ship registration system originated from Navigation Act of 1660 in Britain, which stipulates that ships owned by British ship owners must be registered in its territory. Since then, various countries had developed their own ship registration system. China's ship registration system can be traced back to the Maritime LAW implemented by the Kuomintang government in 1931.

In 1960, "The Rules for Ship Registration System of the People's Republic of China", published by the Ministry of Transport, marked the beginning of ship registration legislation of China, followed by "The regulation of registration for sea-going ships" in 1986; however, with many limitations, these two regulations were yet to be mature. In 1994, the Ship Registration Regulations of the People's Republic of China, issued by the state council, despite of many problems, marked the maturity of China's ship registration legislation to a certain extent, pushing China's ship registration into the orbit of institutionalization and legalization.

2.2. The Concept and Property of Ship Registration

2.2.1. The Concept of Ship Registration

Some scholars define the ship registration in terms of registration procedures, "Ship

registration often refers to the legal fact that the natural person who has certain rights on a certain ship, applies to the ship registration authority and submit relevant documents, so as to make the ship in accordance with the law, registered and certificated in the name of the state, after the statutory audit by the authority” (Si, & Hu, 2006). Some scholars focus on the content of the registration, and define it as “the registration which is in accordance to the international conventions and national laws and regulations, is in terms of the content of the ship, such as shipowner, operator, ship’s name, technical parameter, and so on (Wang, 2004). Furthermore, other scholars emphasize the objects of ship registration, defining it as “Ship registration refers to the administrative behaviors that the authorities statutorily certificate ships and register their actual status, according to the application ” (Wang, & Zhu, 2005).

Thus, from a dynamic perspective, it could be concluded that the ship registration as “A whole process that, according to the application of applicants, the registration authorities certificate ships and then register their actual status and relationships, in accordance with requirements of the international conventions and national laws and regulations, including the entity behaviors, like application, verification, and registration application settings and making a decision on whether it should be registered or not. From a static perspective, ship registration can also be deemed as legal facts that the ship registration authorities certificate ships and register their actual situation and relevant relationships, which characterize the reason of the change of the rights and obligations.

2.2.2. The Properties of Ship Registration

The properties of the ship registration can be summarized as the following respects:

- **The ship registration is a kind of administrative behavior, reflecting one**

country's administrative functions. The ship registration is a way to enforce administrative power, while one country can conduct administrative management on ships through the ship registration. For one side, conditions for ship registration have set up a threshold for nationalization, which makes ships can be certificated in case they do not violate the interests of the state at least, so as to implement relevant national policies. On the other hand, through jurisdiction and control on registered ships by the country of registry, the national administrative power can obtain further extension.

- **The ship registration constitutes a legal fact.** Laws applicable to certain facts cause the occurrence of legal phenomenon, such as change, acquisition and elimination of the right. Such kind of facts, which can cause the change, acquisition and loss of right, because of the application of law, is referred to as a legal fact (Wang, 2003). According to the regulation of international conventions and domestic laws, the fact of ship registration is sufficient to cause change, acquisition and elimination of the relevant rights of ships.
- **The ship registration process is a combination of procedure and entity.** Ship registration must follow certain procedures, a contracted country to international conventions, can decide the ship registration requirements and procedures itself, in case in compliance with the conventions. At the same time, the ship registration is related to the decision behavior of the registration authorities. This also means the ship registration shall follow the relevant procedural law and substantive law. Although in most cases they unify in single legislation, as the way to realize the steps, means of the purpose of registration, the value of the procedure law of ship registration is still worthy of attention.

2.2.3. The Classification of Ship Registration System

- a) According to the differences of purposes and items, ship registration can be sorted

into the registration of nationality and the registration of real rights. In the legislative practice, one way is to legislate for the nationality registration and the registration of real right respectively, called separation mode, mainly implemented in Japan, Germany, and Taiwan of China. Another mode is called combination model, which legislates and certificates for the two kinds of registrations together, mainly implemented in Sweden, Britain, Norway, and China.

b) According to the stringency of conditions for registration, nationality registration system can be further divided into Close Registry, Open Registry and Secondary Registry. Close Registry refers to the Country of Registry sets certain restricted conditions for the application ship registration, such as conditions of nationality of the shipowner and crew, etc. Most countries in the world are taking Close Registry, which is conducive for Countries of Registry to manage and control the registered ships. Compared with Close Registry, requirements of Open Registry are softer, with fewer restrictions of the registration rules. Open Registry is also called FOC system, mainly implemented in Panama, Liberia, Honduras, Costa Rica, and Somalia, which has brought series of negative impair on world's shipping, and to some extent, has given rise to the Secondary Registry system.

2.3. Analysis on the Concept of ISR

2.3.1. The Concept of ISR

As a new system of ship's nationality registration, since the 1980s, initiated in Norway, after nearly 30 years of development, ISR has now been established in more than a dozen traditional maritime countries, like Norway, Denmark, Germany, Japan, and so on. ISR also has been widely recognized by the International Maritime Organization (IMO), International Shipping Association (ISF) and other international maritime organization. So far, however, international law or related practice for ISR

system has not yet formed a unified definition. For instance, IMO defines ISR as “A ship registration system additionally set up by a country, which is different from its domestic ship registration system in terms of registration conditions”. Moreover, British scholar Vincent J. G. Power defined ISR system as “A specific ship registry set up by a country, in order to attract ships of particular country to register in its territory, through preferential policies of registration condition in terms of ownership, shipping management, manning and so on” (Vincent J. G. Power, 1992). The above definitions reveal the basic features and the connotation of the nationality of ship registration system from different perspectives; however, they all have certain drawbacks. For instance, although the definition from IMO reveals the basic features of the ship registration system, it is too over-general and ambiguous, that would make itself unable to be explicitly understood about the specific connotation of ISR system. Thus, the author considers the ISR system should be defined as “A new-typed ship registration system that, whilst preserving its original Close Ship Registry system, and drawing lessons from the Open Ship Registry system abroad, one country establishes specialized department of international ship registry, in order to attract the international ships of FOC or new-built ships that owned by its domestic owners, and international ships owned by foreign owners to register in, through moderate conditions and preferential treatment of tax and finance. ” The reason is that through the above statement, the following basic connotation of the concept could be comprehensively and clearly revealed:

- ISR system belongs to the basic category of ship's nationality registration system, and it is a special form of nationality registration system.
- In a same country of implementation, the relationship between the ISR system and the traditional close ship registration system is paratactic, while the former draws lessons from the open ship registration system in a certain degree.
- The place where the ISR system is carried out is within the territory of a country,

and implementing agencies are usually specialized international ship registry.

- The objects of ISR system are the international ships of FOC or new-built ships that owned by its domestic owners, and international ships owned by foreign owners.
- The purpose of ISR system is to attract the above ships to transfer their nationality to those countries of which carry out ISR system.
- The basic characteristic of ISR system is the moderate conditions and the preferential treatment of tax and finance.

2.3.2. Analysis on the Differences between ISR and the Close Registry

The Close Registry is a ship registration system that has strict requirements of registration on the nationality of the ship owner, the manning and nationalities of the crew, the technical status of ship, and the domestic capital proportion of the ship, and so on. The relation and distinction between ISR and the Close registry are as follows :

a) The Connection between the Two System:

Firstly, when a country uses the ISR system, it will continue to retain its original close registry system, and these two systems will coexist together to form a complete legal system of ship's nationality registration. And then, after repaying relevant taxes and reaching the conditions of registration in one country, ships registered under the ISR system, can transfer to accept the Close registry of this country, and it will be allowed to engage in domestic transportation. Furthermore, both of the two systems have high requirements of verification on the safety standards for ships, and also have stricter jurisdiction and control on ships of registration, which makes the flag state and its ships have a genuine link with ships under their jurisdiction.

b) The Differences between the Two Systems:

First of all, the objects of the two systems are different. The objects of the Close Registry system are ships owned built or bought in the country of registration, and owned by its domestic owners or companies, while the objects of ISR system are the international ships of FOC or new-built or new-bought ships that owned by the domestic owners of the country of registration. Besides, international ships owned by foreign owners could also choose to accept registration under the ISR system. Secondly, the stringency of registration conditions is different, which is mainly embodied in items of shipowner's nationality, the nationality and manning of the crew, and the domestic capital proportion in buying or building ships, when compared with the Close Registry, the conditions of ISR is softer.

2.3.3. Analysis on the Differences between ISR and the Open Registry

The Open Registration system is also called the FOC system, it is a registration system that one country of registration allow ships controlled by foreign ship owners and foreigners in, and requires relative loose and convenient conditions of nationality registration for ships (Yang, 2003). In international society, countries that implement such nationality registration system are called Countries of Open Registration, and ships flying flags of these countries are called ships of FOC (Chiyuki, 2000). The relation and distinction between ISR and the Open Registry are as follows :

a) The Connection between the Two System:

ISR system learns advantages from the Open Ship Registration system, such as simplifying registration procedures, lowering down the cost of registration, loosing conditions of nationality registration, and providing preferential treatment of tax and financing, and so on. In addition, the objects of the two registration systems are also

engaged in international shipping business which are often bought or built abroad.

b) The Differences between the Two Systems

Although ISR system has many similarities of flexibility with the Open Registry system, the requirements of ISR system is stricter in aspects of ship safety and technology, and the restrictions and requirements of registration are much higher than that of the Open Registry in aspects of ship's owner and crew manning, with stricter jurisdiction of and control on ships under its registration system than open the ship registration system, which greatly guarantee the genuine link between the flag state of ISR system and ships under their jurisdiction, thus can be widely recognized by the international organizations and international society. can have a genuine link between their jurisdiction, and thus can be widely recognized by the international organizations and international society. Therefore, the author thinks that the ISR system cannot be simply deemed as an equal to the Open Registry.

2.3.4. The Development of the ISR System

The ISR system is not a kind of primordial system, but a new type of ship nationality registration system developed by the traditional maritime power like Norway, to overcome defects itself the existing Close Registration system and cope with the impacts brought by the Open Registry. That its generation and development is closely linked with international shipping development history.

2.3.4.1. The Background of ISR system

After the Second World War, the competition of world shipping industry grew increasingly fierce, leading that some developing countries with ship registration fee and the annual tonnage dues of ships as their main Foreign exchange earnings, started to actively implement the Open Ship Registration system with purpose, in

order to attract foreign ships to transfer nationality, by easing the ship registration conditions and providing preferential treatment of tax. At the same time, as the safety standards of international shipping industry on ships and port state control requirements are becoming closer and closer, in addition, the Close Registry implementation by traditional maritime countries is too strict for the ship nationality registration in respects of shipowner's nationality and other conditions, a huge number of ships in traditional shipping countries change their nationality to the countries of Open Registry, and fly the FOC, leading the ships of FOC have accounted for more than a third of the total deadweight tonnage ships in the world (Lu, 2009). The rapid development of fleet of FOC and the consequent phenomenon of flag-out ships have caused a huge impact on the ship industry of the traditional maritime countries and even their entire national economy, leading fleets of those countries like Norway, Sweden and other countries increasingly kept shrinking, and the seaborne income and crew employment kept falling. In addition, its long-term implementation of close ship registration system makes the shipowners suffering heavy tax and employment costs, etc., resulting that the competitiveness of national fleet engaged in international shipping was declining and could not meet the requirement of the increasingly fierce competition in the international shipping, that the economic rationality of nationality registration system has been widely questioned. Therefore, in order to fundamentally curb the economic and political negative effects caused by the ships of flag-out, since the 1980s, many traditional maritime countries especially the Western Europe countries and Nordic countries, gradually drew lessons from the successful experience of the open ship registration system, and actively adjusted their shipping policies, and established a set of ISR system of Integration of stringency and flexibility through legislation reform, so that attracted a large number of ship to regress, meanwhile, contributed to the revival of national shipping. So essentially, ISR is an innovative and long-term legal system

reform in respect of nationality registration system developed by traditional maritime countries, in order to overcome the drawbacks of close ship registration system, and cope with the great challenge the FOC, so as to revive the national shipping industry.

2.3.4.2. Current Situation of ISR System

Worldwide, in 1987, Norway took the lead, in formally establish and implement the Norwegian International Ship Register (NIS), through the nationality legislation. Differing from the previous shipping protectionist measures, such as financial subsidies, cargo reservation and so on, the Norwegian ISR system fully embodies the homoplasmy of shipping freedom and nationality registration system under the background of the economic globalization. It starts from the legal system reform, through learning from the Close Registry and the Open Registry, and greatly overcome the disadvantages of traditional nationality registration system, thus significantly reduced the institutional gap with the countries of Open Registry, successfully promoted the recovery of the Norwegian national shipping industry with an ideal result.

In views of remarkable achievements that Norway has made in establishing ISR system, this new type of ship nationality registration system was immediately accepted by traditional maritime countries, which need to solve the problem of large-scaled flag-out of domestic ships, like Denmark Sweden, Germany and so on.

Based on the domestic shipping development conditions and legal environment, these countries developed their own legal system of ISR, and obtain comparative good effects. After nearly 30 years of development, the ISR system has been established and implemented in a dozen of countries like Norway, Denmark Germany Sweden Italy Russia Japan Singapore Brazil Turkey and regions such as

Hong Kong of China. In addition, Britain, France, Netherlands, New Zealand, Portugal, Spain and other countries have also established the Off-Shore Registry similar the NSI in their colonies or annexed territory to ISR system of ship registration system.

CHAPTER III

THE LEGAL BASIS OF THE ISR SYSTEM

3.1. The Basis in International Law for the ISR System

From the perspective of international law, ISR system is in accordance with the Geneva Convention on the High Seas 1958, the Convention concerning Minimum Standards in Merchant Ships 1976, the UNCLOS 1982, and the UN Convention on Conditions for Registration of Ships 1986. Therefore, having a legitimate basis in international law is widely recognized by international organizations such as International Maritime Organization (IMO), The International Shipping Federation(ISF), International Chamber Shipping(ICS), and International Labour Organization(ILO). Specifically, the ISR system mainly has the following international law bases:

a) In conformity with the relevant rules of international convention that parties can independently determine conditions of nationality registration of the ships. As Article 5 of the Geneva Convention on The High Seas states:

“Each State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory.”

And prescribed in paragraph 1 of article 91 of the UNCLOS 1982:

“Every State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory, and for the right to fly its flag.

And the UN Convention on Conditions for Registration of Ships 1986 also has similar statement in its PREAMBLE of international consensus:

“Reaffirming, without prejudice to this Convention, that each State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory and for the right to fly its flag”.

All of above important international conventions concerning ship's nationality registration have neither limitation for national independence of parties on the right to establish the ship nationality registration conditions, nor prohibition on the right of parties to set up looser registration conditions on the nationality registration system. So they actually endorse enactment right of ship nationality registration conditions to the contracted countries, accordingly providing the feasibility of legislation to countries such as Norway to create the new type nationality registration system - ISR system.

b) In compliance with the relevant rules of international conventions on the jurisdiction and control of flag state to ships registered in its territory. As prescribed in paragraph 1 of article 5 of the Geneva Convention 1958:

“in particular, the State must effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.”

And stated in provision (b), article 2 of the Convention concerning Minimum Standards in Merchant Ships 1976 as:

“Each Member which ratifies this Convention undertakes to exercise effective jurisdiction or control over ships which are registered in its territory in respect of:

(i) safety standards, including standards of competency, hours of work and manning, prescribed by national laws or regulations; (ii) social security measures prescribed by national laws or regulations; (iii) shipboard conditions of employment and shipboard living arrangements prescribed by national laws or regulations, or laid down by competent courts in a manner equally binding on the shipowners and seafarers concerned.”

The Convention on Conditions for Registration of Ships 1986 states in the preamble as:

“there must exist a genuine link between a ship and a flag State and conscious of the duties of the flag State to exercise effectively its jurisdiction and control over ships flying its flag in accordance with the principle of the genuine link.”

It can be seen from the conventions, the international community has long been concerning whether the Flag State can effectively exercise the jurisdiction and control on ships over ships flying its flag, and this is also an important legal function of ship's nationality registration system. Although ISR system relents the requirements in respects in the shipowner's nationality, the nationality of the crew, manning, the capital proportion from the Flag State, yet it still has high requirements on the safety over ships, and also has strict jurisdiction and control on ships flying its flag. For instance, in Norway, the Recognized Organizations (ROs) like Classification Society on behalf of the Shipping Department is authorized to carry out the regular or irregular inspection on ships flying its flag, according to the requirements of international conventions and domestic laws, in order to ensure that the ships under its registration system can keep in seaworthiness. Thus the ISR system is in accordance with relevant international conventions in respect of effective jurisdiction and control for flag states over ships flying their flags.

c) In compliance with the provisions in relevant international conventions on genuine link between the State and the ship. Proision1, Article 5 of the Geneva Convention on The High Seas states:

“There must exist a genuine link between the State and the ship, in particular, the State must effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.”

However, the convention does not make further interpretation to the connotation of the principle of genuine link. The provision 1, article 91 of the UNCLOS 1982

stipulates :

“Ships have the nationality of the State whose flag they are entitled to fly. There must exist a genuine link between the State and the ship .”

And it divides “effective jurisdiction and control” and “genuine link” into different provisions to make the distinction, but has yet to interpret the specific connotation of “genuine link”. The Convention on Conditions for Registration of Ships 1986 stipulates in the preamble as:

“there must exist a genuine link between a ship and a flag State...”

and in article 6 to article 10 specifically stipulates the basic content of the the principle of genuine link, that is the provision of “Identification and accountability”, which stipulates:

“A State shall take necessary measures to ensure that ships it enters in its register of ships have owners or operators who are adequately identifiable for the purpose of ensuring their full accountability.”

Also, the convention requires the State has a direct link with the ship in many aspects. For instance, the Flag State shall have certain investment in building or purchasing ships of registration; the nationality of the crew on board the ship should have certain link with the Flag State. Furthermore, the State of registration shall have a certain

link with the shipowning companies in respect of management, etc. Thus, the connotation of the principle of genuine link can be clearly defined, so as to enhance the operability of the regulations. In addition, the ISR requires the citizens of the Flag State shall count for a certain proportion in the actual shipowners of a ship, and a ship shall be manned with a certain proportion of national crew from the Flag State (Especially the senior crew). Measured by the principle of genuine link of the above convention, the ISR system is in accordance with the basic principle of the ship nationality registration.

3.2 The national law bases of ISR in foreign counties

In order to formally establish and regulate the ISR system through domestic law level, so as to make it implemented legally and effectively, countries such as Norway, Denmark and so on, has implemented this system to modify the original ship registration law, or regulate a new law of ISR system, and thus provides the national law basis for this registration system, it will be described in detail bellow.

Norway is the world's first country to establish and implement the ISR system. The country's parliament passed the Norwegian International Ship Registration Law, and then formally established the Norwegian International Ship Registration System (NIS). This law specifically stipulates the international ship registration system in respects of types of ship's type, ownership of ship, manning requirements, registration fee, tax issues of ship, safety standards and so on, so as to comprehensively regulate the ISR system (Quan, 2005). This law has provided a successful sample of legislation for other countries (especially the traditional maritime countries in Europe) in reforming the original nationality registration system to prevent the domestic ships flagging out, so as to promote the revival of national shipping industry.

After the Norwegian, in July 1988, Denmark passed the congressional decree No. 408, and then formally established the Danish International Ship Registration system (DIS). In May 1989, Germany passed national legislation to establish international ship registration system, and officially adopted German International Ship Registration system (GIS) (Yang, 2013). Recently, countries that formally established international ship registration system through domestic legislation were mainly Japan, Italy, Brazil, and Russia. To reverse the adverse situation of national ships flagging out, Japan began the formal implementation of the ISR system on October 1, 1996, by modifying article 44 of the maritime transport law, in order to attract Japanese ocean-going ships to return to its registration, recovery and revive the competition of Japanese international merchant fleet (Cai, 2003). The Italian Parliament passed bill and established the ISR system legislation in May 1997, implementing the international registration for ships flying flags of European Union members or foreign countries. Brazil enacted a new shipping law in July 1997 in the form of a presidential decree, and put the ISR system into practice (Quan, 2005). Russia's дума approved establishing a ISR system in November 2005 by Russia Special Law, and in January 2006 formally implemented ISR system (CINNET, 2005).

CHAPTER 4

ANALYSIS ON THE NECESSITY AND FEASIBILITY OF ESTABLISHMENT OF ISR SYSTEM IN CHINA GUANGZHOU FREE TRADE AREA

The existing close registry system in China has limitations for a long time and it has constraints for the development of shipping industry in China, and the original ship registration system must be changed to enhance the competitiveness of China's

shipping industry. The ISR system has been applied in many countries due to its own advantages (IMO, 1987) & (Power, 1992), and has a wide range of practice in the world (Lillie, 2004). The establishment of free trade area of Shanghai, Tianjin and Guangzhou provides an opportunity for the transformation of the ship registration system in China. In this chapter, the author will analyze the positive influence of the implementation of ISR system in China and discuss on the necessity and feasibility of ISR system in Guangzhou free trade area.

4.1. The Positive Influence of the Implementation of ISR system in China

4.1.1. Positive Impact in Macro Level

4.1.1.1. It is Helpful to Solve the Problem of Ships Flagging Out, And Increase the Capacity and Consolidate the Shipping Scale.

According to the data issued by Review of Maritime Transport from 2008 to 2013, the Chinese ocean-going vessels registered in foreign countries grow up from the number of 1403 in January 2008 to the number of 2648 in January 2013, with average annual increment of about 200. At the same time, the proportion of deadweight tonnage registered in foreign countries increased from 59.03% to 64.79% (UN, 2014). The report indicates that China is the country who has the most merchant ships in the world, but the value of the Chinese ships ranks 4th in the world (\$61 billion), the number of old ships in China ranks the third in the world. While, the ship registered in China is only 3727 in 2013, and the gross tonnage is only 688861 tons (UN, 2014).

Date up to now	Amount				Deadweight(Ten thousand tons)			
	China flag	FOC	total	Ratio of FOC	China flag	FOC	total	Ratio of FOC
2007-01	1870	1314	3184	41.27%	3224.8	3816.2	7041.0	54.2%
2008-01	1900	1403	3303	42.48%	3439.5	5053.1	8492.6	59.5%
2009-01	1944	1555	3499	44.44%	3721.7	5559.4	9281.1	59.9%
2010-01	2024	1609	3633	44.29%	4102.6	6342.6	10445.2	60.7%
2011-01	2044	1607	3651	44.02%	4620.7	6176.2	10796.9	57.20%
2012-01	2060	1569	3629	43.24%	5171.6	7228.5	12400.1	66.95%
2013-01	2665	2648	5313	49.84%	6693.6	12314.2	19007.8	64.78%

Fig.1. The Change of Nationality of Chinese Fleet.

Source: UN, 2014.

According to the data above, it can be found that a large number of Chinese ships registered in foreign countries. And this caused a bad effect to the ship fleet construction, sovereign rights, tax jurisdiction, the jurisdiction and shipping security in China. However, if the ship registration system is too open, there will be high risks. Though it is likely to attract the Chinese ships to return, at the same time, it also can cause large amounts of Chinese naturalization of the ship. Loose management policies will exacerbate the disadvantages of FOC, such as high rate of marine accidents, un-assured of crew interests, which is inconsistent to the goal of building of shipping power of China. Therefore, the advantage of the free trade area emerges, that the area is small with limited scope of policy effect, and the economic environment is loose and elastic, even the adverse effects can be corrected timely in case the result of implementing ISR system is contrary to the expectations. Due to the limitation of the tax system and related policies in China at present, implementing the "ISR system" in free trade area still cannot compete with FOC countries in terms of tax relief efforts, but generally, ISR system can obtain the overall optimal effect.

ISR system can guarantee the genuine link between the flag state and its ships, so it is widely recognized by the international organizations and international society, while the FOC is controversial. So, for Chinese ships registered in foreign countries, the choice of registering in Chinese free trade area can make it get diplomatic and judicial relief timely and effectively from China whenever it suffers benefit violation abroad and make the risks reduced. In addition, the safety standards and daily management of ISR system are stricter than that of the FOC, which can avoid major personnel and property losses, and this is also a major attraction to Chinese foreign vessels. In a word, for ship owners, the configuration of various factors can achieve best by means of ISR system.

4.1.1.2. It is Beneficial to Avoid Huge Loss of Tax Receipts

Under the Close Registry, the requirement of market access is relatively high, which makes lots of Chinese ships transfer to convenience flag, leading to loss of tax sources. The establishment of the international registration system can help to avoid the loss of tax sources. At the same time, if more ships registering in China, it can increase national income in respects of the ship registration fee and port charges, and ship inspection fee. Of course, China should hold a criterion on the relevant fee charging, that is, the fee of charge should not offset the profit from tax after establishing the ISR; otherwise, the attraction will be discounted.

4.1.1.3. It is Beneficial for the Effective Supervision of State-owned Assets

In law level, ships of OFC are not under the control and supervision directly from Chinese government, so it can not be known exactly about profit and loss situation about these ships, which makes a large number of state-owned assets circulating abroad out of control by the Chinese traffic (Jiang & Chen, 2004). The establishment of the international registration system is conducive to attract this part of ship flying convenience flag return to China, thus make China to supervise the state-owned assets effectively.

4.1.1.4. It is Helpful to Improve the Safety Condition of Ships

With a lot of new-build ships registered in FOC having high technical conditions, in the long run, it will lead to decline of China's fleet technical level, and as ship ages, safety conditions will also decline. The establishment of ISR system can attract a large number of international shipping to register in China, and greatly improve the technical status of Chinese ships, can improve market competitiveness, can reduce the retention rate in PSC. At present, the development requirement of the low carbon economy is increasingly become a serious challenge, Chinese shipping industry in urgent need to develop "low-carbon technologies", to improve the international

competitiveness in market, and thus the establishment of the ISR system is also in compliance with the requirements for technical reform of China's shipping industry.

4.1.1.5. It is helpful for the development of related shipping industry

The establishment of the ISR system plays a role of radiation, leading to the development of related shipping industry in China. On one hand, with the development of ship registration it can attract a lot of oversea owners to expand the shipping business in China; on the other hand, it also brings additional business opportunities for local shipping company and other related industries. And the parties who benefit the most directly are maritime law firms, shipping financing banks and ship trading and management companies, etc. which are engaged in ship registration and mortgage business. The parties that benefit indirectly is shipping agency companies, shipping insurance, maritime arbitration, adjustment, notary public appraise, shipping organizations and accountants, etc. (Cen, 2009). At the same time, the development of shipping industry is closely linked to domestic shipbuilding industry, marine machinery manufacturing, port construction and other related industries, and the expansion of its own fleet is also beneficial to the development of the industry mentioned above.

4.1.1.6. It is Helpful to Protect the Interests of National Defense and Security

Attracting ships to fly Chinese flag is the need of controlling shipping resources, and maintaining national security interests. If a country's fleet is limited, when in emergent situation the war, or other emergencies, it will not be able to ensure the normal order of the international transportation effectively, and not be able to satisfy the needs of national security. So from this perspective, the establishment of the ISR system has a certain political meaning.

4.1.2. Positive Impact in Micro Level

4.1.2.1. It is Beneficial for Shipowner's Interests

For the ship owners of ISR, on one hand, it can reduce the ship management costs, save money on the crew salary expenses and relevant taxes, shorten the cycle of ship in operation, and achieve effective cost control effect under the preferential policies of the system. On the other hand, the Administrations of China will still strengthen the safety management and control on crew training, safety management of shipping companies, so as to reduce the probability of ship accidents, leading to rise of the ship and its company's reputation, and reduce the possibility of punishment in PSC inspection, which can effectively reduce the risk of the operation.

4.1.2.2. It is Helpful for the Interests of the Crew

Under the ISR system, ships are managed and controlled by China, which prevent the occurrence of low standard ships prevailing in countries of FOC, and ensure the safety of the ship, and improve the working environment and work safety for the crew as well. At the same time, under the ISR system, only qualified crew can work on board ships, which has enhanced the quality of the crew on board, also increase the guarantee of safety. At the same time, the ISR system increase ships flying Flag of China, which can promote the related industries of shipping, and increase the job opportunities for Chinese seafarers, and the number of ship registration in China as well.

4.2. Analysis on Necessity of Implementation of ISR System in Guangzhou Free Trade Area

4.2.1. The Necessary Approach the Construction of International Shipping Center in Guangzhou

Globally, the most economically developed cities are port cities. Even the interior cities like Paris, Moscow, also respectively take Port of Le Havre and Port of St. Petersburg as the port of estuary with shipping extension services. As early as two thousand years ago, Guangzhou has developed its own ocean routes, initially formed a water transport of goods, shipbuilding and other port industry, and traded with other

countries frequently. Under the background of "One Belt and One Road Initiative" in China, in 2015, the Guangzhou municipal government issued the "3-year Action Plan of Constructing Guangzhou International Shipping Center (2015-2017)", in order to further promote the development of port and marine transformation, speed up the development of modern logistics industry, perfect the modern logistics infrastructure, and expand the area of services and functions (SCIO, 2015).

International shipping center is a port city as an organic integration of port berths, multimodal transport, distribution, transshipment, business finance, international market, and other functions, which have very strong radiation of services. Compared with other shipping centers in the world, such as London, Hong Kong and Singapore, as well as Shanghai in China, Guangzhou still has a long way to go, even still lie at the bottom of the Global shipping value chain. The most important factor is the limitation of policies in Guangzhou port, especially the limitation from the Close Registry system in China. The establishment of Guangzhou free trade area provides a good opportunity to the development of Guangzhou Port, and the construction of navigation junction and financial reform. Therefore, it is very important to introduce innovation of ship registration system in free trade area, and attract more Chinese ships registered abroad to return, and break the bottleneck in the development of Guangzhou shipping center as far as possible, so as to improve the status of Guangzhou as an international shipping center.

4.2.2. The Inadaptability of the Close Registry System in Free Trade Area

The existing close registry of China mainly includes the Maritime Law of the People's Republic of China, the Maritime Traffic Safety Law of the People's Republic of China, Regulation of Ship Registration of the People's Republic of China, and other relevant laws and regulations. These laws have strict restrictions on registration in respects of ownership, manning, port of registry, etc. For instance, in the aspect of ownership registration, according to the Regulation of Ship Registration of the People's Republic of China, only Chinese citizens or Chinese legal person can own ships flying flag of

China. For Sino-foreign joint ventures, the total Chinese investment shall not be less than 50%. In respect of manning, Chinese ship shall only employ Chinese crew, when in case foreign seafarers are needed, it shall be submitted to the department in charge of transportation under the state council for approval.

Under the close system of ship registration, conditions of ship registration are strictly limited; nevertheless, there are problems such as over-complicated registration procedure, heavy taxes and fees. A Chinese FTA has the characteristics of “inside the national border but outside the customs territory”, that determines the rules in the area will be different from the domestic common rules. Currently China carries out the Close Registry system, which deviates from the open and efficient spirit the free trade area. First of all, the Close Registry keep a lot of Chinese ships out because of the strict registration conditions. Secondly, the procedures of censorship of the Close Registry system are complicated and inefficient. Finally, for the ship owner, the tax burden is very heavy, which decrease the attraction to ship owner, and is harmful to the expansion of free trade area.

4.3. Analysis on Feasibility of the Implementing ISR System in Guangzhou FTA

At present, the time of implementing the ISR system in Guangzhou free trade area is mature, mainly reflected in the following aspects:

4.3.1. The Superior Geographical Conditions of the Port

Guangzhou is China's southern door, national central city, and the economic center of the Pearl River Delta with comparatively complete system of manufacturing and services industries, that over one tenth of the world's consumption products are made here. Guangzhou port is located in the Pearl River estuary and the heartland the pearl river delta, which has the minimum weighted average economic distance to the product sourcing destinations. Guangzhou has the advantage of great superiority of transportation cost, and is the main transshipment port of raw materials, energy supplies and foreign trade; meanwhile, it is also China's main coastal ports and

container port, and an important hub of national comprehensive transportation system. At present, Guangzhou port has established relationships of cooperation with over 20 international ports, trading with more than 400 ports in over 100 countries and regions in the world. Guangzhou Nansha Port alone, Top 20 world shipping companies have started 49 international container liner services here. In 2013 alone, cargo throughputs of Guangzhou Nansha Port reached 209 million tons, 10.45% more than last year. Container transportation reached 10.32 million TEU. In addition, Guangzhou cooperates with Hong Kong closely, which is helpful to learn from advanced international experience.

4.3.2. The Developing International Shipping Center

At present, Guangzhou is accelerating the construction of international finance shipping center, setting up professional financial institutions such as shipping financial leasing, shipping insurance, etc., exploring shipping financing reform, and supporting qualified financial institutions to set up the industrial investment fund. In 2012, Guangzhou shipping exchange officially settled in Guangzhou Nansha port, which fully exploited the business of ship trading, shipping human resources, commodities trading, shipping market and financial information.

4.3.3. National Strategic Positioning of Guangzhou Nansha

In September 2012, Guangzhou Nansha area became the sixth state-level new economic area of China, which can be deemed as the special support from the central government in respect of administrative and economic policies. That means, the Guangzhou FTA has more autonomy and flexibility in the aspect of policymaking and law making. And that is exactly the policy foundation of the establishment of ISR system, and it provides a very good opportunity to establish the ISR system in Guangzhou port.

CHAPTER V
THE SYSTEM DESIGN ISR SYSTEM IMPLEMENTING IN CHINA
GUANGZHOU FREE TRADE AREA

5.1. The Legal Design of ISR System

5.1.1. Independent Legislation

From the position of development of the free trade area, the purpose of establishing free trade area is not striving for preferential policies, but focusing on system innovation. Since the issue of the Regulation of Ship Registration Management of China, China's economic environment has changed a lot, and many laws and regulations cannot meet the needs of the current development of free trade area. Changing the existing ship registration system and establishing a new legal system is the trend of the times.

There are mainly two means of practice that countries in the world endow legitimacy to the ISR system. One way is modifying of existing ship registration law and adding relevant provisions of the international registration system in it, while another way is to additionally make independent and specialized laws for international registration system. Most countries implementing ISR system choose the latter. For instance, Norway regulated the ISR by the Norwegian ISR Law (NIS). By modifying the existing registration system to set up ISR, the former way of legislation mentioned above still has to modify the other laws and regulations in cooperation, which is likely to cause confusion and duplication in legislation and result in legislative waste of resources. In contrast, the form of independent legislation can ensure the consistency and comprehensiveness, thus it is proposed that China shall take the current practices in world as reference, to stipulate specialized regulation or law of ISR, so as to provide basis for the implementation of ISR system.

5.1.2. Specific Rules

5.1.2.1. Ships of Registration

Because the purpose of the ISR system in the free trade area is to attract ships owned Chinese owner to return back, thus, the ownership of ships registered under ISR system shall belong to Chinese owner, that the proportion of Chinese owner in ownership should not be less than 50%. Specifically ships as below can be accepted in registration in China:

- a) Ships owned or managed by Chinese citizens which have a domicile or place of business in China.
- b) Ships owned or managed by companies set up in China in compliance with the laws of the People's Republic of China. At the same time, the Chinese capital contribution to the enterprise should be not less than 50%.
- c) Joint-owned Ship owned by Chinese citizens or companies or foreign citizens or companies in accordance with the provision a) and b), in case that, the proportion of Chinese capital shall not be less than 50%.

In respect of ship's type, ships allowed to apply international nationality registration should be restricted to those merchant ships built or bought by Chinese owner or companies abroad, exclusive of engineering vessel and fishing vessel, scientific investigation ship, etc., in order to protect the domestic right of navigation and the domestic shipping market, so as to avoid harmful competition to domestic shipping market brought by ships of international nationality.

5.1.2.2. Tax of preferential

In respect of taxes, taking advantages of flexible policy in the free trade area, the following benefits could be considered:

- (1) Exemption of Business Tax;
- (2) Exemption of Fixed assets tax of ships;
- (1) Exemption of income tax, implementing tonnage tax, and tax on profits based on ship's tonnage, rather than the actual operation profit of the company;
- (2) For ships bought in bank loans to buy ships, Vehicle and Vessel Tax should be exempted within the prescribed time of repayments;

- (3) Properly reduce the registration fee;
- (4) Cancel the Compulsory pilotage and reduce the pilotage fee;
- (5) Properly reduce other fees.

5.1.2.3. Crew Manning

Because of Chinese crew's low wages with strong competitiveness in the international shipping market, most China shipowners prefer employing Chinese seafarer, and so do the foreign shipowners, based on the consideration of operation cost. Therefore, relaxing the condition of manning to a certain extent will not impact on the employment market of Chinese crew immediately, instead, it helps to make full use of international crew labor market, in addition, a moderate competition is also helpful for the crew to improve their own quality in our country. However, considering the China's cheap labour has gradually reduced in the market, it should make a certain balance in legislation on the condition of manning. For example, ships flying Chinese Flag can employ no more than 50% foreign crew members; besides that the senior seafarers including the master and chief engineer must be Chinese. Moreover, foreign seafarers working in ships flying Chinese Flag shall hold the certificates issued by the parties of STCW Convention, and get endorsed the Chinese Maritime Administration. The senior officers dominated by Chinese can guarantee the control of the ship.

5.1.2.4. The Safe and Technical Standards of Ship

Effective supervision and control on Ship safety and technical standards is an effective means to reduce the risk and ensure the shipping economic benefits. Thus, the safe and technical standard is a important part of the ISR system. In respect of technical condition especially the age of ship may be extended appropriately, it must be compliance with the requirements of recognized agency, such as classification society.

In China, the China Classification Society (CCS) has the authority in ship survey and inspection technology, and it should be authorized as the only vessel survey agency,

which can make our country's survey level synonymous with international standards. At the same time, it is suggested to recognize other ROs, such as members of International Association of Classification Societies (IACS). Through introducing classification society of the developed shipping countries such as Norway, British, Japan, German, etc., it is beneficial for Chinese ocean-going ships to place the technical surveys in respects of Construction Survey, Annual Survey, and Special Survey, etc., under the control of other ROs from the developed shipping countries, which would make the ships keeping in good technical conditions, and promote the survey level of China.

In respect of application of safety laws and regulations, ships have the nationality of China whose flag they are entitled to fly. Thus, according to the applicable legal principles, it is applicable to the Chinese existing safety laws and inspection standard, and the international conventions which have entered into force in China, that will be beneficial for the Chinese maritime administration to strengthen the safety management on ships. The Oversea Ship Registration Isle of Man of Britain, Kerr Glen Island of France's overseas registration system, and the Norway ISR all follow this approach, practice also proved that such regulatory standards is beneficial to protect ship's safety of the Flag State (Xu, 2010).

5.2. Improvement the Supporting Legal System

To establish ISR system, besides specialized legislation, it also needs to improve the relevant legal environment, in order to ensure the effective implementation of the system in good operation.

5.2.1. Rationalize the ship registration system

It is proposed to add the rules of ISR system to the existing laws, and speed up the modification of the Regulation of Ship Registration of China, and upgrade the Regulation of Ship Registration of China to the Law of Ship Registration of China in appropriate timing. In order to cooperate with the implementation of international

registration system, it is proposed to modify the Maritime Law of China and the Regulation of Ship Registration of China, adding with relevant rules of ISR system, in order to endow domestic legitimacy to the system. At the same time, accelerating developing the China Shipping Law, regulating the routes of ships servicing in, that ships registered under the ISR system shall only engage in the international routes, exclusive in domestic transportation, so as to protect the national shipping rights.

5.2.2. Further rationalize and specify the relevant provisions of registration

At first, China should draw lessons from other countries, adopt the certificate of a combination of the ownership registration and nationality registration, which can not only realize the function of registration certificate, but also can improve the management efficiency. Secondly, the registration administration should cope with relationship between the ship survey and the ownership registration, and cancel the existing registration requirement that the owner must get certificated with nationality registration before getting certificates of survey, and allow the shipowner choose the precedence of arrangement of nationality registration and survey as needed. Finally, the registration administration should further specify the relevant provisions of registration, and make more clear and reasonable regulations for the application of registration, such as the documents, procedure, etc.

5.2.3. Improvement of the Inquiry System of Ship Registration

In terms of the inquiry system of ship registration in China, the Administration should extend the inquiry range of the ship registration, and confirm the public right to query the documents of ship registration through legislation. In addition, the obligation service of inquiry of the Administration should also be confirm, and the reasonable inquiry fee charged the Administration should surely be allowed.

5.3. Improvement the Legal System of Tax

Due to fierce competition in the international shipping market, especially under the influence of the international financial crisis, competition between shipping

enterprises has changed from the basic shipping price to the overall logistics service value, so that shipping companies have to face pressure to reduce operating costs and improve the service level, and in the cost of shipping enterprises, tax occupies the important position. The purpose of introducing the ISR system is to attract the ships registered abroad to return back, through preferential tax, the important characteristic of ISR. Therefore, in order to achieve the purpose of the international registration system, it is needed to take advantages of policies in the free trade area, and introduce more flexible tax system.

5.3.1. Increase the tax breaks

Tax does not always increase with the improvement of tax rate; instead, when the tax rate reaches a certain point, the total revenue will turn down (Liu and Wang, 2005). China's current import duty & VAT of ship has actually entered in misdirection, which has made shipping import market shrinking. This approach not only influenced the tax revenues, but also violated the purpose on protecting domestic shipbuilding industry. Therefore, China should apply the exemption treatment of import duties and VAT to the imported shipping and shipbuilding equipment and materials. At the same time, it (who?) shall increase the preferential tax policies for shipping enterprises, especially for ships registered under the ISR system, a more relaxed and should be introduced. In addition, accelerated depreciation should be introduced to shorten the period depreciation, so as to reduce the taxable profit ratio and increase the tax burden.

5.3.1.1. Improvement of the Mechanism of Tax Breaks

On one side, China should focus on building various and flexible comprehensive tax system in the FTA, which can cover the whole process from the construction, operation, and recycling of ships. On the other hand, the tax breaks should tilt towards the domestic owners on a basis of balance, so as to promote the development of domestic shipping industry.

5.3.1.2. Innovation of Preferential Tax Policy

When making preferential tax policies in the FTA, certain innovations should be introduced to promote the national shipping industry. It (who?) can take examples by other countries to establish a specialized Fund, and delay to tax on the money in deposit, and stipulate that, tax will be exemption in case the money in the Fund is used to build or reconstruct ships in the Flag State.

At the same time, the taxation system - tonnage tax principle currently prevailing in many shipping powers should be introduced, which is based on tonnage profits, rather than actual operating profit of the company. This move can promote the shipping industry to keep in line with international standards, create a fair competition environment and promote the development of shipping industry.

5.4 Improvement of Ship Financing

International shipping industry is capital-intensive industry. Most capital of ship enterprises exists as fixed capital in a form of ship. Ship companies need an enormous sum of money raised through all kinds of foreign financing to meet the needs of the daily operation and development (Yang, 2012). The domestic shipbuilding financing policies, no matter lending rates or loan terms, has been more stringent than foreign countries for years, leading that more and more domestic shipping companies transfer to obtain foreign preferential shipbuilding loans, and build ships abroad, and eventually flag out. In order to make actual effectiveness of ISR system and to attract the ship registration effect, the financing environment of ships must be improved.

a) Providing a more favorable credit conditions

China shall provide more favorable credit conditions to shipping enterprises, such as policy-based lending of low interest, and promise e a longer repayment period, etc. In this respect, China should draw lessons from the practice of the British, which has provided supportive policy of low interest loans for shipping investment for a long time, that the loan ratio can reach 80% of the price of the ship.

b) Introducing differential interest rate

First of all, loans of shipping industry and that of other industries are different, and the former should be given more preferential treatment. Secondly, the different shipping companies of different credit records apply to different interest rates, for instance, shipping enterprises of good credit records or with strong ability to resist risks may apply to lower interest rates.

c) Improving financial institutions and financing method

At present, the shipping assessment system of bank is equal to other industries, which is not reasonable, because the shipping industry belongs to high-risk industry. Financial institutions should strengthen its cooperation with shipping-related professional organizations, and establish a reasonable assessment system for shipping and shipbuilding. In respect of financing, the pilot should be in the free trade area, China should actively introduce new financing ways of pilot, such as mortgage guarantee for ships under construction, Debt Financing, etc. in FTA.

CHAPTER VI THE CONCLUSION

As a new-developed ship nationality registration which balances the pros and cons of the Close Registry and the Open registry, the ISR system plays an important role in preventing domestic ships flagging out and promoting the national shipping industry in the traditional maritime powers like Norway, Sweden, etc. The author comprehensively analyses the current development trend of ship registration model in the world, together with the development of shipping industry in China, and concludes that the ISR system is more suitable for ship registration in China's FTA. Openness and efficiency in the free trade area has also created favorable conditions for the ship registration system.

Optimizing the ship registration system on the basis of the "ISR system" need to carefully determine the loose degree of ship registration conditions, simplify the registration procedures, improve the efficiency of registration, reduce the tax burden of the shipowner, and at the same time, improve supporting system of ship registration.

When implementing ISR system in the Guangzhou Free Trade Area, the right balance is needed to avoid becoming FOC system, due to the lack of necessary regulatory. In addition, specific regulations in detail are needed to avoid lack of operability. Moreover, convenient conditions for the return of Chinese international ships registered abroad should be introduced, to avoid the increase the cost of owner.

References

Cai, T. (2013). The Evolution of Japanese Shipping Policy. *China Water Transport*. (12): 31.

Celika, M. & Kandakoglu, A. (2012). Maritime Policy Development against Ship Flagging out Dilemma using a Fuzzy Quantified SWOT Analysis. *Maritime Policy & Management*. (4) : 403.

Cen, M. H. (2009). Research on Trial of International Ship Registry of Our Country. *China Market*. (41):68-69.

CINNET. (2005) Russia's Approval of a New International Ship Registration System. *Maritime Laws Communication*. (4) :6.

Haralambides, H. E. & Yang, J. Q. (2003). A Fuzzy Set Theory Approach to Flagging out: Towards A new Chinese Shipping Policy. *Marine Policy*. 1: 13- 22.

IMO. (1987). Consideration the report of the administrative. London: IMO.

IMO. (1989). Annual Review of Ocean Affairs: Law and Polity, Main Documents, London: UNIFO Publishers Inc.: (1)223.

Jiang, H. Y. & Chen, F. (2004). Influence of Ship Resignation System to the Chinese Shipping. *World Shipping*. (27):31-32.

Lillie, N. (2004). Global Collective Bargaining on Flag of Convenience Shipping. *British Journal of Industrial Relations*. (1): 47-67.

Liu, T. T. & Wang, Q. X. (2005). The Comparison of Chinese and Foreign International Shipping Industry Tax System. *International Taxation In China*. (9) :46-49.

Lu, J. L. (2009). Abuse and Countermeasure About Flag of Convenience. *Journal of Jimei University(Natural Science)*.(1): 44-47.

Mizukami, C. (2000). *The Nationality of Ships and the Nationality of Ships Flying Flags of Convenience*. Dalian: Dalian Maritime University Press: 60.

Ouyang, C. X. (2014). FTZ triggers a boom of international shipping center construction, the international shipping center faces new development opportunity. *China Securities Journal*. (A03).

Power, V. J. G. (1992). *EC shipping law*. London: Lloyd' s of London Press: 167.

Quan, S. X. (1999). The Norwegian International Ship Register. *China Water Transport*. (5) :39.

SCIO. (2015). Guangzhou to Build the International Shipping Center. Retrieved from: <http://www.scio.gov.cn/dfbd/dfbd/Document/1454669/1454669.htm>.

Si, Y. Z. (1999). *The New Edition of Maritime Law*. Dalian: Dalian Maritime University Press:30.

Si, Y. Z., & Hu, Z. L. (2006). *The New Edition of Maritime Law (The Second Edition)*. Dalian: Dalian Maritime University Press.

Tetley, W. (2004). *Glossary of Maritime Law Terms*. Montreal: McGill: 168.

Tetley, W. (2004). *Glossary of Maritime Law Terms*. Montreal: McGill: 271.

UN. (2013). *Review of maritime transport 2013*. Retrieved from: <http://unctad.org/en/pages/PublicationWebflyer.aspx?publicationid=753>.

UN. (2014). *Review of maritime transport 2014*. Retrieved from: <http://unctad.org/en/pages/PublicationWebflyer.aspx?publicationid=1068>.

Wang, S. M., Yang, X., & Li, R. K. (2015). Study on the legal problems of implementing the international ship registration system in Shanghai Pilot Free trade area. *Chinese Journal of Maritime Law*. 26 (2): 103-112.

Wang, X. F. & Zhu, Y. Z. (2005). Legal Nature of Ship Registration Act and Legal Responsibility of both Parties. *World Shipping*. 28(3) :34-36.

Wang, Z. J. (2003). *Introduction to Civil Law*. Beijing: China University of Political Science and Law Press.76.

Xu, J. (2010). *A Study on Secondary Registry and Related Legal Issues of Its Establishment in China*. Master Dissertation. Retrieved from: <http://www.cnki.net>.

Yang, H. T. (2013). *Research on the Legal System of International Vessel Registration*. Doctorial Dissertation. Retrieved from: <http://www.cnki.net>.

Yang, J. N. (2012). *Study on the Market Capacity Forecasting and Decision-Making of Ship Finance of Shipping Company in Our Country*. Master Dissertation. Retrieved from: <http://www.cnki.net>.

Yang, L. Y. (2003). *Ship Finance & Mortgage*. Dalian: Dalian Maritime University Press: 24.

Zhang, X. P. (2004). *The Maritime Law (The Second Edition)*. Taiwan: Wu-Nan Book Inc:35.