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## Research on mortgage of ocean-going vessel under construction

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**WORLD MARITIME UNIVERSITY**

Dalian, China

**RESEARCH ON MORTGAGE OF OCEAN-GOING  
VESSEL UNDER CONSTRUCTION**

By

**XiaoPeng**

**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**

**(MARITIME SAFETY AND  
ENVIRONMENT MANAGEMENT)**

**2017**

## **DECLARATION**

I certify that all the material in this research paper that is not my own work has been identified, and that no material is 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): Xiao Peng

(Date): June 13, 2017

Supervised by: Jiang Yue-chuan

Professor of Dalian Maritime University

Assessor:

Co-assessor:

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## ABSTRACT

Title of Dissertation: **Research on Mortgage of Ocean-going Vessel under Construction**

Degree: **MSc**

Building of ocean-going vessels is usually a time-consuming and costly activity. The shipyard or the buyer usually needs to find a certain source of funds to complete the construction of the vessel. There are many ways of financing shipbuilding, but in many cases these methods do not meet the financing requirements of ship construction. In this case, the capital needed to build the ship becomes a problem. Since banks are often willing to obtain security for the loan, if the vessel under construction can be mortgaged, it is easy to solve the problem of the funds needed for the construction of the vessels.

In this paper, the mortgage of the vessels under construction is studied. The main purpose is to define the concept of vessels mortgage in construction and find out its existing problems. On the basis of the above, the author puts forward some suggestions on the mortgage of the vessels under construction in Chinese law.

The dispute about the legal status of the ship under construction is largely due to the actual conditions in the design and construction of the vessel. Therefore, the construction process of the ship is also briefly introduced. The definition, legal characteristics and main financing modes of vessels under construction are also discussed. It lays the groundwork for discussing the mortgage of the vessel under construction in detail later. The next part discusses some of the most important issues concerning the mortgage of the vessel under construction. These problems include establishment of the mortgage of the vessel under construction, the validity of the mortgage of the ship under construction, the insurance of the ship under construction, and realization of the mortgage of the ship under construction.

As a matter of fact, many risks may exist in the practice of ship mortgage in construction, especially in developing countries such as China, where maritime laws are not perfect. The mortgage of ships under construction may be exposed to risks due to the ambiguity of various laws. This risk arises both in the domestic and in the legal conflicts among states. On the basis of above analysis, the paper puts forward some legislative proposals to avoid these risks and, especially in view of China's ship registration system, gives some suggestion on the basis of analyzing its characteristics.

**KEY WORDS:** Mortgage, Vessel under Construction, Vessel Construction, yVessel Registration System, Legal Risks

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## **1.Introduction**

Modern shipbuilding industry is a highly concentrated industry of capital and technology. The construction of a modern ship, which often needs tens of millions of dollars, could take several years to finance. Moreover, as the parties to the shipbuilding contract, the shipyard and the buyer cannot rely solely on their own funds to complete the construction of the ship. At the same time, since the ship construction cycle is long, and is apt to be affected by the market fluctuation, the economic risk is relatively great. Therefore neither the ship shipyard nor the shipping company is generally willing to take the risk alone. These factors make the bank loans become a common way of financing in ship building. Unfortunately, the majority of shipyard have less net worth, or less fixed assets. Thus, it is very difficult for the shipyard to obtain sufficient capital on the basis of common mortgage, which will hinder the healthy development of the shipbuilding industry.

In order to encourage the development of shipping and solve the problem in shipbuilding funds, more and more countries have set up system of mortgage for vessels under construction, which is on the basis of ownership registration system. This system not only allows the use of the ship being built or operated as a guarantee to repay the loan in shipping financing, but also allows the use of the vessel under construction as a financing guarantee. Mortgage of vessel under construction is a special form of ship mortgage. (Gu, 2007, p.2)

In this field, China's law is relatively backward. Although China has already established registration system for mortgage of vessels under construction, in practice, registration of mortgage of vessels under construction is not as perfect as people expect. The main reason is that China's relevant laws and regulations on the

mortgage of vessels under construction registration is not perfect. In practice, it is still difficult to operate effectively. Compared with developed countries, there is still much room for improvement.

## **2. Stages of vessel construction**

As we all know, the construction of vessels is a process from scratch. In different stages of construction, it is different that the scope and the number of the properties can be incorporated into the vessels under construction. Therefore, it is necessary to understand the construction process of the ship.

### 2.1 Development of shipbuilding technology

When ship construction uses riveting and other traditional processes, the hull of each ship is built with the same process. The first step is to lay the keel plate (keel-laying), then frame the vertical frame, and finally assemble the outer panel by block. This reflects the process of wooden boat construction since ancient times. First, the keel system is assembled, then frame system is installed, and finally the outer panel system is assembled. Adapted to this process is a systematic planning arrangement that includes the design of system-oriented hull construction drawings. This is a "system-oriented" process.

In 1950s, the Japanese construction workers actively applied new welding technology to replace the riveting process. They promoted the new technology of sectional shipbuilding, thus greatly speeding up shipbuilding, reducing shipbuilding costs and expanding shipbuilding output. Welding instead of riveting is a major

advance in hull construction technology in the twentieth Century. The introduction of section fabrication method means that it is easy to assemble structural parts into a part of the hull. The section can be assembled from deck parts, bulkheads and keels. Therefore, a large number of assembly operations are transferred from the berth to the nearby workshop or workshop platform, and it has become more safe, efficient and precise. Once enough sections are made, the hull can be folded one by one. In this way, hull construction evolves from the "system oriented" to the "regional oriented".

Shipbuilding technology in the world today is unevenly distributed. Some shipyards who are relatively backward still use the traditional method of shipbuilding technology like the keel shipbuilding. In the mean time, some other shipyards who have the most advanced technology have already started building ships under integration of hull, outfitting and painting. Generally speaking, the world shipbuilding technology can be divided into the following four levels:

- a. The first level is the overall manufacturing model. It builds bulk hull first, and then starts outfitting.
- b. The second level is a segmented manufacturing model. This model builds ship segments first, then starts assembling and pre-outfitting. In particular, the hull welding operation is divided into several stages. First, the parts are welded into components, and then welded into sections or segments.
- c. The third level is the lane model. As a result of the introduction of group technology, the hull adopts the method of lane construction. This model provides a scheme to carry out regional outfitting.

d. The fourth level is the integrated manufacturing model. This model refers to integration of the hull construction, outfitting and painting. It is based on the introduction of group technology and the specialization of the intermediate products.

## 2.2 Ship construction process

According to the viewpoint of modern shipbuilding technology, ship construction can be divided into three types of production, namely hull construction, ship outfitting and ship painting.

Hull construction is the production process of shipbuilding steel hull. From the sequence of production, hull construction consists of three steps: first the raw material is made into the hull parts; then the parts are assembled into sections or segments, and finally the sections or segments are assembled.

Ship outfitting is a process of production to install ship equipment, instruments, and facilities. Divided by the working region and professional points, ship outfitting includes deck outfitting, accommodation outfitting, cabin outfitting and electrical outfitting etc. Divided by the work place and construction stages, outfitting can be categorized into infield pre-outfitting, outfield section outfitting, berth outfitting and dock outfitting. The latter two are collectively referred to as the ship outfitting.

Ship painting is the process of de-rusting and painting the whole ship. According to the work sequence, ship painting can be divided into steel surface pretreatment, section de-rusting and painting primer (block painting), outside painting before launching and finishing painting before ship delivery. The latter two are collectively

referred to as the ship painting. (Tan, 2008, p.16)

Trial is an important stage in ship construction. Trial is usually divided into two parts: dock trials which include "tilt test" to determine the light load and the dead weight tonnage, test machine and other major equipment for ships. Sea trials test the operation of the ship's speed, endurance, and other characteristics of the ship in the sea such as vibration etc. The role of the trials is to demonstrate that the ship has been manufactured and that the vessel has been fully in conformity with the specifications specified in the shipbuilding contract , which mean it can be delivered. It is also demonstrated to the classification society that the relevant certificate of the vessel could be issued. In the trial stage, from a technical point of view, the ship has been constructed. The ship fully meets the legal sense of "maritime floating device". It has been called a ship. (Lin&Pi , 2015, p.5)

As far as physical condition is concerned, the scope of the ship under construction shall consist of three parts: (1) materials, machinery and equipment for the construction of a ship, such as the construction of the steel plate, the main engine, auxiliary equipment, paint, etc.. (2) hull. (3) the sections, components, and parts, that is, production after a certain process of material processing and assembly.

From the perspective of time, the construction of the ship should start from the beginning of construction project. From the angle of the process of ship construction, ship-building is a type of assembly production activity, starting from the procurement of components, machining parts, assembling fittings, then being assembled into larger parts, and finally into the ship. Therefore, ship construction starts from hull construction. And hull construction is a process to build ship hull by ship steel.

From the perspective of production sequence, ship construction consists of three parts: the raw material being made into the hull parts, the parts being assembled into components, and then the components and the parts being assembled. A ship under construction shall be always in the production and assembly. Thus the shipbuilding process begins from the construction of the ship parts and ends when the construction is finished.

### **3. Legal status of vessels under construction**

#### 3.1 Definition of vessels under construction

To discuss the legal status of a vessel under construction, it is necessary to define the definition of the vessel under construction. It is difficult to find a clear definition of the vessel under construction from the national legislation and international conventions. Most of the provisions involved in the vessel under construction come from regulations of ship mortgage. The 1967 Convention of Registration Rights of the Ship under Construction defined *vessel under construction* from the perspective of ship registration, when the ship construction contract has been entered into force or the shipyard makes statement that ships are built with its own capital, which the vessel under construction exists. The Convention also stipulated that the domestic law of each member can define the vessel under construction as ship launching site that has keel or has completed similar projects, or limited it as marked materials, machinery and equipment with clear signs or other methods in the area of shipyard which will be installed in the ship. Taking China as an example, China's Maritime Law does not have a very clear definition of vessel under construction. In 1994, the former Harbour Supervision Bureau of the Ministry of Transport (now the Maritime

Safety Administration) defined the vessel under construction in a document called Ship Registration Ordinance of People's Republic of China as ship that has been installed the keel or in similar stage of construction.

In academic circles, scholars have different definitions of ships under construction. Some scholars define the ships under construction in two aspects: time and material. They believe that a ship under construction is a general term for the materials, machinery and equipment that will be used for the construction of a particular ship under the possession of the shipyard. It is believed that the vessel under construction is the sum of all the materials and parts used for the construction of the ship before the completion of the shipbuilding contract and the delivery of the ship to the buyer. Some scholars define vessel under construction by the beginning of the ship construction. They think that when the ship is built for the lofting of a particular ship or the first steel plate cutting, it begins to complete the construction of a ship, and gives the time when the ship is built. Some scholars in Taiwan believe that a ship under construction refers to a ship after the time that it has been placed its keel or some other process equivalent to the keel and before the time that it becomes a ship under the maritime code.

The author believes that ship building is actually the process of transforming a particular material, machine and equipment into a ship by shipyard's technology. In the construction process, the value and scope of vessels under construction are constantly changing and growing. It is hard to say which stage or time is the reasonable starting point. During the construction, the ship itself is not a ship in the true sense. It has neither the external physical form of a ship, nor the capability of navigation, and it cannot exert the power of a ship. Therefore, taking the signature of shipbuilding contract or keel placement as the starting point of vessel under

construction is of no practical significance.

As for the definition of vessel under construction, the author consents that the definition in Ship Registration Ordinance of People's Republic of China is reasonable. In general, when the vessel has been laid keel or at a similar stage, the vessel building equipment, hull and other parts have some mortgage value. By this time, the shipyard is able to prove that they have the will to complete the construction of the vessel. To some extent, Banks' mortgage equity can be guaranteed.

### 3.2 Legal nature of vessels under construction

According to the theory of "one thing and one right" of the traditional property law, the object of property must be independent. However, the vessel under construction consists of many parts that include the materials, machinery and equipment which will be used for the construction of the ship. As long as no construction has been completed, the ship under construction is still not legally independent, but rather a sum of all kinds of materials, equipment and machinery, which is a relatively independent part of the ship under construction. (Zhu, 2016, p.23)

Vessels under construction, whether considered individually or as a whole, belong to movable property. But as the object of mortgage, it shall be regarded as the immovable mortgage of the shipyard, for the reason that once a vessel under construction is disassembled, the disassembly will be detrimental to the full realization of its ultimate value. This characteristic makes the traditional ordinary chattel mortgage system hard to be applied to the mortgage of the vessel under construction. The author believes that ships under construction should be set

mortgage as universitates.

The so-called universitates is the whole of lots of independent object for the same purpose to exerts its utility, including the collection of things in fact and the set of things in law. Universitates is not the meaning of the description of "property", nor is it a description of mutual benefits of several independent log, but a description of property status not available in the field of exchange when they are separated. To this end, universitates shall be the sum of several different kinds of independent entities when they are integrated into the exchange.

The vessel under construction is composed of the parts of the ship that have been constructed and the materials, machinery and equipment that will be used for the construction of the ship. The vessel under construction can become the subject of mortgage, precisely because of the value of these materials, machines and equipment that have certain value under certain conditions. This value is something that cannot be formed in the presence of these alone. This is consistent with the properties of the universitates.

### 3.3 Major financing methods for construction of vessels

The key question surrounding the negotiation and performance of any shipbuilding project is how to obtain sufficient funds to complete the construction, which is called ship financing. In recent years, the rapid development of shipbuilding technology has led to a situation that although a lot of ships' physical life is not over, their economic life has ended, which eventually urges the shipping enterprises to update the ships constantly. On the one hand, the shipping enterprises should renew the ship. However,

the huge amount of money spent on shipbuilding is often not affordable by their own funds. Thus it is necessary to look for ways of financing. On the other hand, the amount of capital it receives is very large. Although shipyards can generally receive a certain percentage of advance money for each ship they build, each vessel may have a huge funding gap that needs to be financed. Therefore, in practice, the financing of new shipbuilding is generally divided into two categories, namely the financing provided by the shipyard (shipyard) and the financing provided by the buyer (shipping company). When the shipyard or the buyer goes to finance it, finding an ideal way is the key to guaranteeing the development of shipbuilding projects. The following parts will introduce major methods of vessel construction. (Zhu, 2005, p.15)

### 3.3.1 Stock financing

In the shipping industry, the practice of shipowners in raising equity funds by issuing shares became popular in the late 1980s. At present, only a few of the stronger shipping enterprises in the domestic stock exchange list transactions, to become listed companies, such as NOL, Maersk, COSCO Group and other international well-known shipping companies that have been listed on the stock exchange. Therefore, when these enterprises make investment decisions in new shipbuilding, they can raise new shares in the stock market with certain conditions to financing. The advantage of this financing approach is that the company has no debt burden and does not have to pay principal and interest. Moreover, as the shipping market has a great relationship with the international financial market, international politics, economic situation and international trade, the shipping industry has greater

operational risks, and it can spread the operational risks through the issuance of shares. In addition, for enterprises with good reputation, high management level and high profitability, they can issue shares at a premium level and earn the needed shipbuilding money with fewer shares. The issuance of shares reduces the financing costs of an enterprise.

Nevertheless, this financing has not played a widespread role in China's shipping financing. The reasons are as follows: first, many potential investors believe that the investment in shipping industry is too risky, which makes it difficult for the general listed companies to raise funds in the stock market. Secondly, the conditions for issuing new shares are relatively strict, which are stipulated in the Chinese Company Law: a. The issuance of new shares must be continuously profitable over the last 3 years, and dividends can be paid to shareholders. b. There is more than one year interval from the previous issue of shares which has been raised. c. The company's expected profit exceeds the bank deposit rate at the same period.

Sometimes, when the market is bad, it may lead to a loss in the short term and fail to meet the requirements of the above-mentioned statutory issuance of new shares. Third, many small and medium-sized shipping enterprises which have not listed qualifications have no intention to use this mode of financing.

### 3.3.2 Issuance of commercial bonds

In the capital market, raising long-term funds by issuing bonds is a common financing way for modern enterprises. At present, the world's most important bond

markets are the European bond market, the U.S. bond market, and the Japanese bond market. The advantages of issuing bond financing are expanding the scope of fund-raising, extending the term and expanding the amount of financing. Moreover, the funds raised by the bond can be freely used without having to be linked to the project. Bond financing can be flexibly arranged on the date of repayment. The financing of issuing international bonds can also enhance the reputation of issuers and create conditions for the financing of international financial markets in favourable conditions. However, the issuance of bonds, after all, is a debt management, the premise must be that enterprises have a certain solvency. Therefore, the law also has certain restrictions on the issuance of bonds by the company, thus depriving the shipping enterprises of small size, small assets and poor operating conditions of making use of the opportunities for issuing bond financing. In addition, the financing method also has its inherent shortcomings, such as high interest and high costs. Bond rates plus various fees are often not lower than commercial bank lending rates. Bond issuance takes a long time to prepare; the government of the place of issue has many restrictions.

### 3.3.3 Loans

Loan is a traditional mode of ship financing. Financial institutions operate such businesses by aggregating a variety of restricted funds and lending them to shipping enterprises, so that shipping enterprises can easily raise the funds needed for ship building. According to the supplier of the loan, ship loans are mainly divided into government loans and bank loans.

Government loans are divided into two categories. The first kind of government loan is the way the government uses interest rates to subsidize loans from state-controlled banks to borrowers at lower interest rates than market rates. This kind of loan from the government of our country is actually a kind of subsidy for the shipbuilding of domestic enterprises by the national shipping government. In the middle and late 1970s, it played a great supporting role in the development of the world shipping market. Now, some developing countries are paying more attention to the financing of the airline industry. Another kind of government loan is the credit relationship between the borrower country and the loan country directly with the national budget funds, which belongs to the international government loan. Most of these government loans are bilateral government aid loans, and the minority is multilateral aid loans. It is a form of national capital export.

#### 3.3.4 Mortgage of vessels under construction

The issuance of shares and the issuance of bonds, of course, can bring enterprises a lot of benefits, but it cannot fundamentally solve the small and medium-sized shipping or shipbuilding enterprises' new shipbuilding financing problems. The government loan is an alternative. In some case, the government loan seems to be the only practical way of shipbuilding financing of domestic small and medium-sized shipping and shipbuilding enterprises. However, due to the world shipping industry downturn, it is not easy for shipping and shipbuilding enterprises to obtain loans, which means they must find a more reliable way of financing.

At present, ship mortgage financing is quite common in China's ship financing

practice, yet mortgage loans of vessels under construction haven't been widely used so far. The main reason is that compared with the traditional mortgage, the most striking characteristic of the mortgage of vessels under construction is the uncertainty of the mortgaged property. It is precisely because of the characteristics of vessels under construction. This form of financing has a greater risk to the mortgage holder, so it is not easy to be accepted. At the same time, in China's existent law, related provisions for the vessels under construction mortgage are still deficient, and the current study in the law circle is quite scarce. Many problems existing in the practice have not been solved yet. These deficiencies have greatly restricted the development of mortgage credit in the ship.

#### **4. Legal problems faced by the mortgage of vessels under construction**

##### 4.1 Establishment of mortgage right of vessels under construction

In the traditional guarantee legal system, property security is typical of mortgage. Mortgaged property is generally tangible and has a fixed value. The property form, however, contains tangible and intangible property, complete physical objects, and objects under construction. The mortgage is a kind of value, right to sell, and the core structure of collateral is complete and not the mortgage interest. The core is whether collateral has economic value. Thus it can be seen that ships in construction, though not yet complete in shape, and have no value for independent use, they still have exchange value, which can be transferred or mortgaged.

#### 4.1.1 Mortgagor of vessels under construction

For the financing entity, it is the first thing to examine the qualifications of the parties concerned, since not all of them can set up the mortgage of the ship under construction. In accordance with Chinese law, the author analyzes the conditions for becoming a mortgagor of vessels under construction.

According to the provisions of Article 33 of the China Security Law, the debtor and the third party shall not transfer the possession of the property, which shall be deemed as the guarantee of the creditor's right. The debtor and the third party of this paragraph are the mortgagors. In accordance with Article 12 of the Maritime Code of China, the owner or owner of the ship may authorize the mortgage of the ship. From the above two legal provisions, we can draw the following conclusions: (1) the person who sets up the right of ship mortgage is not limited to the owner of the ship, but also includes the person authorized by the owner. It may be the owner's agent or a third person; (2) the person who sets up the right to mortgage the ship is not necessarily the debtor himself. The owner of the mortgage of the ship under construction must be one of the above mortgagors.

In practice, the mortgage financing of new shipbuilding is divided into two types, one is unilateral financing, that is, shipbuilding enterprises or shipping enterprises, which are responsible for all shipbuilding funds. The other is financing by both sides, that is, shipbuilding enterprises and shipping enterprises, both of which provide financing for the construction of ships. It includes the installment payment before the delivery of the ship and the deferred payment credit provided by the shipyard. This type of practice is more common. In the following part, the author cites several

different cases to introduce these two types of financing:

In case of unilateral financing, if the shipbuilding contract doesn't have advance payment provision, after shipyard accomplishes all ship construction, the buyer party can make full payment and gain the ownership of a ship. At the same time, the shipyard shall settle the shipbuilding funds, and he is also the owner of the ship under construction, so that he may become a mortgagee of the ship under construction.

If the shipbuilding contract stipulates that the buyer shall provide all the funds and materials needed for shipbuilding, the shipyard shall build the vessel only by means of his own technology, labour, etc., and the buyer shall pay remuneration to the shipyard when receiving the finished product (ship). Under the contract, the buyer is in charge of the shipbuilding fund. The nature of the contract is obviously the construction contract, to be specific, contract of hired work according to China Contract Law. The ownership of the subject (under construction) is decided by the buyer. Therefore, the buyer has the right to become a mortgagee in the ship under construction.

All of the above two cases belong to the case of the debtor and the ship owner being the same person. Sometimes, according to the shipbuilding contract, the owner of the ship and the party responsible for the construction of the vessel shall not be the same person. That is, the debtor and the owner of the ship are not the same. At this point, the one who has the right to use the ship under construction as a mortgage must be approved by all of its owners.

The financing situation between the two sides is more complicated, but the

mortgagor is relatively simple, and only the owner of the ship under construction can become a mortgagor. Because both sides want to raise money for shipbuilding, the owner of the vessel under construction must ensure their vessel has sufficient funds, while the other party can only find other ways to obtain the funds.

#### 4.1.2 Time for establishing mortgage of vessels under construction

Vessels under construction are different from ships in full sense. Shipbuilding is a process of development. For which stage can the mortgage be set up for the ships under construction, there are several different viewpoints in academic circles:

(1) some scholars believe that from the date of placing the keel, the ship can be set up under mortgage; (2) there are other scholars who believe that if a shipyard can prove the contents of his plan, the vessel can be mortgaged, without having to consider the installment of the keel as necessary; (3) the third view is that the right of mortgage can be set up when a ship is constructed from a particular lofting or when the first steel plate is cut for construction. The court of China believes that mortgage of the vessels under construction can be established during the period of time from the time lofting for the construction of the ship or when the first steel plate is cut out until the completion of the ship construction and delivery to the given buyer.

The generality of views (1) and (2) is that the shipyard or the buyer may allow the mortgage of the ship to be established when the cost of the ship's construction has not been substantially paid. The creditors in the premise of not obtaining enough guarantee under the huge amount of money lent is a great risk. From the point of view of the debtor, the purpose of setting up the mortgage in the ship under construction is to finance the fund. From the beginning of the construction of the ship,

it would certainly be advantageous to financing. But the author believes that too much emphasis on the interests of the debtor is not reasonable. However, if the mortgage is not allowed until the vessel's construction is completed, the mortgage of vessels under construction will not have its significance.

The third view and the court's point of view are relatively practical. In this case, the shipyard and the buyer has been spent a lot of expenses for ship construction. Because each ship has its own unique lofting, once the ship has been laid out in a particular way, it means that the shipyard has been ready for the construction of the contract ship. Cutting the first steel plate also shows that the shipyard begins the actual construction of the contract ship. At this time, the mortgage is not enough to ensure the interests of the lender, but it is quite guaranteed. At the same time, if the lender pays attention to the precaution of the earlier stage risks, the law can be more favorable to the lender. Under this view the establishment of mortgage will be more operational in practice.

#### 4.1.3 Registration of mortgage of vessels under construction

If a party intends to create mortgage rights, it shall conclude a mortgage contract in accordance with the law. However, the mortgage contract does not necessarily have the effect of mortgage establishment. The establishment of the mortgage must also adopt certain formula method: registration. The validity of registration varies from country to country.

In China, the registration of mortgage of vessels under construction is not necessary for registration of ownership. Since the ship under construction may not be registered in advance, it is impossible to register its name, nationality or ownership certificate.

But it is the best to register type, size, location, shipyard, and the reasons for the registration of the vessel under construction, so as to enable the public to better understand the situation in the inspection of the ship under construction.

When the vessel construction is completed, the mortgage registration of vessel under construction shall be changed. Because the period of shipbuilding financing loans is likely to exceed the ship building period, if the mortgage of vessel under construction does not change to general mortgage of ship, which means that lenders have no registration of the ship mortgage, the mortgagee might not be able to sue the third party. Unfortunately, the current legal system of China does not take into account the natural connection between the vessel under construction and the ship after construction, which means the parties have to register in accordance with the original procedure.

#### 4.2 Effectiveness of mortgage of vessel under construction

In practice, the effectiveness of mortgage of vessels under construction is also an important aspect of restricting its application.

##### 4.2.1 The scope and value of the ship under construction mortgage subject matter

The scope of the subject matter of the mortgage right means that when the mortgagee exercises his mortgage, he can have the priority of compensation from the property in the scope. Compared with the general mortgage of vessels, the mortgage of vessels under construction has its own characteristics. The scope of the property of the ship

under construction is an important part of the establishment of the mortgage. Some British scholars put forward the standard of allocation. Only materials, machinery and equipment which are clearly allocated for shipbuilding are included in the scope of mortgage. Otherwise, this part of the property can only be used as the general property of all, and the mortgage holder has no right to claim the priority. So what is a clear "allocation"? In the verdict of case *Union Bank of London v. Lenanton*, it is explained as follows: "For appropriation..... there must be some definite act, such as the affixing of the property to the vessel itself, or some definite agreement between the Parties which amounts to an assent to the property in the materials passing from the shipyards to the purchasers." (Zhu, 1996, p.12)

One understanding is that the so-called clear "allocation" is expressed through the explicit act of the client, such as, the materials and equipment being fixed on the hull of a ship or shipyard and ship making a purchase agreement. This part of property rights is transferred to the purchaser of the ship. In addition, the British scholars believe that clear "allocation" must also meet the requirements of the shipbuilding contract. In the case of *Reid v. MacBeth & Gray*, there is a batch of steel plates stuck in railway yard,. Although it has been designated as the inspector through Lloyd's particular ship, the steel plates was still regarded by the judge not belong to the scope of the ship under construction mortgage. The reason for the judge to make this decision is that such a "transfer" behavior does not meet the requirements of the shipbuilding contract. Because the construction contract specifies: the material shall be transported to the shipyard, and its ownership will be transferred to the purchase of the ship. But the steel in this case has not been stranded in the railway pile factory.

Allocation has to be expressed by specific behavior by the parties, such as the material and equipment fixed on the hull of a ship or shipyard. In addition, the

British scholars believe that allocation must also meet the requirements of the shipbuilding contract.

#### 4.2.2 The mortgaged value of vessels under construction

The scope of the vessel under construction and the mortgaged value of the vessel under construction are two aspects of a problem. The former reflects the external form of the collateral, and the latter is the intrinsic value of the collateral. To clarify these two issues is the first problem to be solved in the establishment of ship mortgage system. However, in this respect, no further specification is offered in the Maritime Code of China. So I will put forward my own legislative proposals in the following parts.

#### 4.3 Insurance of mortgaged vessels under construction

Vessels under construction can be insured. There are three forms of insurance for the mortgaged ships: the mortgagor applying for insurance, the mortgagee applying for insurance, and both the mortgagor and the mortgagee applying for insurance. Under the three modes of management, the status, rights and obligations of the mortgagee and mortgagor in the insurance contract are different.

##### 4.3.1 The mortgagor applying for insurance

This is the most common way and the usual form of ship insurance that we understand. There is a view that says when the ship owner insures the ship, the mortgagee is the policy holder and the mortgagor is the insured. Other view argues that, for ship owners, the main purpose of insuring against ship risks is to protect

their own interests. This kind of insurance also takes into account the interests of the mortgage holders. In my opinion, when the mortgagor enters into an insurance contract, he or she may be listed as the insured or the mortgagee as the insured. If the mortgagee wants to be insured, he must get the consent of the mortgagor.

#### 4.3.2 The mortgagee applying for insurance

According to the principles of insurance law, the insured must have an insurable interest in the subject-matter insured. Does the mortgagee have insurable interest for the mortgaged ship to be insured when he applies for insurance? The answer is yes. The mortgagee has the right to exercise its rights directly because the mortgaged ship itself has the function of secured mortgage's rights.

#### 4.3.3 The mortgagor and the mortgagee jointly applying for insurance

Both the mortgagor and the mortgagee have insurable interest in the mortgaged ship and may insure it in their respective name. They can also insure against the insured in a common name. At this point, the two are joint policyholders and are generally co insured. At the time of accident, the insurance company of any one of the two parties that pays for insurance can terminate their obligations without paying twice. However, the disadvantage of the mortgagee is that in accordance with Chinese law, the mortgagor and mortgagee should bear joint liability for joint insurance. Any party in violation of guarantee obligations will lead to serious consequences such as insurance exclusions. Therefore, the interests of the mortgagee should be affected by the act of the mortgagor.

The above three kinds of insurance methods have their advantages and disadvantages. After a comprehensive consideration, I am in favor of insurance with the mortgagee themselves. At the same time to reduce the existing mortgagee's own insurance ship insurance, I suggest that the department concerned in marine insurance clauses develop a suitable insurance clause in the mortgage of the ship in order to reduce the mortgagee's obligation.

#### 4.4 The realization of vessel mortgage under construction

Different from realization of those of the general ship mortgage, the mode of the judicial seizure and auction of the mortgage of the ship under construction has its own requirements. First of all, because the ship is to be designed and built to specific customer requirements, selling to other customers is unlikely. Secondly, financial institutions that provide loans are not professional in shipping. They have no interest in obtaining the ownership of the ship, and even in the case that they obtain the ownership, it is very difficult for them to seize the opportunity to sell the ship under construction at the best price.

As for the auction, even if we ignore the complicated auction procedure, the cost of the auction is too high. The price fluctuation in the shipping market and the specificity of the ship under construction also greatly reduce the possibility that the mortgage holder can recover the investment and compensate for the loss to the maximum extent. The crucial point is that the characteristics of the ship under construction determine that the value of the exchange is relative low before completion of construction. If the ship under construction was auctioned, the process of the auction sale is difficult to make up mortgage lending funds. Thus, the

traditional way to realize the mortgage is not conducive to protect the interests of the mortgage holders of vessels under construction.

In view of the disadvantages of the traditional way of mortgage realization to the protection of the owner of the ship under construction, the contract of mortgage between the two parties should be allowed to find other ways to realize the mortgage right. Especially when the mortgagor violates the loan contract and the ship is still under construction, the mortgagee shall have the right to implement the mortgage in the following way in the contract: use the facilities of the mortgagor (including the equipment and materials purchased) and the mortgagee's personnel to continue the construction of the ship until completion, and require the mortgagor to assist; or use the facilities of the mortgagor without the use of his personnel to continue to build the ship until completion, and require the mortgagor to assist; or request to transport the completed part of the vessel under construction to other location to finish building.

The above three kinds of mortgage realization have one common characteristic, that is, if possible, to keep the mortgage until the completion of the construction when the ship can achieve the perfect value. In this way, the defects of lower exchange value of the ships under construction can be avoided. This method preserves and improves the value of the mortgaged property and plays a more effective role in the financing of the mortgaged property. It is advantageous for both the mortgagor and the mortgagee. But even so, the realization of the mortgage of the ship still faces some problems. Because of the stipulations of the civil law about lien contract and the requirement of auction procedure, the typical security interests such as pledge and mortgage have the defects of complicated procedures and high cost. In the auction process, due to various factors, the subject price is often quite different from the

market price. The auction price is often lower than the market price, so that the mortgage holder has the risk of not being fully repaid.

These are adverse factors in the realization of the mortgage. To solve these problems, it is necessary to simplify the mortgage exchange procedures and enable the mortgage system to enforce the right of security in the proper and simple manner that the parties may arbitrarily determine. In this way, it can not only simplify the procedure, but also ensure relatively high value of the sale and evaluation. Thus, it is possible to make full use of the collateral value of the vessel, which is beneficial not only to the creditor, but also to the interests of debtor.

## **5. Risks of vessel mortgage under construction**

Due to the particularity of the ship under construction, the investors who are the mortgage holders of the ship under construction need to face more complex risks. These risks will be briefly discussed in the following parts.

### 5.1 The risk of physical damage to the ship

Ships under construction are likely to encounter various natural or human risks at all times. In these cases, the ship may be subject to physical damage, thereby causing damage to the interests of the mortgage holder. Because of the different locations of ships in construction phase, the risks they encounter are different, so this kind of risk can be divided into two categories: (1) risks within the ship. This is similar to the risks encountered in general construction projects. The value of the mortgaged property is reduced to varying degrees due to a variety of malignant events. (2) water risk. When the shipbuilding project enters the water trial stage, the ship under

construction becomes a floating vehicle from the stationary construction project, which is no different from the general ship. It is about to meet the risk of sailing. Adverse weather conditions such as high waves, strong winds, poor geographical conditions such as rocks, narrow channels, and crew faults can threaten the ship at any time.

The way to guard against such risks is to apply for ship insurance while dealing with the mortgage of the ship. The shipping insurance of insurance company can be divided into two types: total loss insurance and all-risk insurance. The mortgagee shall instruct the mortgagor to handle all-risk insurance. As far as ship insurance is concerned, the suitable types of insurance include insurance for ship under construction, mortgage insurance and ship building risks insurance. However, there is a problem of ship mortgage insurance in China: its cost is too high. The better way to solve this problem is to replace ship mortgage insurance with ship construction insurance and political insurance. (Zhu, 2005, p.25) In addition, there is one kind of insurance: the interest insurance of the mortgage holder, which is very helpful to the protection of the mortgage holder. The insurance of the mortgaged ship is the basic way to guarantee the mortgage financing of the ship. Theoretically, the way to protect the mortgage depends on the system of subrogation on the property. There are three types of insurance methods for this kind of insurance, that is: the mortgagor insuring the insurance, the mortgagee insuring the insurance, and the mortgagor and the mortgagee jointly insuring the insurance. When the mortgagor insures marine insurance, and the mortgagee is not the party concerned in the insurance contract, he can still obtain the transfer of the insurance interest from the mortgagor on the basis of the subrogation of the right of mortgage. But there are a number of factors that may affect their interests. When the mortgagee insures the insurance with the mortgagor, the mortgagee is the party to the insurance contract and may claim

directly with the insurer in accordance with the insurance contract. These two insurance methods ensure that the mortgage holder can effectively and easily obtain the benefits of the insurance contract, and also make him bear the obligation to inform the insured. Since the mortgagee does not control the ship, he must cooperate with the mortgagor in performing these obligations. Therefore, this largely depends on the ship owner's behavior. When the mortgagor or the insured is in a common name, the mortgagee's interests depend on the act of the mortgagor. If the insurance is invalid because of the act of the mortgagor, the interests of the mortgagee will lose the guarantee given by insurance. (Engerrand, 2006, p.11)

## 5.2 The risk of the debtor's failure to perform his obligations

As long as the mortgagor fails to perform his obligations, the mortgagee may encounter such risks before the completion of vessel's construction. First, for example, there exist the risks caused by the bankruptcy of the mortgagor. The mortgagor's bankruptcy may result in the failure of the unfinished ship and the waste of the materials. As mentioned earlier, the exchange value of uncompleted ships is much lower than that of ships built later, so it is difficult to realize the mortgage right of the mortgaged owner before the construction of the ship is completed. Secondly, there is the risk caused by the mortgagor in violation of the loan contract. When the mortgagor violates the loan contract and the vessel has not been built yet, the value of vessel under construction is relatively low.

For this risk, my legislative proposal is: if the mortgagor default occurs when the ship is still under construction, mortgagee of the vessel under construction can be actively involved, instead of relying on the mortgagor to fulfill the obligations of the shipyard shipbuilding contract. The mortgage holder may request the shipyard to

continue construction until completion. When the mortgagor is a shipyard, the mortgagee may use the facilities of the mortgagor (including his purchased equipment and materials) and the mortgagee's personnel to build the ship until completion. The mortgagee may require the mortgagor to assist in the construction process. The mortgagee may also choose to use the facilities of the mortgagor without the use of his personnel, or to transport the completed part of the vessel under construction to other site to complete the construction.

### 5.3 Risk of assignment of ship's claims

The mortgage secured by the mortgage on the ship under construction shall be discharged after the completion of the ship, and then the mortgage will be extinguished. Prior to that, the total amount of the mortgage secured claims would not exceed the value of the ship because the mortgage should not be established on the vessel under construction so as to guarantee other claims. Therefore, the realization of the mortgage of the ship under construction will not be threatened by other mortgage rights. And since the lien of the ship is not the owner of the ship, he will not be threatened by the possessory lien on the vessel. However, when the vessel under construction is launched, the possible vessel priority will threaten the mortgage of the vessel under construction. In addition, if the guarantee by the mortgage creditor does not fulfill the vessel after completion of construction, and the ship under construction mortgage registration has been changed for the mortgage of ship, the maritime liens and liens will cause risk to the mortgagee in ship construction.

It is difficult to prevent such risks, because the mortgage holders often ignore this aspect of prevention, resulting in the mortgage unable to be achieved. Therefore, it is necessary for the ship's mortgage owner to increase the tracking and supervision of

the ship's operation. Once the ship produces the above-mentioned debts, the mortgagee shall find out the cause, warn it, and instruct the mortgagor to provide financial security. The mortgagor shall be required to dissolve the aforesaid debts within a specified time limit, so as to ensure the interests of the mortgagee of the ship.

#### 5.4 The risk of conflict with laws

In the era of economic globalization and worldwide industrial division of labor, shipowners, shipyards and banks are usually located in different countries, so the mortgage financing of ships under construction has a strong foreign-related nature. There are different laws and regulations about the establishment and effectiveness of the mortgage of ship under construction, so there is often a conflict with laws. Different countries have different regulations on the mortgage of ships under construction. For example, according to the British law, a ship under construction is not a ship, but a general movable property . It can be set up as a mortgage. The usual method is to transfer the contract of building ship. In Britain, there is not such a mortgage registration system for the ship under construction. Most countries affected by British law do not have a mortgage registration system for ships under construction. China's laws are quite different from this. The fourteenth provision of China's maritime law stipulates that ships under construction may set up mortgage rights. It is obvious that there exists legal conflict in the nature of ship mortgage in construction. In Britain, for example, the mortgage of a ship under construction is carried out through the transfer of a shipbuilding contract. The transfer contract usually gives the holder the right to contract and sell the contract of the ship when the shipowner defaults. The transfer shall be binding on the shipyard and shall be notified to the shipyard. However, if the shipyard does not agree to the transfer, it is

necessary to sign an independent contract between the mortgage maker and the shipyard.

The mortgagor is the person who has the right to dispose of the mortgaged property. In general, the owner has right to dispose of the property, no matter the mortgagee has the qualification to decide whether the mortgage is valid or not. Therefore, the ownership of the vessels is critical. A ship under construction is different from a general ship, and its ownership is not clear. It is usually decided by a definite agreement in the shipbuilding contract. Generally speaking, both the common law countries and the civil law countries approve the contractual effect of the parties, but the specific circumstances are different.

Mortgage of vessels under construction has conflict with laws on both the creation and effect, including the nature of the mortgage, subject, object, setting the mortgaged ship under construction, the scope of the subject matter, and the realization of mortgage legal conflict. As for the ownership of the ship under construction, although the international community generally acknowledges the contract stipulated by the parties in the shipbuilding contract, each country has different customs and contents. And when the parties do not agree on this, they also need the domestic legislation to fill the gap, and the rules of compensation for each country are different. Legal conflicts remain inevitable.

At present, it is very difficult to formulate international uniform substantive rules in this area. Therefore, it is realistic and advisable to coordinate conflicts with the help of conflict rules. In order to balance the interests of mortgagor and the interest of the third parties after the completion of the ship construction, the applicable law should

be determined separately in terms of the publicity requirements and effectiveness of the mortgage.

## **6. Legislation and policy recommendations**

Compared with the western countries, China's laws in the maritime and financing areas are relatively backward, and there is much room for improvement. I will make my suggestions on the basis of my understanding of the law of the PRC on the mortgage of vessels under construction.

### 6.1 Registration of mortgage

The procedure of registering the mortgage of the ship under construction is not perfect yet, which hinders the development of the way of financing guarantee. The fourteenth clause of the Maritime Code of China stipulates: "the vessel under construction may set up the mortgage of the ship. A vessel under construction shall, when registering the mortgage, submit a contract for the construction of the ship to the vessel registration authority." Although the maritime law stipulates that ships can be set up under construction, the provisions of the maritime code are very general and do not involve the procedures of registration of ship mortgage in construction. Some provinces and cities in China have introduced regulations to encourage the financing of ships under construction. In some places, the maritime administrative department also provides specific measures for the registration of ship mortgage under construction, but whether it has strong operability is still subject to further inspection in practice. According to the shipyard concerned, the main problem existing in the practice of ship mortgage in construction is that the legislation of

adjusting mortgage registration procedure is not perfect. This leads to failure in establishment of ship setting mortgage, often because of difficulties in registration. (Wu & Xiao, 2015, p.10)

On June 9, 2009, the Maritime Safety Administration under the Ministry of Transport of the People's Republic of China promulgated the Interim Measures for the Registration of Mortgage of Vessels under Construction (hereinafter referred to as the Measures), thus filling the legislative gaps to some extent in this regard. The Measures stipulate that when setting mortgage of vessels under construction, the mortgagor and the mortgagee shall register to authority which is located in the area of the shipbuilding enterprise. A list of organs authorized to register the mortgage of vessel under construction has been promulgated by the Measure. The Measures also specify the methods for confirming the value of ships under construction, the registration of mortgage of vessels under construction, the registration of ownership, and the materials to be submitted for examination.

In registration of mortgage about the vessel under construction, whether the process must be based on the registration of ownership of the vessel under construction or not is still a question. Either way has its advantages and disadvantages. Considering that in practice, most of the parties are only planning to register the mortgage of the vessel under construction, but not intend to register the ownership. Therefore, the Measures, in practice, does not require the parties to be the owner in the registration of ownership of vessels under construction, but requires the parties to demonstrate by other methods to prove they are the owner of the vessels.

The provisions of the Measures for certain materials to be reviewed are not

reasonable. For example, the provisions of Article fifth: "The mortgagor and the mortgagee jointly issue the certificate that the ship has not registered ownership or mortgage right in the other registration office. Moreover, they have to issue a statement indicating that no Chinese laws, regulations and mortgage contracts are violated in that certification". Referring to provision that "The mortgagor and the mortgagee jointly issue the certificate that the ship has not registered ownership or mortgage right in the other registration office" is obviously not reasonable, because the mortgagee is usually impossible to know this matter(Jiang & Zhu, 2010, p.3 ).

## 6.2 Definition of relative legal term

The Maritime Safety Administration under the Ministry of Traffic and Transport promulgated the Interim Measures for the Registration of Mortgage of Vessels under Construction in 2009. In the Measures, many definitions in the regulation are unclear and lack of clear explanation. For example, the condition "mortgagor is construction enterprise which meets the qualification of the state and relevant administrations" in the meaning of "qualification" is not clear, and will confuse the shipbuilding enterprises and financial institutions or the ship registration authorities. For example, in the stipulation "mortgagee must be financial institutions that have loan qualification", it is difficult to identify the so-called "loan qualification". When shipbuilding enterprises want to apply for financing to overseas financial institutions, How to identify "loan qualification" of the financial institutions? Several problems like this need to be given further clear explanation. (Jiang & Zhu, 2010, p.3 )

### 6.3 Scope of mortgaged property

China's Maritime Code, Vessel Registration Ordinance and the Measures do not stipulate clearly the scope of property of the ship under construction, or the scope of the subject matter of the mortgage right of the ship under construction.

The scope of validity of ship mortgage on the construction of the subject matter should include: ship hull in the stage of construction and construction section; materials, equipment, and spare parts which will be installed to a ship etc. However, the material, equipment and components which will be installed to a ship must have been specific to be used for a certain ship construction. If a material, equipment or parts are not specific for the construction of a certain ship, it should not be included in the scope of collateral of vessels under construction. In terms of legal attributes, the vessel under construction as a subject of mortgage is a collection of virtually independent movable property. In addition, it is also important to note that when the shipyard buys machinery and equipment for the supplier for the shipbuilding, the purchase and sale contract often agrees that the supplier retains the ownership of the property before the shipyard pays the full price. Thus, in determining the scope of the effectiveness of the mortgage and the subject matter of the vessel under construction, the supplier shall retain the machinery, equipment and so forth. (Liu, 2014, p.8)

### 6.4 Ownership of vessels under construction

According to the relevant China's law provisions of the property and guarantee, to set mortgage for construction of the ship mortgage, the creditors should take property

that he owns or has right to dispose to provide collateral. Therefore, in order to make clear the mortgage of the ship under construction, it is necessary to make clear the ownership of the ship under construction. The definition of ownership is the premise of setting mortgage.

The twelfth provision of China's maritime law stipulates: the owner of a ship or the person authorized by the ship may set up the mortgage of the ship. But for the ownership of the vessels under construction, the Maritime Law of China and the newly promulgated property law don't make direct provision. In the maritime law the twenty-fifth paragraph stipulates: when the other party fails to fulfill the shipbuilding contract, the shipyard could retain the ship to ensure that the shipbuilding costs can be repaid. From this rule, it can be inferred that the possessory lien on the ship belongs to the buyer. Since a shipyard cannot hold all his own vessels, and it is of no value and significance to retain his own vessels. However, it cannot solve the ownership of the ownership of the vessel under construction, and the ownership of the vessel under construction is still very confusing. Therefore, to clarify the ownership of ship ownership under construction, it is essential to make clear the nature of shipbuilding contract first (McMahon, 1990, p.5)

First of all, shipbuilding contract is subject to the contract law. The two parties may freely reach agreement on the ownership of the vessel under construction in accordance with the principle of autonomy of the will. At present, the most common shipbuilding contract in the world, the AWES Form and SAJ Form have stipulated, during the construction of the ship, ownership shall be owned by the shipyard. The ownership of the vessel and the risk of loss shall be transferred to the buyer only after the completion of the vessel and the delivery of the vessel. This essentially follows the principle that the ownership of a sale contract is subject to delivery. At

present, Chinese shipyard uses China Shipbuilding Trading Co (CSTC) template to develop the shipbuilding contract. This template also defines the shipbuilding contract as a contract of sale, and clearly stipulates in the contract that the ownership and risks of the ship belong to the shipyard and shall be transferred to the ship owner at the time of delivery.

### 6.5 Realization of mortgage

If there is situation like the debtor defaults or other situation that can cause mortgage realization in the shipbuilding period, the auction is generally difficult to succeed. In addition, even if they can be auctioned, the auction price of the vessel under construction will often have a big gap with its actual value, which is disadvantageous to the protection of the interests of the mortgagor and the mortgagee.

In order to protect the mortgage of the ship under construction, the mortgage of the ship under construction shall be allowed to be implemented in other ways other than the statutory way in practice. In particular, the parties should be allowed to reach agreement to realize the right of mortgage other than auction, including discount, sale and so on. For example, the realization of the right of mortgage by discount can be operated in accordance with the following procedures: financial institutions provide financing and shipyard can reach an agreement in the mortgage contract, if the yard does not fulfill the repayment obligations when the contract expires, or other circumstances should hinder the realization of mortgage, both parties may apply for the assets assessment agencies to assess the vessel under construction. The ship's ownership may shift to the financial institution in accordance with the assessment of the value of the discount. The value beyond the creditor's rights returns to the

shipyard by financial institutions in cash. If there is an insufficient part that cannot fulfill the obligations, the shipyard should continue to bear the repayment liability. In the discount transfer to the financial institutions, the financial institutions and the owner are responsible for performing the shipbuilding contract. If the ship owner abandons the ship under construction, the financial institution is responsible for the remaining ship construction work. However, the financial institution may entrust the shipyard to continue to undertake the construction task until the completion of the ship construction, and the remainder of the ship owner's ship payments shall be paid to the financial institution by former ship owner. (Engerrand, 2006, p.3) The realization of mortgage by way of selling shall be carried out in the light of the aforesaid contents.

## **7.Conclusion**

In conclusion, shipbuilding plays an increasingly important role in today's world economic activities. At the same time, capital requirements of ship construction are also increasing. The major shipbuilding countries have set up and improved relevant systems to promote the continued development of the shipbuilding industry and the financial industry. This makes mortgage of vessel under construction play a more and more important role.

Due to the special characteristics of the construction of the vessel itself, the vessel under construction may confront some special legal problems, which makes it possible to face more complex legal risk. Therefore, the parties involved in the mortgage of vessel under construction should be familiar with the relevant laws and regulations of local government, if possible. Since the provisions of laws and regulations have not been clearly defined, the contract should be made as clear as

possible. In addition, it is suggested that the national maritime administrative department should further refine and simplify the procedures involved in the mortgage of vessel under construction. It is also important to make a firm revision of unreasonable rules or practices. Only under the joint efforts of all parties, can the financing activities of mortgage of vessel under construction be carried out smoothly and orderly, in order to help the whole shipping industry to tide over the current market difficulties.

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