

The Responsibility of the Flag State for Beneficially Owned Vessels: Blockchain as Evidentiary Means

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ABSTRACT

The effectiveness of flag State responsibility ultimately depends on the ability of the flag State to identify those who exercise effective control over the vessels flying its flag. In practice, however, this condition is not always fulfilled. While ship registration establishes the legal nationality of the vessel, it does not necessarily disclose its beneficial ownership, which may remain concealed through complex corporate structures extending across several jurisdictions. This disconnect between legal registration and effective control creates an evidentiary gap that may weaken the practical implementation of the flag State's obligations under the law of the sea. Starting from this observation, this article examines whether blockchain technology could contribute to reducing that evidentiary limitation. The analysis does not approach blockchain as a substitute for existing ship registration systems. Instead, it considers its capacity to preserve reliable and verifiable information capable of linking the legal identity of the vessel with its beneficial ownership. Where the procedural requirements governing digital evidence are satisfied, blockchain records may strengthen the evidentiary basis upon which ownership and effective control are established before international courts and tribunals. In this respect, blockchain does not alter the legal framework governing flag State responsibility. Its principal contribution lies in improving the transparency and reliability of the information available to support the effective exercise of existing legal obligations.

1. Introduction.

1.1. Context and Background.

Modern ownership structures, open registries and increasingly complex corporate arrangements have weakened the connection between legal registration and the exercise of genuine oversight. As a result, the flag displayed by a vessel no longer provides a reliable indication of the State that is actually capable of enforcing international obligations or assuming effective regulatory responsibility. The rise of open registries and flags of convenience has transformed ship registration into a commercial and administrative process rather than a genuine exercise of the flag state's jurisdiction. This effective jurisdiction

gives effect to the provisions of Article 94 of the United Nations Convention on the Law of the Sea (1982), long upheld by the International Tribunal for the Law of the Sea. Indeed, according to recent UNCTAD data, flags of convenience from 1994 to 2025 represented 46.5% of global maritime transport capacity (UNCTAD, 2026). These flags of convenience rely on public registries held by private entities, or jointly by private investors and state representatives (European Commission, 2026, pp. 58–60). In this type of registry, ownership is often concealed by protective clauses.

A single vessel may be registered in one state and owned through complex corporate structures, managed from a third jurisdiction, and commercially directed by a separate entity (The Pew Charitable Trusts, 2023, pp. 4–5). This structural fragmentation creates a regulatory gap, allowing those who exercise effective control over the vessel to evade traditional international obligations.

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At this stage of the analysis, a determining factor, in our opinion, represents the guiding element of our reflection: the “traceability of the ship’s ownership” (FATF, 2023, pp. 53–54), and it is in this kind of relationship that blockchain comes into play as a technological solution to bridge the gap between the technical, financial reality of the ship and its legal representation. By linking a ship’s digital identity (W3C, 2022, p. 2) to verifiable information about its beneficial owners, tokenization will allow us to establish a continuous and forgery-proof audit of its operational history (Neisse et al., 2017, pp. 4–6). In our opinion, the empirical contribution of the tokenization of the ship will have two complementary representations: the first is of a patrimonial nature, which targets its assets via digital tokens recorded on the blockchain, whereas the second is of a regulatory nature that will give rise to a digital twin of the ship’s legal identity, reflecting in real time its nationality and the names of the registered owners.

From what follows, a change in the ship’s nominal identity should systematically result in an update of the information to which the ship subscribed when it was registered (W3C, 2022, Appendix B.8 and Appendix B.12; FATF, 2023, pp. 54–58). Such an equation characterizes the spirit of a doctrine that we now want to defend throughout the development of this article, that which has been called “the dual digital identity of the ship”. This will be the operational remedy for the lack of synchronization between the ownership of the ship and the flag state, which has long been considered a failure of the above-mentioned genuine link (Wolfrum, 2015, pp. 95–98) cited in Article 91 of the United Nations Convention on the Law of the Sea (United Nations, 1982, Art. 91(1); Cogliati-Bantz, 2015, p. 19).

We highlight that, in the absence of a clear line of attribution, the entire sanctions regime risks becoming little more than a declaratory exercise. It is at this level that the traceability of the ship’s identity becomes decisive. In our view, that traceability must be optimised and reach a sufficient degree of maturity—both operationally and legally—if it is to serve as a credible instrument of enforcement.

1.2. *Research Problem.*

Presenting the central research in such a technical field, first of all encourages identifying the added value of a mechanism inspired by artificial intelligence, compared to what has been achieved in terms of digital traceability of the ship’s identity (Li and Sun, 2025, pp. 5–7). We have noticed in this regard that the International Maritime Organization has acquired a set of digital means such as electronic certificates (e-certificates), the Maritime Single Window (MSW), and Automatic Identification Systems (AIS). These mechanisms have demonstrated their limits since they rely exclusively on the physical identification of the ship without, however, allowing a report to be made on real ownership or the effective beneficial owners operating the vessel. Other limitations also concern the timing of the inspection; these means do not at all guarantee the possibility of tracking the identity of the vessel, and even more so neither the MSW nor the AIS can ensure complete data integrity by settling for a classic sharing of information concerning the ship. It is along these lines that we have asked a central question: to

what extent would the blockchain, conceived as a representation of the ship’s digital identity, be used as a basis for monitoring its legal representation? To this major question dealing with the equation blockchain and identity, there is added another of the same order but of an importance not less significant. We wanted to put our fingers on a subject that is rarely addressed, namely the representation of the blockchain as a form of digital evidence (Brantes Ferreira and Gromova, 2024, pp. 51–52) not before a national court, but rather before the International Court of Justice (Roscini, 2016, pp. 542–544) and the International Tribunal for the Law of the Sea. In other words, we will have to check whether the two courts have their status and competence allowing them to approve the admissibility of the blockchain as digital evidence.

1.3. *Review of Previous Studies.*

Blockchain has been the subject of intense debate in the maritime sector over the past two decades. Several authors, notably Peronja and Lenac, have demonstrated that blockchain technology in maritime transport enables the secure tracking of cargo and ensures a secure supply chain, with information recorded on the vessel. The authors emphasized that shipping companies -notably Maersk, CMA-CGM, Hapag - Lloyd, and others- are increasingly adopting blockchain technology through the Tradelens platform (Peronja, Lenac and Glavinović, 2020). The authors discussed the regulatory challenges that blockchain must overcome in terms of scalability, though they did not specify what they meant by the “lack of regulatory standards” they mentioned. This observation has informed the present study on the challenges of reconciling the decentralized nature of blockchain technology with the State oversight and accountability mechanisms established under Article 94 of the United Nations Convention on the Law of the Sea (UNCLOS).

We would like to point out that, among the studies that come closest to our line of reasoning, two are worth mentioning: one conducted by Andrew Tettenborn and the other presented by Krisztina Tilinger. The first study examines the impact of distributed ledgers on private maritime law. In his chapter “Maritime Transport, Distributed Ledgers, and Private Maritime Law”, Tettenborn explains that blockchain technology makes it possible to trace the history of an asset or a transaction (Tettenborn, 2022, pp. 141–157). This historical traceability may also apply to ships, and we deemed it necessary to conduct an in-depth study to expand on these considerations and ensure the historical integrity of data pertaining to both changes in flag and the identity of the ship-owner. Indeed, this data integrity has long been considered the core of the problem of excessive flag changes, which severely undermine governance and transparency. As for the second study, the one by Krisztina Tilinger in 2026, the central point relevant to the present study concerns the potential admissibility of blockchain-based evidence before courts. The author argues that, in both common law and civil law jurisdictions, many legal systems are inclined to accept blockchain data as evidence due to the global trend toward the digital transformation of the judicial system (Tilinger, 2026, p. 238).

In this study, we will examine the admissibility of evidence in the context of disputes between states and vessels, focusing on the authenticity of the flag and the recognition of the identity displayed by the vessel. Tilinger's findings prompted us to conduct an in-depth study to examine the jurisdiction of both the International Court of Justice and the International Tribunal for the Law of the Sea, and to determine whether, by virtue of their jurisdiction, they may accept blockchain-based evidence and assess its evidentiary value.

1.4. Methodological Framework of the Study.

This study advocates a legal-technological functional equivalence methodology, combining doctrinal legal analysis and functional legal engineering (see Table 1 below).

Table 1: Sequential methodological framework.

Step A	Step B	Step C	Step D	Step E	Step F
Normative Analysis	Governance Diagnostics	Functional Assessment	Evidentiary Assessment	Judicial Reconstruction	Legal Evaluation

Source: Authors.

The six-stage framework adopted in this study reflects the logic of the research question. Since the article seeks to determine whether blockchain can strengthen the evidential basis of flag State responsibility without altering the existing legal framework, the analysis begins by identifying the applicable legal obligations before examining the governance deficiencies revealed in practice. Only after those deficiencies have been identified does the study assess whether blockchain can perform the evidential functions traditionally fulfilled by ship registration. The final stages evaluate the evidential value of blockchain-generated records and consider how they could be assessed by international courts and tribunals when questions of ownership and effective control arise.

2. Results and Discussion.

2.1. Beneficial Ownership Traceability as a Prerequisite for Effective Flag State Control and International Sanctions.

We would first observe that the results of our study do not point toward the creation of a new digital legal framework for ship ownership. Our approach is rather to give practical effect to the functional dimension of the genuine link – a link which has consistently been associated with the effectiveness of flag State control. This assimilation has long been confirmed by judicial practice, and we refer in that respect to the judgments of the International Tribunal for the Law of the Sea in the *Saiga* No. 2 (ITLOS Judgment, 1999, paras. 82–83) and *Virginia G* cases (ITLOS Judgment, 2014, paras. 112–113). In our view, the effectiveness of such control cannot be achieved so long as the flag State is unable to identify the origin of the vessel's beneficial ownership. We have further concluded that it would be difficult to give full meaning to Articles 91 and 94 of the United Nations Convention on the Law of the Sea (1982) without continuous access to data that characterises the vessel not

only on the technical level as the IMO identification number does perfectly (IMO, Resolution A.1117(30), 2017), but also on the legal level, particularly with regard to the origins of its true identity.

The opacity of information relating to beneficial owners has long been associated with flags of convenience (Freitas, 2021, p. 1). Such lack of transparency of data concerning the real owners of the ships will be addressed in the context of blockchain to demonstrate how digital traceability could further strengthen the regime of responsibilities and sanctions. A practical demonstration may be found in the fisheries sector. An investigation carried out in 2019 by Dialogue Earth (Samari, 2019) – though not a recent one – revealed that trawlers flying the Ghanaian flag and involved in IUU fishing off Ghana were in fact beneficially owned by the Chinese company Dalian Mengxin Ocean Fisheries. This example illustrates a critical weakness in the traditional traceability system. Sanctions imposed by the Ghanaian authorities could have been directed against Dalian Mengxin Ocean Fisheries itself, instead of against the registered owners appearing in the shipping register. Had the Ghanaian vessel been integrated into a blockchain-based registration system, each declared transfer of ownership from Dalian Mengxin Ocean Fisheries to the locally operating companies —Kenbonad Fisheries Ltd, Bossgie Limited, Global Marine Consult, and Soweh Sons Enterprises Ltd— could have been permanently recorded. This would have made it possible to follow the chain of ownership from the original owner to each subsequent transfer (Sahoo and Halder, 2021, pp. 53, 58).

Vessels flying the Ghanaian flag would then have been represented by a digital token containing a decentralised identifier with the information of the actual rights holder. The use of the distributed ledger incorporating such decentralized identifiers (W3C, 2022, pp. 7–10) could improve the enforceability of sanctions, especially when Ghana acts simultaneously as a coastal and flag state. As a coastal state, the Ghanaian authorities exercised the necessary powers to impose fines on ships. However, the effectiveness of its sanctions has limits, as they only target legal owners or those mentioned in the ship's registry (Republic of Ghana, 2002, s. 132(2); Samari, 2019). We have deliberately chosen this particularly telling case to illustrate that blockchain could serve as a functional link between the sanctions imposed by coastal States and their effective enforcement, by allowing the identification of the true responsible party whose identity is not disclosed anywhere in the States of registration. Taken together, these findings point to the potential of a blockchain-based digital identity to reduce the disparity between the formal allocation of legal responsibility under the law of the sea and its actual enforcement, by enabling authorities to look beyond the registered owner to the beneficial owner.

2.2. The Probative Significance of Information Derived from Blockchain Technology.

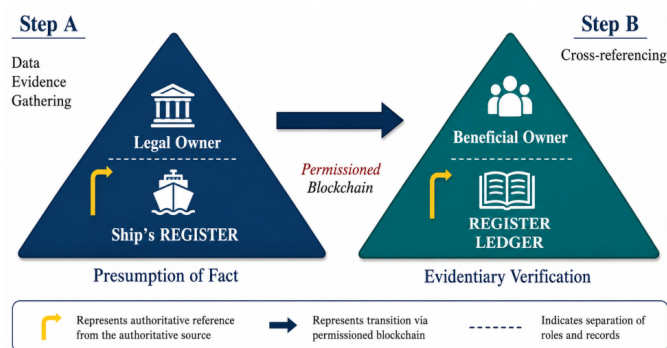
In matters of evidence, international courts and tribunals have generally embraced the principle of freedom of evidence. The jurisprudence of both the International Court of Justice and the International Tribunal for the Law of the Sea demonstrates a

consistent willingness to admit diverse forms of evidence, leaving their probative value to be assessed in light of the circumstances of each case. In the *Monte Confurco* (ITLOS, 2000, paras. 58–66) and *Grand Prince* (ITLOS, 2001, paras. 70–80) cases alone, the International Tribunal for the Law of the Sea accepted digital documents from the parties showing the chronology of ship movements and the maritime routes crossed. The International Court of Justice has also had occasion to assess the relevance of digital evidence, particularly in the case of the conflict between the Democratic Republic of the Congo and Uganda (ICJ, 2022). The Court considered that the probative value of contemporary evidence requires that the criteria of reliability and authenticity be met. Taken together, these two criteria explain why international courts have shown a gradual, though cautious, willingness to accept digital evidence (Brantes Ferreira and Severo, 2024, pp. 53–55). Our analysis indicates that international courts can accord evidentiary value to the data presented by the blockchain, given the tangible results they produce in terms of data traceability (Su, 2025, pp. 64–66). This traceability implies an identification of any maritime transaction and, even more so, the identification of the authors linked by this transaction; such a function characterizes the permissioned blockchain.

The present study demonstrates that the permissioned blockchain strikes a balance between cryptographic and legal identity, in contrast to the public blockchain, which merely provides cryptographic identification (Wüst and Gervais, 2018, pp. 46–49) without revealing the individual to whom the DID is attached (W3C, 2022, pp. 7–14). This observation reveals a particularly interesting result in terms of international responsibility.

In principle, the tribunal, on the occasion of a particular case, is forced to rely solely on the national registration register to assign responsibility to the legal owner, and this creates a functional failure of responsibility attribution. Against this background, a permissioned blockchain could prove decisively useful. By preserving the chronological integrity of ownership transfers, it would enable international courts to trace the chain of transfers and identify the beneficial owner at the time the facts occurred (see Scheme A below).

Figure 1: Scheme A. The evolution of the evidentiary process.



Source: Authors.

According to Scheme A, the Court will be required to adopt a presumption of fact based on the registration register and other

documents necessary for the identification of the owners involved in the facts. However, this presumption can be confirmed or rebutted only through the distributed ledger, which will correlate the facts as established by the court with the corresponding data recorded on the blockchain.

This reconstruction of the chain of identities that the international adjudicators could make through a reading of the information provided by the distributed registry could, in our opinion, enrich the traditional means of proof provided by the parties (certificate of nationality, sales contract, management contract, company register, expert report). This would provide international courts with a broader and more reliable evidential basis for assessing the facts of the case.

Conclusions.

The present study originated from a simple observation. The effectiveness of flag State responsibility does not depend exclusively on the legal obligations imposed by international law. It also depends on the ability of the flag State to identify the persons who effectively control the vessels flying its flag. As ownership structures have become increasingly fragmented through flags of convenience, multilayered corporate arrangements and cross-border operational practices, this ability has gradually diminished. The resulting information gap does more than complicate enforcement. It weakens the practical exercise of the jurisdiction that international law assigns to the flag State.

Starting from this observation, this article examined whether blockchain technology could contribute to addressing this structural weakness. The objective was never to present blockchain as a substitute for existing legal rules, nor as a universal response to the governance challenges affecting international shipping. The question was more specific. Could a technology capable of preserving reliable, verifiable and chronologically traceable information strengthen the evidentiary basis upon which the effective exercise of flag State responsibility increasingly depends? Our analysis suggests that its principal contribution lies in its ability to reinforce transparency by creating a trustworthy record linking the legal identity of the vessel with the persons exercising effective control over its operation.

The examples discussed throughout this article demonstrate that this issue extends well beyond technological innovation. Where beneficial ownership remains concealed behind complex corporate structures, the flag State may continue to exercise jurisdiction in formal legal terms while lacking the information required to exercise that jurisdiction effectively. From this perspective, improving transparency is not simply an administrative objective. It is one of the conditions necessary to ensure that the existing obligations established under the law of the sea can operate as they were intended.

The analysis developed throughout this study therefore leads to a broader conclusion. The future effectiveness of flag State responsibility will depend not only on the adoption of new regulatory instruments, but also on the capacity of legal systems to reduce the information asymmetries that continue to characterise contemporary shipping. Blockchain should not be regarded as an alternative to the existing legal framework. Its

contribution should instead be assessed in terms of its ability to strengthen the implementation of that framework by making legally relevant information more transparent, more reliable and easier to verify. If such transparency can be achieved, the traditional responsibility of the flag State may continue to evolve while remaining fully consistent with the legal foundations upon which the law of the sea has long been built.

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