

Authentic Deeds And Notarial Accountability In Fisheries Vessel Transactions

R Juli Moertiono¹, Eri Triwanda², ong V Russel³, frederich Zang⁴

¹Lecturer, Faculty of Law, Universitas Muhammadiyah Sumatera Utara, Indonesia

²Lecturer, Faculty of Informatics, Universitas Satya Terra Bhinneka, Indonesia

³national taiwan normal university, taiwan

⁴tsinghua university China

¹julimoertiono@gmail.com, ²eritriwanda@satyaterrabhinneka.ac.id, ³rsslong@gmail.com,

⁴zang.tsinghua@gmail.com

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Abstract

Illegal, unreported, and unregulated (IUU) fishing is commonly addressed through patrols, vessel monitoring, licensing controls, and criminal enforcement. These measures remain incomplete when the legal identity and ownership history of a vessel cannot be verified. This article examines the legal function of authentic deeds in fisheries-vessel transactions and clarifies the accountability of Indonesian notaries within an ownership-transparency framework. The study uses normative juridical research with statutory, conceptual, and institutional approaches. It analyses the Civil Code, the Commercial Code, the Notary Position Law, fisheries and shipping regulations, beneficial-ownership regulation, and relevant international law. The analysis finds that an authentic deed strengthens proof of the parties' declarations, date, and execution, but it does not by itself establish the substantive truth of every document or guarantee lawful fishing activity. Notarial accountability therefore depends on the scope of statutory duties, professional diligence, knowledge, causation, and the distinction between formal verification and investigative enforcement. The article proposes a risk-based maritime ownership gateway that connects notarial records, ship registration, beneficial-ownership information, and fisheries licensing. The proposal is legally more defensible when implemented through interoperable verification, defined data access, audit trails, and institutional responsibility rather than through an assumption that notaries are the sole enforcement gatekeepers.

I. Introduction

Indonesia administers a large and strategically important maritime space. Its fisheries sector supports food security, coastal employment, foreign exchange, and the constitutional objective of managing natural resources for public welfare. The same geography creates a governance problem. A vessel may be registered, transferred, reflagged, licensed, and operated through records held by different institutions. When those records do not communicate, enforcement agencies may know the vessel but not the person who ultimately controls it, or they may possess a formal owner record that does not reflect economic control (Kusumaatmadja, 1978; Satria, 2015).

IUU fishing exploits this gap. The problem is not limited to activity at sea. It also includes the legal and financial arrangements that allow a vessel to obtain a national identity, access a licence, conceal control, or move between corporate structures. Ownership opacity can weaken flag-state control, frustrate sanctions, and make it difficult to connect a vessel with the persons who benefit from its activity. International instruments therefore link fisheries compliance with vessel documentation, flag-state responsibility, ownership information, and traceability (FAO, 2001; United Nations, 1982) Fisheries corruption also extends to licensing, enforcement, and financial arrangements, which makes institutional coordination essential (Yan & Graycar, 2020).

Indonesian legal scholarship and policy discussion often present the authentic notarial deed as a decisive safeguard in vessel transactions. That proposition requires a more precise analysis. Under Article 1868 of the Civil Code, an authentic deed is made in the form prescribed by law by or before an authorised public official. Its evidentiary value is strong in relation to matters that the official formally witnesses or records. However, an authentic deed is not a

judicial finding that the underlying transaction is substantively lawful, nor does it replace the authority of the ship registrar, fisheries licensing authority, financial-intelligence unit, or criminal investigator.

This article addresses four questions. First, what is the legal position and evidentiary scope of an authentic deed in a fisheries-vessel transfer? Second, what duties and forms of liability may attach to a notary when a transaction involves incomplete documents, false statements, or concealed beneficial ownership? Third, how can notarial diligence be connected to vessel traceability and IUU-fishing prevention without converting the notary into an enforcement officer? Fourth, what institutional and digital safeguards can close the information gap between corporate, shipping, and fisheries records?

The article makes three contributions. It distinguishes the evidentiary function of an authentic deed from the substantive legality of the transaction. It develops a responsibility matrix that separates civil, administrative, ethical, and criminal exposure. It also presents a risk-based integration model in which the notary supplies verified transaction data, while competent state institutions retain their statutory decision-making powers.

2. Literature Review and Analytical Framework

This review connects three bodies of scholarship: maritime governance and vessel traceability; the evidentiary function and accountability of notaries; and beneficial-ownership transparency. Fisheries research associates transparency with oversight and accountability but cautions that disclosure alone does not establish compliance or improve management in every setting (Guggisberg et al., 2022; Skerritt, 2024). Indonesian notarial scholarship similarly distinguishes the formal evidentiary function of a deed from responsibility for the substantive

conduct of the parties (Pardosi, 2022; Santoso & Priyono, 2023). Read together, these perspectives support an institutional framework that links reliable transaction records with decisions by competent public authorities, without treating a notarial deed as conclusive proof of lawful ownership or fishing activity.

2.1 Maritime governance and vessel traceability

Maritime governance operates through overlapping jurisdictions. The flag state exercises jurisdiction over ships that possess its nationality, while coastal and port states exercise powers connected with navigation, resources, safety, customs, and environmental protection. UNCLOS requires each state to determine the conditions for granting nationality to ships and to maintain a genuine link between the state and the ship. These principles make registration more than a technical record. Registration creates a legal identity that supports jurisdiction and accountability (United Nations, 1982; Churchill & Lowe, 1999; Rothwell & Stephens, 2016) Related fisheries scholarship links flag-state oversight to transparent vessel ownership and registration practices (Ford et al., 2022).

In fisheries governance, traceability has at least three dimensions: physical identification of the vessel, documentary continuity of title and authorisation, and identification of the persons who control or benefit from the vessel. A governance system that verifies only the hull number or the registered company remains vulnerable when control changes through shareholding, management agreements, nominee arrangements, or related-party transactions Vessel-tracking transparency can complement these records, but its governance value depends on the information disclosed, its users, and the management context

(Orofino et al., 2023).

2.2 Authentic deeds and legal certainty

The concept of legal certainty requires rules and official records to be sufficiently clear, accessible, and predictable. In the Indonesian civil-law tradition, the authentic deed contributes to certainty by recording an act before an authorised official and by providing a reliable evidentiary instrument. The deed can establish that specified persons appeared, made specified statements, and signed at a specified time and place International maritime scholarship also places documentary certainty within the wider allocation of jurisdiction and regulatory authority (Tanaka, 2019).

The evidentiary presumption must be stated carefully. An authentic deed has strong formal evidentiary force for matters within the official's capacity, but the parties' declarations may still be contested on grounds such as fraud, mistake, incapacity, illegality, or falsity. The notary does not automatically guarantee the truth of every external document or the commercial purpose of the parties This distinction is central to Indonesian discussions of disputed or falsified notarial instruments (Pardosi, 2022; Santoso & Priyono, 2023).

2.3 Notarial accountability and beneficial ownership

The Notary Position Law assigns the notary a public function. The notary must act independently, impartially, carefully, and in accordance with law and professional ethics. The notary must also refuse an act that conflicts with legal requirements or professional obligations. These duties create a standard of conduct, not strict liability for every later misuse of an instrument Alyafie and Purnawan (2021) likewise distinguish responsibility for formal execution from responsibility for the parties' substantive representations.

Beneficial-ownership regulation adds an anti-concealment dimension. Presidential Regulation No. 13 of 2018 focuses on natural persons who ultimately own, control, or benefit from corporations. Minister of Law Regulation No. 2 of 2025 further regulates verification and supervision of corporate beneficial ownership. The corporation's responsibility to identify and report its beneficial owner must be distinguished from a notary's role in submitting authorised information and carrying out independently applicable customer-due-diligence duties. A named shareholder or a signed beneficial-ownership declaration does not necessarily resolve inconsistencies in actual control (Jatmiko & Prananingtyas, 2023; Ramadhani & Hutagalung, 2022; Sugiharti & Dewi, 2022).

2.4 Analytical framework

The analysis applies a four-part framework: legal validity, evidentiary function, institutional responsibility, and prevention effect. Legal validity asks whether the transaction and deed satisfy mandatory requirements. Evidentiary function asks what the deed proves and what it does not prove. Institutional responsibility identifies which authority must act at each stage. Prevention effect assesses whether a proposed safeguard reduces ownership opacity and improves traceability without exceeding statutory limits. International transparency obligations, RFMO disclosure practices, and transparency in conservation measures help distinguish legal duties from the anticipated benefits of disclosure (Harrison, 2022; Fischer, 2022; Davis & Hanich, 2022).

3. Methodology

This study uses doctrinal legal research with statutory, conceptual, and institutional approaches. Consistent with normative legal research, it interprets

legal materials rather than estimating transaction-level outcomes (Soekanto & Mamudji, 2015). Primary materials comprise the Civil Code, Commercial Code, Notary Position Law, fisheries and shipping legislation, beneficial-ownership and anti-money-laundering instruments, and UNCLOS. Secondary materials comprise scholarly books and journal articles concerning notarial accountability, vessel registration, fisheries transparency, and beneficial ownership. Recent publications from 2016–2026 are prioritised, while foundational legal and maritime works are retained where relevant. Sources are selected for their relevance to the four research questions and assessed through legal interpretation, comparison of regulatory functions, and institutional mapping. The analysis distinguishes existing legal duties from proposed reforms and uses the four dimensions of legal validity, evidentiary function, institutional responsibility, and prevention effect. Earlier literature is interpreted in its historical regulatory context, with key legal updates checked against official sources as of 17 October 2026. The proposed gateway is a normative institutional design; its feasibility and effect on IUU fishing have not been empirically tested. No original case dataset or systematic analysis of judicial decisions is claimed.

4. Results and Discussion

4.1 The legal construction of a fisheries-vessel transfer

A fisheries-vessel transfer should be understood as a chain of legally connected acts rather than as a single deed. The chain normally includes proof of title, identification of the vessel, authority of the transferor, the transaction instrument, registration or recording by the competent maritime authority, and the fisheries authorisation required for operation. A notarial deed can strengthen the transaction instrument, but it does not replace registration or

licensing The historical separation of registration and fisheries licensing is also identified in Indonesian maritime scholarship (Sodik, 2009).

Stage	Primary question	Responsible function
Title and identity review	Who owns the vessel and what documents support the chain of title?	Parties and notary within statutory due diligence
Corporate authority	Who may sign and who ultimately controls the entity?	Notary, corporate registry, and reporting entities
Transaction execution	What act did the parties declare and when?	Notary as authorised public official
Ship registration	Does the vessel meet registration and nationality requirements?	Directorate General of Sea Transportation
Fisheries authorisation	May the vessel engage in the proposed fishing activity?	Competent fisheries authorities
Compliance monitoring	Does operation match legal and licence records?	Supervisory and law-enforcement institutions

The transaction instrument should identify the vessel with sufficient precision, including its name, registration number, gross tonnage, builder or construction information where relevant, and existing registration documents. It should

identify the parties and the legal capacity of each signatory. For a company, the notary should verify the articles of association, amendments, authority of the directors, and any approval or consent required by law or company documents. Vessel documentation must be read across the applicable regulatory regimes. Minister of Transportation Regulation No. PM 39 of 2017 addresses ship registration and nationality, alongside Law No. 17 of 2008 on Shipping as amended, including Law No. 66 of 2024. Government Regulation No. 27 of 2021 on the Implementation of the Marine and Fisheries Sector should not be described as wholly repealed: Government Regulation No. 11 of 2023 on Measured Fishing specifically revokes Article 49(1) of that regulation. Consequently, the operative provisions must be identified separately for registration, fisheries administration, and measured-fishing requirements. These public-law requirements remain distinct from proof of a private transaction.

4.2 What an authentic deed proves, and what it does not prove

Dimension	Authentic deed	Private agreement
Formal execution	Records appearance, date, place, and formal act before an authorised notary.	Records agreement without the same public-official function.
Evidence	Provides strong formal evidence of matters within the notary's official capacity.	May require additional proof when authenticity or execution is disputed.

Dimension	Authentic deed	Private agreement
Substantive truth	Does not automatically prove every external document or declaration.	Does not create a presumption of official verification.
Regulatory effect	Can support registration when the relevant regime accepts it.	Cannot substitute for mandatory registration or licensing.
Traceability value	Creates a durable transaction record linkable to other registries.	May remain outside institutional systems and create verification gaps.

The authentic deed is a high-value evidence and traceability instrument, but it is not an “unassailable” certificate of lawful ownership. A court may still examine the underlying act. A maritime authority may reject registration because a separate statutory condition is not satisfied. A fisheries authority may refuse an operational licence because the vessel fails technical, conservation, or compliance requirements. Legal certainty is therefore relational: it becomes stronger when the deed is consistent with independent public records.

4.3 Notarial diligence in high-risk vessel transactions

The notary should apply enhanced diligence when the transaction has indicators of elevated risk. Relevant indicators include a newly formed company with no operational history, a non-resident funder, a complex ownership chain, rapid

resale, inconsistent vessel identifiers, a large cash component, unusual powers of attorney, severe undervaluation, unexplained source of funds, or an urgency that prevents ordinary verification.

Risk area	Minimum verification	Escalation trigger
Identity and authority	Identity, tax information, corporate records, signing authority, and powers of attorney.	Inconsistent identity or unexplained representative.
Title history	Prior transfer, registration, encumbrances, and vessel identifiers.	Gaps in title, conflicting tonnage, or missing record.
Beneficial ownership	Natural persons exercising ownership, voting control, or economic benefit.	Nominee indicators or refusal to disclose control.
Transaction economics	Consideration, payment route, source of funds, and commercial rationale.	Third-party payer, cash-heavy payment, or severe undervaluation.

Risk area	Minimum verification	Escalation trigger
Regulatory status	Registration, licence, sanctions or restriction information lawfully accessible.	Suspension, seizure, mismatch, or unresolved enforcement status.

Enhanced diligence does not make a notary a criminal investigator. It requires clarification of inconsistencies, proportionate verification, a documented professional assessment, and refusal or termination where required by law. The applicable customer-due-diligence framework includes Minister of Law Regulation No. 10 of 2026, which replaced Minister of Law and Human Rights Regulation No. 9 of 2017 and requires identification, verification, and transaction monitoring. Reporting duties must be assessed under Law No. 8 of 2010 and Government Regulation No. 43 of 2015 as amended by Government Regulation No. 61 of 2021, including applicable confidentiality protections and exceptions. Fisheries-related money-laundering investigations remain the responsibility of competent enforcement institutions (Syakur, 2023).

4.4 The accountability matrix

Form	Threshold	Practical implication
Civil	Duty, fault, loss, and causal connection must be established.	A notary is not automatically liable for a party's fraud.

Form	Threshold	Practical implication
Administrative	Violation of statutory notarial duties or procedures.	Sanctions may follow non-compliance with mandatory duties.
Ethical	Breach of integrity, independence, impartiality, or code of ethics.	Participation in a sham transaction may be serious misconduct.
Criminal	Intentional participation in falsification, fraud, money laundering, or another offence.	Exposure requires proof of statutory elements and participation.

Civil and criminal categories require restraint. A notary who fails to detect sophisticated fraud is not automatically a co-perpetrator. Conversely, a notary who knowingly inserts false statements, suppresses material facts within the notary's duty, or deliberately facilitates an illegal structure may face serious consequences. The assessment must examine what the notary knew, what the notary had to verify, what warning signs existed, and whether the conduct caused or materially facilitated the harm.

Criminal liability must be assessed under the law applicable to the conduct and the relevant temporal rules. Law No. 1 of 2023 on the Criminal Code entered into force on 2 January 2026 and must be read with Law No. 1 of 2026 on Criminal Adjustments. Relevant provisions include Article 391 on document falsification,

Article 392 on falsification involving authentic deeds, and Article 394 on requesting false information to be inserted into an authentic deed. Their application depends on the specific act, mental element, participation, and other statutory requirements. References to Articles 263 and 264 of the former Criminal Code remain relevant to historical conduct only subject to the applicable transitional and more-favourable-law rules, including Article 3 of the new Code. A notary's professional status alone does not establish any of these offences.

4.5 Nominee ownership and beneficial-ownership verification

Nominee ownership separates the person who appears in a document from the person who controls the asset or receives its benefits. In a fisheries-vessel context, that separation can affect nationality, licensing, financing, tax, sanctions, and responsibility for fishing activity. The response should compare corporate records, shareholder and control information, payment arrangements, management agreements, powers of attorney, financing documents, and operational control. Comparative beneficial-ownership research cautions that a register can remain ineffective when verification and intergovernmental cooperation are inadequate (Gilmour, 2020).

Article 33 of Law No. 25 of 2007 on Investment is relevant to nominee arrangements in the investment context, but its application must be tied to the facts and legal object of the transaction. The blanket proposition that every arrangement involving a nominee is automatically void should be avoided without analysing the applicable prohibition, object, purpose, and evidence. The notary should refuse to formalise an act manifestly designed to circumvent a mandatory rule, while the registrar and enforcement authority make their own legal

determinations.

4.6 An interoperable maritime ownership gateway

The proposed reform is an interoperable verification gateway rather than a single database that transfers unrestricted data. The gateway would connect corporate and beneficial-ownership information held by the Ministry of Law, ship-registration data held by the Directorate General of Sea Transportation, and fisheries licensing and compliance data held by the Ministry of Marine Affairs and Fisheries. Each institution would retain its legal authority and data-controller responsibility Experience with fisheries transparency initiatives and civil-society participation supports examining who supplies information, who can access it, and who must act on discrepancies (Drakeford et al., 2020; Petersson, 2022).

Layer	Core data	Control requirement
Source records	Deed metadata, corporate identity, beneficial owner, ship identifiers, title documents, registration, and licence status.	Data provenance, versioning, access control, and correction procedure.

Layer	Core data	Control requirement
Verification service	Matching of name, registration number, IMO number where available, tonnage, corporate identifier, and status.	Exact matching rules, exception handling, and human review.
Risk and audit layer	Red flags, transaction history, access log, and decision record.	Risk scoring assists review; it does not itself establish illegality.
Institutional action	Execute, defer, reject, license, inspect, or investigate according to competence.	Written reasons, review route, and accountability for decision.

The gateway should use data minimisation and purpose limitation. A registrar does not need unrestricted access to every notarial file. A notary does not need investigative access to confidential enforcement material. The system should expose a verification result, source authority, validation date, and mismatch-resolution route. It should create an auditable record of access and change. These safeguards are necessary for privacy, due process, cybersecurity, and institutional accountability. Beneficial-ownership transparency also requires a balance between effective access and personal-data protection (Cindori, 2023). The gateway would therefore need to comply with Law No. 27 of 2022 on Personal Data Protection.

5. Policy Implications

5.1 Clarify the legal status of the notary's role

Regulations and administrative guidance should distinguish documenting the private act, verifying formal prerequisites within the notary's competence, and making a public-law decision on registration or licensing. This distinction prevents both under-enforcement and over-delegation. The notary should record the checks performed and documents relied upon, but should not guarantee matters assigned by law to another authority.

5.2 Establish a standard risk protocol

Relevant ministries, the notarial profession, and the financial-intelligence authority should develop a standard protocol for high-risk fisheries-vessel transfers. It should define red flags, minimum documents, escalation routes, retention periods, reporting duties, and response times. The protocol should be revised periodically because ownership-concealment techniques change.

5.3 Build interoperability in stages

A staged implementation is more realistic than an immediate fully integrated system. The first stage should standardise vessel and corporate identifiers. The second should provide read-only status verification. The third should connect transaction metadata and beneficial-ownership information under lawful access controls. The final stage should support risk analytics and inspection workflows. Each stage should be tested for accuracy, cybersecurity, correction rights, and administrative accountability. Comparative supply-chain research supports treating transparency as a governance intervention whose incentives and accountability mechanisms must be specified, rather than assuming that

disclosure alone deters illegal fishing (Viridin et al., 2022).

5.4 Strengthen professional capacity

Notaries who routinely serve maritime businesses need continuing education on vessel registration, corporate control, beneficial ownership, sanctions screening, anti-money-laundering obligations, and fisheries compliance. Training should use anonymised transaction scenarios. The objective is not to make every notary a maritime investigator, but to ensure that the notary recognises a transaction requiring clarification, refusal, or lawful escalation.

6. Limitations

This study has several limitations that should be acknowledged. First, the research applies a normative juridical approach and relies primarily on legal documents, regulations, conceptual analysis, and secondary literature. Therefore, it does not empirically evaluate the implementation of authentic deeds or the effectiveness of the proposed maritime ownership gateway in actual fisheries-vessel transactions. Second, this study does not quantify the prevalence of nominee ownership arrangements, ownership concealment practices, or the direct contribution of notarial deeds to reducing illegal, unreported, and unregulated (IUU) fishing activities. Third, the analysis depends on the applicable legal framework and may require adjustment when regulatory changes occur. Future studies should incorporate empirical data from vessel-transfer records, administrative decisions, enforcement cases, and interviews with notaries, maritime authorities, fisheries regulators, and industry stakeholders to validate and refine the proposed governance model.

7. Conclusion

Under the existing legal framework, an authentic deed strengthens proof of the parties' appearance, declarations, date, and execution of a legal act within the notary's authority. Its evidentiary force does not automatically establish valid substantive ownership, the truth of every supporting document, the identity of the ultimate beneficial owner, or the legality of fishing operations. Registration, nationality, licensing, and enforcement decisions remain with the competent public institutions. Notarial accountability must be assessed separately in civil, administrative, ethical, and criminal terms by reference to the applicable duty, professional conduct, available information, relevant risk indicators, and, where required, fault, causation, and statutory offence elements.

As an institutional reform, this article proposes an interoperable maritime ownership verification gateway rather than describing an already established legal mechanism. Notaries would record transaction information and perform legally required due diligence; the Ministry of Law would maintain and verify corporate and beneficial-ownership information; maritime registrars would determine registration and nationality; and fisheries authorities would determine licensing and operational compliance. PPATK and competent investigators would retain their financial-intelligence and enforcement functions. Verification would cross-check vessel and corporate identifiers, title continuity, beneficial-ownership information, and registration and licence status, with unresolved discrepancies referred to the source authority for human review. Implementation requires a clear legal basis for data sharing, purpose-limited access, data minimisation, source attribution, audit logs, correction procedures, reasoned decisions, and routes for review. Automated risk indicators must not independently establish illegality or impose sanctions. The

gateway could improve the conditions for traceability and coordinated oversight, but its practical effectiveness in preventing IUU fishing remains to be evaluated.

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