REFORMING JAPANESE LAW TO INTRODUCE ELECTRONIC TRANSPORT DOCUMENTS[1]

Prof. SOUICHIROU KOZUKA, PhD*

UDK 347.79
656.039.4
34.04(52)
DOI 10.21857/m16wjcldl9
Original scientific paper
Received: 8 April 2026
Accepted for print: 16 September 2026

This paper examines Japan's ongoing reform to introduce electronic bills of lading and situates it within the broader international movement toward digitalisation of trade documents. Recent technological developments, particularly electronic data and distributed ledger systems, have prompted jurisdictions worldwide to adapt their legal frameworks. The United Nations Commission on International Trade Law (UNCITRAL) provides a common reference point for such reforms by adopting the Model Law on Electronic Transferable Records (MLETR). The paper first outlines the characteristics of existing Japanese law on paper bills of lading and identifies the central challenge in transitioning to electronic form, namely the absence of physical possession in the case of an electronic bill of lading. It then explains the solution proposed by Japan's Legislative Council, which introduces the concept of "control" as a functional equivalent to possession, alongside corresponding notions of electronic delivery and electronic endorsement. It further explores the practical and political background of the reform, highlighting both regional shipping practices in East Asia and international commitments, particularly within the G7 framework. A comparative analysis with selected jurisdictions, i.e. the United States, the United Kingdom, Singapore, Korea, and France, reveals differences in the legal techniques adopted despite shared adherence to the principle of functional equivalence. This paper concludes that Japan's approach is characterised by detailed adaptation of existing rules rather than reliance on general provisions. While consistent with the

* Prof. Souichirou Kozuka, PhD, Professor of Law, Gakushuin University, Mejiro 1-5-1 Toshima-ku, Tokyo 171-8588, Japan, email: kozukaken@gmail.com.

[1] The author's research is funded by the Japan Society for the Promotion of Science, grant identifier 25H00520.



Ovo djelo licencirano je pod međunarodnom licencom Creative Commons Imenovanje-Bez prerada 4.0 (CC BY-ND 4.0). This work is licensed under a Creative Commons Attribution-NoDerivatives 4.0 International License (CC BY-ND 4.0).

Model Law on Electronic Transferable Records (MLETR), it reflects distinctive legal traditions and legislative methods, illustrating how global harmonisation coexists with jurisdiction-specific implementation.

Keywords: *electronic bill of lading; Model Law on Electronic Transferable Records (MLETR); harmonisation of law; functional equivalence; law reform.*

1. INTRODUCTION

A bill of lading is a legal instrument that has been used in international trade for centuries. Its rules are largely common across jurisdictions, and the practice is well established, owing to its long history. Recent developments in digital technology are having a significant impact on this mechanism of seaborne trade. Electronic data can now be used in place of paper documents. Furthermore, records on a distributed ledger enhance the mechanism's resilience to fraud and abuse.[2] In response, legal reform is needed to address these developments so that the parties in international trade can fully benefit from the latest technology. Several jurisdictions have already amended their laws or enacted new statutes to provide rules applicable to electronic bills of lading.

Japan has taken steps to follow these jurisdictions. The Legislative Council, which is the principal body for examining the basic codes in Japan, published the Outline of the Amendments to the Commercial Code (as Regards Bills of Lading) on 9 September 2024 (hereinafter: the Outline).[3] The Outline is the product of two and a half years of deliberations by the Working Group of the Legislative Council that began in April 2022. It is understood that a bill based on the Outline has already been drafted. However, as of 1 April 2026, nothing has yet been tabled before the Diet (Japan's parliament).

In fact, an informal Study Group on the subject preceded the deliberations by the Working Group of the Legislative Council.[4] The Study Group was established with a private foundation, *Shoji Homu Kenkyukai*, which has a commercial

[2] Nezhad, M. E.; Rashidian, S.; Botta, C., Revolutionizing Trade Finance: Leveraging the Power of Blockchain and AI in Electronic Letters of Credit, *Uniform Law Review*, vol. 29 (2024), no. 1, p. 87.

[3] The Legislative Council, The Outline of the Amendments to the Commercial Code (as Regards Bills of Lading), 9 September 2024, https://www.moj.go.jp/content/001424574.pdf (accessed 8 January 2026).

[4] Materials and the final report are available at https://www.shojihomu.or.jp/list/denshika-funani (accessed 8 January 2026).

publisher of law books *(Shoji Homu)* as its subsidiary. Though private in nature, the Study Group was attended by officials of the Ministry of Justice (MoJ), who are seconded judges and serve as the secretariat of the Legislative Council and its Working Group. These processes are usual for the reform of basic private law in Japan.[5]

Because the need to provide a solid legal foundation for electronic bills of lading and to ensure that they can be used in the same way as paper bills of lading is common across jurisdictions, efforts have been made globally to produce a common reference point. The United Nations Commission on International Trade Law (UNCITRAL) adopted the Model Law on Electronic Transferable Records (MLETR) in 2017. Its basic idea is for national law to guarantee that electronic transferable records serve as a functional equivalent to paper documents. As elaborated below, leaders of major economies have agreed to develop legal systems on the basis of the MLETR. Against this background, it is interesting to examine whether there are differences in the technical approaches used to achieve this goal across jurisdictions. This paper introduces the approach taken by Japan and compares it with those of five other jurisdictions, namely the United States, Korea, Singapore, the United Kingdom, and France.

The remaining part of this paper is structured as follows. Section 2 describes the existing rules on paper bills of lading and provides an overview of the approach taken by Japan. Section 3 introduces the practice and politics that form the background to Japan's reform on this issue. Section 4 examines the features of the Japanese approach in comparison with those of other jurisdictions. Finally, conclusions are drawn and an outlook is presented.

2. OVERVIEW OF THE PROPOSED REFORM

2.1. Existing Law on Transport Documents and Demands for Reform

The greatest difference between a paper bill of lading and an electronic one is that the latter cannot be physically possessed. Therefore, when constructing a law on electronic bills of lading, one must examine the meaning of possession under the existing law on bills of lading.

[5] Kozuka, S.; Nottage, L., Policy and Politics in Contract Law Reform in Japan, in: Adams, M.; Heirbaut, D. (eds.), *The Method and Culture of Comparative Law*, Hart Publishing, Oxford and Portland, 2015, pp. 235-253.

Under Japanese law, transport law is included in Book II of the Commercial Code[6] and maritime law in Book III. In the overall reform of 2018,[7] rules on transport documents for carriage on land were deleted, since they were not used in practice. As a result, rules applicable to bills of lading are included only in Book III (maritime law). There is also the Act on the International Carriage of Goods by Sea, which provides for special rules to implement the Hague-Visby Rules.[8] While two provisions in it relate to bills of lading, they are not particularly relevant to the move to electronic bills of lading.

Under the strong influence of German legal doctrine, a bill of lading is considered a special kind of *Wertpapier* (negotiable document). The 2017 amendments to the Japanese Civil Code[9] created general rules on *Wertpapier*, which had long been a doctrinal concept.[10] However, there is no provision that enables the issuance of an electronic type of *Wertpapier* in general.

The most important role of a bill of lading is to guarantee that its holder has the exclusive right to the delivery of the goods carried on board a vessel. In common law jurisdictions, a bill of lading is a document of title. Lawyers often describe its nature as a symbol of the goods on board a ship.[11] There is no strictly equivalent provision in Japan. Under Japanese law, when a bill of lading is issued, the consignee cannot demand delivery of the goods except in exchange for the bill.[12] The carrier is under the duty to exercise due diligence in the delivery of the goods, which implies that it cannot deliver the goods to a party not holding the bill of lading issued in respect of them. When in breach of such a duty of due diligence, the carrier is liable for any damages incurred by the holder of the bill of lading.[13] Thus, the role of a bill of lading as the "key" to the delivery

---

6 Japanese Commercial Code, Act No. 48 of 9 March 1899.

7 On this reform, see Kozuka, S., Maritime Law Codification in Japan: Elements Considered and Those Not Considered, in: Nawrot, J.; Pepłowska-Dąbrowska, Z. (eds.), Codification of Maritime Law: Challenges, Possibilities and Experience, Informa Law, Oxon, 2020, pp. 217-231.

8 Act on the International Carriage of Goods by Sea, Act No. 172 of 13 June 1957.

9 Japanese Civil Code, Act No. 89 of 27 April 1896.

10 On the 2019 reform of the Civil Code in general, see Kozuka, S.; Nottage, L., Policy and Politics…, *op. cit*. in fn. 5; Kozuka, S., Between Globalization and Localization: Japan's Struggle to Properly Update Its Civil Code, in: Graziadei, M.; Zhang, L. (eds.), *The Making of the Civil Code: A Twenty-First Century Perspective*, Springer, Cham, 2023, pp. 181-201.

11 See Goldby, M., *Electronic Documents in Maritime Trade: Law and Practice*, 2nd Edition, Oxford University Press, Oxford, 2019, paras. 5.39-5.40.

12 Japanese Commercial Code, Art. 764.

13 Japanese Commercial Code, Art. 575, applicable to the carrier of maritime transport. See also Act on the International Carriage of Goods by Sea, Arts. 3 and 4.

of the goods is based on the contractual arrangement under Japanese law. The right of the holder of a bill of lading is exclusive, but not in the sense of a proprietary right. There was an old court decision that held that delivery of goods to a person without a bill of lading was illegal.[14] However, this was denied by later decisions,[15] and current case law holds that the carrier should only be liable for damages in such a case.[16]

Japan's Commercial Code provides that "[i]f a bill of lading is delivered to a person who is entitled to use it to collect the goods, its delivery has the same effect as the delivery of the goods as it concerns the acquisition of rights that are exercised in connection with the goods".[17] The provision, even in its Japanese original, is not sufficiently clear. In any case, this provision does not have a central meaning for the function of a bill of lading. Based on German doctrine, this provision is often misleadingly referred to as the "proprietary power *(dingliche Wirkung)* of the bill". Such a reference is misleading because Japanese property law differs from the German system in that the transfer of a property right (ownership) has nothing to do with possession of the object. The possession of a movable thing serves only as a criterion for priority when there are competing claims to the thing: when there is no competing claim, possession does not matter. This is because Japanese property law, as codified in the Civil Code, is modelled after the French legal system.

In the case of goods being carried on board a vessel at sea, the competition of claims to the goods is only theoretical and does not materialise until the goods arrive at the port of destination. Once the vessel and the goods are at the port of destination, the carrier's physical delivery of the goods solves the competition problem, as described above. Therefore, it has been criticised that this provision addresses the wrong question: "proprietary power" is not relevant under the Japanese legal system, as opposed to the (transplanted) German law.[18] The drafters of the Commercial Code erroneously created this inconsistency, having

---

[14] Great Court of Judicature, *Minroku*, vol. 7, 30 May 1901, p. 149.

[15] Great Court of Judicature, *Hôritsu Shinbun*, no. 3139, 14 June 1930, p. 4.

[16] For example, Tokyo District Court, *Hanrei Taimuzu*, no. 1014, 13 July 1998, p. 247; Osaka District Court, *Hanrei Taimuzu*, no. 1037, 23 February 1999, p. 221; Tokyo District Court, *Hanrei Taimuzu*, no. 1167, 26 April 2004, p. 272.

[17] Japanese Commercial Code, Art. 763. The translation is cited from Japanese Law Translation, https://www.japaneselawtranslation.go.jp/ja/laws/view/4293 (accessed 8 January 2026).

[18] Tanikawa, H., Reflections on the Theory of Proprietary Power of a Bill of Lading, *Kaiho Kaishi*, new series, no. 5, 1957, p. 89.

been caught between the Civil Code inspired by French law and the Commercial Code based on the German model.

Thus, analytically, the primary goal of the reform was to identify the "holder" of an electronic bill of lading and ensure that the carrier delivers goods to that party and to no one else. Next, we will see how the Legislative Council achieved this goal.

2.2. Adopted Solution to Introduce Electronic Bills of Lading

The approach of the Legislative Council is, in fact, more technical than the analysis made above. The Outline lists four "basic notions" to introduce electronic bills of lading into Japanese law.[19]

First, the digital counterpart of a paper bill of lading is named an "electronic bill of lading record". To qualify as an "electronic bill of lading record", the record must be created and managed through a "qualified information processing system", equipped with measures to ensure that the record is created by the carrier or the master on its behalf, including that the integrity of the record is not tampered with.

Secondly, as an equivalent to the possession or holding of a paper bill of lading, the "control" of an electronic bill of lading record is defined as the exclusive ability of a person to make use of the electronic bill of lading record as the holder of the right to the goods (such a right being embodied in the electronic bill of lading) in the qualified information processing system. To be "qualified", an information processing system must be equipped with such technical measures as are necessary for the proper and reliable processing of control over and delivery of an electronic bill of lading. Details of the technical measures, to be specified in the Ministerial Order, will include measures to identify electronic records, to preserve logs of changes to the records, and to ensure trustworthiness.

Thirdly, as an equivalent to the delivery or transfer of a paper bill of lading, "delivery" of an electronic bill of lading record is defined as an action by the carrier or the master on its behalf, or the person controlling the electronic bill of lading record, to make a nominated person control the electronic bill of lading record under the qualified information processing system.

Fourthly, as an equivalent to the endorsement of a paper bill of lading, "electronic endorsement" is defined as recording the names of the delivering person and the person to whom the electronic bill of lading is delivered in the qualified

[19] The Outline, in fn. 3, Part 1, Item 1.

information processing system, accompanied by measures to ensure that the electronic endorsement is made by the electronic endorser and that the integrity of the record has not been tampered with.

Unlike the MLETR or legislation in some jurisdictions, the Outline does not cover various types of trade documents, still less electronic transferable records in general. Besides bills of lading, only combined bills of lading and warehouse instruments are named as subject to parallel law reform.[20]

3. BACKGROUND TO THE REFORM

3.1. Shipping Practice in East Asia

Many short voyages for the carriage of goods are made in East Asia because the region's economies are closely linked. China produces many finished products and exports them to large markets, including Japan and Korea. In addition, supply chains are formed across borders within the region. For example, the production sites of smartphone components are located across Japan, China, Korea and Taiwan.[21] This cross-border trade demands frequent short voyages among these economies. Therefore, the so-called bills of lading crisis (the problem of a vessel arriving at the port of destination earlier than the physically forwarded bill of lading) may arise.

Nevertheless, the practice regarding transport documents is ambiguous. Such ambiguity is seen in the result of a survey of shipping companies and freight forwarders included as an annex to the Report of the Study Group at *Shoji Homu Kenkyukai*.[22] It reports that shipping companies issue bills of lading in eighty percent of cases on average. This figure contrasts with replies from freight forwarders, according to which sea waybills in electronic format (including in PDF) are issued in fifty percent of cases on average. The Study Group speculates that bills of lading are used more in tramper services, while sea waybills more in liner services.[23]

---

[20] The Outline, in fn. 3, Part 2.

[21] Kawakami, M., Competition and Collaboration among East Asian Firms in the Smartphone Supply Chains, in: Solingen, E. (ed.), *Geopolitics, Supply Chains, and International Relations in East Asia*, Cambridge University Press, Cambridge, 2021, pp. 77-95.

[22] Report of the Study Group on Digitisation of the Commercial Law: On Digitisation of Bills of Lading, April 2022, Attachment 2, https://www.shojihomu.or.jp/public/library/848/sv.pdf (accessed 8 January 2026).

[23] *Ibid*., p. 3.

The same survey reveals that "surrendered bills of lading" are used, depending on the carrier. Some shipping companies and freight forwarders report that they issue surrendered bills of lading frequently. A surrendered bill of lading is a regionally developed customary document. Under this practice, a bill of lading is issued by the carrier but collected on the spot. The carrier stamps "surrendered" on a copy of the bill of lading and gives it to the shipper. The shipper, after confirming that the payment has been made by the importer (or immediately, if payment for an individual shipment is not needed, such as in the case of trade between group companies), sends the stamped copy in PDF (or by fax) to the shipping agent at the port of destination. When the goods arrive at the port of destination, they are delivered to the named consignee, as if a straight bill of lading were issued. According to some observers, the practice of using bills of lading in a unique manner has developed because the sea waybill is not well known in China.[24]

The survey thus reveals that parties in international trade have already developed practical ways to address the problem of the "bills of lading crisis" on short voyages: sea waybills and surrendered bills of lading. The same survey asked about the experience of issuing electronic bills of lading based on a multi-party agreement (such as Bolero) and found that a quarter of the surveyed companies had issued such an electronic bill of lading during the previous year. In view of these practices, recognising an electronic bill of lading by law will mean no more than adding another alternative to current practice, rather than bringing about a solution to an unsolved problem.

3.2. Politics

a) International Initiatives

Notwithstanding the lack of enthusiasm for reform in the industry, the government faced political pressure to pursue law reform by introducing electronic bills of lading, both at the international and domestic levels.

Internationally, G7 political leaders[25] took the initiative to implement the MLETR. Under the UK presidency in 2021, leaders in digital policy discussed data free flow with trust (DFFT) and, as part of the adopted declaration, endorsed

[24] Jiang, Y., Issues of Surrendered Bill of Lading in China, *Kigyô to Hou Souzou*, vol. 7 (2010), no. 2 (whole no. 24), pp. 151-157.

[25] G7 is an annual meeting of political leaders of Canada, France, Germany, Italy, Japan, the UK and the US.

the Framework for G7 Collaboration on Electronic Transferable Records at the Digital Technology Ministers' meeting on 28 and 29 April.[26] Under the Framework, the Digital Technology Ministers committed to "promote the adoption of legal frameworks compatible with the principles of the United Nations Commission on International Trade Law (UNCITRAL) Model Law on Electronic Transferable Records 2017". They also noted that the law for that purpose "should be technology neutral, future proof and applicable to all transferable records".[27]

The following year, the Digital Affairs Ministers followed up at a meeting on 10 and 11 May 2022 under the German presidency and reported that experts were continuing "to engage in dialogue on the design and implementation of appropriate legal frameworks consistent with the [MLETR]". The Ministers endorsed the "Principles for domestic legal frameworks to promote the use of electronic transferable records"[28] in which they supported such legal frameworks based on the principles of legal clarity, technological neutrality, functional equivalence and non-discrimination, interoperability, global acceptance and transparency, and stakeholder engagement.[29] As a result of these initiatives, law reform to introduce electronic bills of lading has become an international commitment for the Japanese government.

b) Domestic Lobbying

On the domestic side, a service provider intending to commence a blockchain-based system for shipping and supply chain data management lobbied for the reform. Its demands were picked up by the Japan Business Federation and included in the Requests on Regulatory Reform for Society 5.0 (cyber-physical society), dated 13 October 2020, as one of the 75 requested items for regulatory reform.[30]

---

[26] Results of G7 Digital Technology Ministers' Meeting, Video Conference, 30 April 2021, https://www.soumu.go.jp/main_sosiki/joho_tsusin/eng/pressrelease/2021/4/30_07.html (accessed 8 January 2026).

[27] G7 Digital and Technology Track – Annex 4, Framework for G7 Collaboration on Electronic Transferable Records, https://g7.utoronto.ca/ict/2021-Annex_4__Framework_for_G7_collaboration_on_Electronic_Transferable_Records.pdf (accessed 8 January 2026).

[28] G7 Digital Ministers' Track – Annex 2, Principles for Domestic Legal Frameworks to Promote the Use of Electronic Transferable Records, https://www.soumu.go.jp/main_content/000813433.pdf (accessed 8 January 2026).

[29] Results of G7 Digital Affairs Ministers Meeting, 12 May 2022, https://www.soumu.go.jp/main_sosiki/joho_tsusin/eng/pressrelease/2022/5/12_03.html (accessed 8 January 2026).

[30] Japan Business Federation (Keidanren), Revised Recommendations for Regulatory and Institutional Reforms Towards the Realization of Society 5.0, 13 October 2020, https://www.keidanren.or.jp/policy/2020/091.html (accessed 8 January 2026).

The service provider also appeared before the Regulatory Reform Council in January 2021 and argued that the existing law on bills of lading requires a document in writing and poses an impediment to the digitisation of international trade. The Regulatory Reform Council responded positively and urged the Ministry of Justice to start examining the subject and to take action in a timely manner in its Report on Regulatory Reform published in June 2021.[31] Thus, the Ministry of Justice was made to commit to the reform domestically as well.

4. CHOICE OF APPROACH

4.1. Establishing "Control" as the Functional Equivalent of Possession of a Transport Document

The MLETR provides for a functional equivalent of the possession of a paper document and focuses on control over an electronic record. There seems to be some variation in how this idea is implemented under domestic legal systems. The approach that the Japanese drafter has chosen is straightforward. The Outline provides for "control" over an electronic record as the equivalent of the possession of a paper bill of lading. "Control" is a new concept under the Japanese legal system, not known in any other code or statute. Apparently, the Japanese drafters concluded that "possession" is linked to a physical object and that an intangible, digital record cannot be possessed.

The Japanese approach seems to differ from that of other jurisdictions that have enacted laws based on the MLETR in this respect. For example, the UK's Electronic Trade Documents Act 2023 (ETDA) revisits the concept of possession and provides that a person may possess an electronic transferable record (that satisfies certain criteria) even if it is intangible.[32] The ETDA does mention "control",[33] but only in a provision that describes a technological system constituting an electronic trade document.[34] While an electronic trade document is based on the condition that any person can exercise control of it,[35] the effect of an electronic

[31] Council for the Promotion of Regulatory Reform, Report on the Promotion of the Regulatory Reform: "Realisation" of Regulatory Reform towards the Digital Society, 1 June 2021, https://www8.cao.go.jp/kisei-kaikaku/kisei/publication/toshin/210601/toshin.pdf (accessed 8 January 2026).

[32] UK Electronic Trade Documents Act 2023 (ETDA), sec. 3(1).

[33] UK Electronic Trade Documents Act 2023 (ETDA), sec. 2(3).

[34] See Pejović, Č., *International Maritime Law and Practice: Comparative Law in Context*, 1st Edition, Informa Law, Oxon, 2025, p. 298.

[35] UK Electronic Trade Documents Act 2023 (ETDA), sec. 2(2)(d).

trade document depends on "possession", and not control, of it.[36] As Pejović and Lee argue, "control" under the ETDA is an element of possession expanded to cover electronic trade documents.[37] Similarly, the French law of 2024 defines the holder of a transferable electronic instrument as the person who has exclusive control of it for itself or for a third party.[38] In contrast, Japan's Outline assumes that "control" works as a substitute for "possession", not as an element of the latter in the case of digital data.

Such a choice by the Japanese drafters was made notwithstanding the fact that the Japanese Civil Code has a provision on "quasi-possession" for a proprietary right.[39] In fact, quasi-possession is a problematic concept that has caused tremendous controversy, mainly with regard to intellectual property. It is therefore understandable that the drafters avoided this concept and introduced a brand-new idea. Furthermore, the Japanese drafters may have intended to follow the existing law on paper bills of lading as closely as possible. In the latter case, the possession of a paper document is distinguished from the holding of the right embodied in the document. If the structure is shifted in parallel, control over an electronic record is to be distinguished from the quasi-possession of a right embodied in the record.

Although "control" is to be introduced as functionally equivalent to possession, the Japanese drafter chose not to rely on a general provision to equate control over an electronic bill of lading record with possession of a paper bill of lading, similar to the law in France (mentioned above) or Singapore. Singapore's Electronic Transactions (Amendment) Act 2021 replicates the MLETR word for word and provides that "[w]here a rule of law requires the possession of a transferable document or instrument, or provides for certain consequences if a transferable document or instrument is not possessed, that requirement is met with respect to an electronic transferable record if a reliable method is used: (a) to establish exclusive control of that electronic transferable record by a person; and (b) to identify that person as the person in control".[40] In contrast, Japan's Outline

---

36 UK Electronic Trade Documents Act 2023 (ETDA), secs. 3(1) and (2).

37 Pejović, Č.; Lee, U., UK Electronic Trade Documents Act 2023: Towards the Legal Recognition in Transnational Commerce, in: Zeller, B.; Baasch Andersen, C. (eds.), *Routledge Handbook on Transnational Commercial Law*, 1st Edition, Routledge, Oxon, 2025, pp. 251-268, at p. 261.

38 LOI n° 2024-537 du 13 juin 2024 visant à accroître le financement des entreprises et l'attractivité de la France (1), Art. 16, 1ère para.

39 Japanese Civil Code, Art. 205.

40 Singapore Electronic Transactions Act, as amended by sec. 6 of the Electronic Transactions (Amendment) Act 2021, *Government Gazette, Acts Supplement*, No. 5 of 2021, 25 February 2021, sec. 16I.

specifies each and every provision on paper bills of lading and elaborates how to adapt it to electronic bill of lading records. It addresses:

- the delivery of an electronic bill of lading record as the equivalent to the delivery of a paper document;
- information to be recorded in an electronic bill of lading record;
- the transfer and pledge of the right embodied in an electronic bill of lading;
- rules on the endorsement of an electronic bill of lading (concerning the endorsement in blank, discussed below);
- the demand for the delivery of goods when an electronic bill of lading is issued;
- the list of other applicable provisions;
- the change of medium from a paper bill of lading to an electronic bill of lading record, and vice versa;
- the demand for the submission of an electronic bill of lading (see below).[41]

4.2. Nature of "Control" in the Proposed Reform: Legal or Factual?

There is a well-known divergence among jurisdictions as to whether "control" should be conceived as a factual or a legal concept. As elaborated above, the UK's ETDA clearly treats "control" as a factual concept.

An example of a law with the legal concept of "control" is the Uniform Commercial Code (UCC) of the United States. Under the UCC, the person in control of a negotiable electronic document of title becomes its holder, in parallel with the person in possession of a negotiable tangible document of title.[42] In some respects, a different rule applies compared with those on a paper document. An example is the negotiation of a negotiable electronic document of title, for which "indorsement" is not required.[43] Goldby concludes that "control" under Article 7 of the UCC is a legal concept from which legal consequences flow.[44]

The Japanese choice stands somewhere in the middle. "Control" in the Outline is not a technological concept as it is under the ETDA. Neither does Japan's Outline replicate the MLETR word for word, unlike Singapore's ETA 2021. The MLETR, as mentioned with regard to Singapore's ETA, provides that a requirement of "possession" of a transferable paper document is met if (the fact of) the

41 The Outline, in fn. 3, Part 1, Items 2 to 9.

42 US Uniform Commercial Code (UCC), sec. 1-201(b)(21).

43 US Uniform Commercial Code (UCC), sec. 7-501(b).

44 Goldby, M., The Electronic Trade Documents Act and the 2003 amendments to Article 7 of the Uniform Commercial Code: Do They Do the Same Thing? *SSRN Electronic Journal*, 15 April 2024, pp. 1-12, https://ssrn.com/abstract=4517265 (accessed 8 January 2026).

exclusive control of an electronic transferable record by a person is established and the person is identified.[45] From the Explanatory Note to the MLETR, it is clear that the notion of "control" as used here is a factual one.[46] Compared with the careful wording of the MLETR that avoids treating "possession" and "control" as exactly equivalent, the Japanese Outline describes "control" as a substitute for "possession".

Still, the difference from the MLETR may be largely grammatical. "Control" in Japan's Outline is not a *sui generis* concept from which an independent set of rules derives. It is not intended to affect the substantive rules: the Outline introduces not only "control" of electronic bill of lading records as a substitute for "possession", but also "(electronic) delivery" and "electronic endorsement" to replace "delivery" (of a paper bill of lading) and "endorsement", respectively (see above), so that the existing law is retained exactly as it applies to paper bills of lading. The only minor exception is that an electronic bill of lading record cannot be issued in multiple copies for a single carriage,[47] probably because "multiple copies" of data do not make sense. In this respect, the Japanese approach differs from that of the US, and its notion of "control" is still a factual one.

4.3. Registry System Not Foreseen in the Outline

Among the jurisdictions that the Study Group examined, the Korean law on electronic bills of lading, introduced in the 2007 amendments to the Maritime Law, was unique. It assumes an authorised central registry with which all electronic bills of lading are to be filed. The Secretary of the Ministry of Justice has designated the Korea Trade Network (KTNET) as the central registry.[48]

It is reported that the system is not interoperable with foreign systems, as electronic bills of lading issued in other countries must be registered with KTNET; otherwise, their validity is denied. Therefore, the industry does not welcome the Korean system.[49] Furthermore, the system is not consistent with the MLETR, as

[45] The MLETR, Art. 11(1).

[46] Explanatory Note to the UNCITRAL Model Law on Electronic Transferable Records, paras. 106-107.

[47] The Outline excludes Arts. 765-767 on the issuance of multiple copies from the provisions to be applied to electronic bill of lading records. See the Outline, in fn. 3, Item 7.

[48] Choi, S.-B., Compliance of Electronic Bill of Lading Regulation in Korea with Model Law on Electronic Transferable Records, *Journal of Korea Trade*, vol. 23 (2019), no. 3, pp. 68-83.

[49] Choi, S.-B., A Study on the Designation System of Registration Authority for Electronic Bills of Lading in Korea, *Journal of Global Business and Trade*, vol. 13 (2017), no. 1, pp. 41-54.

it is not technology neutral. A system based on a distributed ledger may find it difficult to operate under this system. Given that Japan's motivation for reform was partly to satisfy international pressures to implement the MLETR, and that a Japanese industry member intended to launch a service based on a distributed ledger, there was no reason to follow the Korean precedent.

Nevertheless, in one respect the system in Korea might have appeared attractive to Japan. The system of a central registry was familiar to the Japanese legislator when dematerialising paper instruments. For securities traded in the capital market, the Act on the Book Entry of Corporate Bonds and Shares provides for the designation of a Book-Entry Transfer Institution as the central registry.[50] The Minister of Justice has designated JASDEC (Japan Securities Depository Center, Inc.) as the Institution. For monetary claims to be used for payments between business entities, the Electronically Recorded Monetary Claims Act[51] allows service providers to establish their registry, not foreseeing a single registry in the country.[52] Still, the registry is designated by the Ministry of Justice as such and subjected to the supervision of the latter. In light of these existing systems, Japanese technocrats in charge of the legislation might have found the Korean law on electronic bills of lading attractive.

Ultimately, international and domestic pressure to comply with the MLETR prevailed. As a result, the drafter had to tackle the challenge of creating a novel notion of "control" instead of following the easier path of familiar precedents. This was rather unusual for law reform in Japan.

4.4. Detailed Issues

While the reform that the Outline proposes is surprisingly bold, the technical details are meticulously examined, as is usual with law reform in Japan. Irrespective of practical demands, the technocrats expend tremendous efforts on theoretically conceivable details.

a) Types of Electronic Bill of Lading Records

As an example, the Outline assumes that there are four types of bills of lading: order B/L, named (straight) B/L, bearer B/L, and "named or bearer" B/L. The existing law does not regulate the possible types of bills of lading. It is understood

[50] Japanese Act on Book-Entry Transfer of Corporate Bonds and Shares, Act No. 75 of 27 June 2001, Art. 3.

[51] Japanese Electronically Recorded Monetary Claims Act, Act No. 102 of 27 June 2007.

[52] Goldby, M., *Electronic Documents…, op. cit.* in fn. 11, paras. 4.27-4.30.

that the four types of *Wertpapier*, as codified in the Civil Code,[53] are theoretically applicable, though no one has seen a "named or bearer" bill of lading in practice.[54] Apparently, the drafter preferred not to affect the existing law solely for electronic bill of lading records.

b) Endorsement in Blank

Similarly, as regards the forms of endorsement, the Outline provides that endorsement in blank (endorsement without naming the endorsee) is to be admitted and elaborates on the procedure that can be taken thereafter. As with the "named or bearer" bill of lading, it is doubtful that a (paper) bill of lading, unlike a bill of exchange or cheque, is negotiated by an endorsement in blank. Nevertheless, the drafter did not fail to address the theoretically conceivable issue.

c) Enforcement over the Right Embodied in an Electronic Bill of Lading Record

One might also be surprised by the Outline's description of judicial enforcement over the right embodied in an electronic bill of lading record. In practice, it is hardly conceivable that a creditor would attach the right embodied in a bill of lading (i.e. a contractual claim under the transport contract). However, once one admits a right in a new, electronic format, the drafter considered it necessary to establish an enforcement procedure over such a right. The solution is that the attaching creditor becomes the holder of the right and is entitled to demand the delivery of the electronic bill of lading record.

5. CONCLUSIONS AND OUTLOOK

Maritime law has historically been a forerunner in the unification and harmonisation of law, not least because of the global nature of seaborne trade. It is therefore no surprise that global efforts towards law reform take place when digital technology opens up new possibilities for bills of lading. UNCITRAL's MLETR marked an important step in coordinating how to respond to the new technology. Various jurisdictions have already adopted the MLETR and incorporated it into their domestic laws.[55]

[53] Japanese Civil Code, Arts. 520-2 to 520-20.

[54] A "named or bearer" instrument is not unusual with cheques. See Uniform Law on Cheques (ULC), 19 March 1931, Art. 5, para. 2.

[55] Reportedly, thirteen jurisdictions have adopted legislation based on the MLETR. See Status: UNCITRAL Model Law on Electronic Transferable Records (2017), https://uncitral.un.org/en/texts/ecommerce/modellaw/electronic_transferable_records/status (accessed 8 January 2026).

Nevertheless, at the micro level, the approaches taken by national legislators diverge. This is partly because the MLETR aims only to ensure the functional equivalence of an electronic document with a paper counterpart and does not specify the technical approaches to be adopted. Furthermore, there are differences in institutions and methods of law reform among jurisdictions. Japan's effort to amend its law on bills of lading provides a good example. While complying with the globally coordinated principles in the MLETR, the legal technicalities in elaborating the reform proposal were idiosyncratic in that every issue was examined in detail, even though the issues are only theoretically conceivable.

The Japanese reform has so far merely reached the stage of publishing the Outline. The bill based on the outcome of the examination in the Outline has yet to be tabled before the Diet. It remains to be seen how long it will be before the proposed reform becomes law and what form the final legislation will take.

BIBLIOGRAPHY

Books and Book Chapters:

1. Goldby, M., *Electronic Documents in Maritime Trade: Law and Practice*, 2nd Edition, Oxford University Press, Oxford, 2019.
2. Kawakami, M., Competition and Collaboration among East Asian Firms in the Smartphone Supply Chains, in: Solingen, E. (ed.), *Geopolitics, Supply Chains, and International Relations in East Asia*, Cambridge University Press, Cambridge, 2021, pp. 77-95.
3. Kozuka, S., Between Globalization and Localization: Japan's Struggle to Properly Update Its Civil Code, in: Graziadei, M.; Zhang, L. (eds.), *The Making of the Civil Code: A Twenty-First Century Perspective*, Springer, Cham, 2023, pp. 181-201.
4. Kozuka, S., Maritime Law Codification in Japan: Elements Considered and Those Not Considered, in: Nawrot, J.; Pepłowska-Dąbrowska, Z. (eds.), *Codification of Maritime Law: Challenges, Possibilities and Experience*, Informa Law, Oxon, 2020, pp. 217-231.
5. Kozuka, S.; Nottage, L., Policy and Politics in Contract Law Reform in Japan, in: Adams, M.; Heirbaut, D. (eds.), *The Method and Culture of Comparative Law, Hart Publishing*, Oxford and Portland, 2015, pp. 235-253.
6. Pejović, Č., *International Maritime Law and Practice: Comparative Law in Context*, 1st Edition, Informa Law, Oxon, 2025.
7. Pejović, Č.; Lee, U., UK Electronic Trade Documents Act 2023: Towards the Legal Recognition in Transnational Commerce, in: Zeller, B.; Baasch Andersen, C. (eds.), *Routledge Handbook on Transnational Commercial Law*, 1st Edition, Routledge, Oxon, 2025, pp. 251-268.

Articles:

1. Choi, S.-B., A Study on the Designation System of Registration Authority for Electronic Bills of Lading in Korea, *Journal of Global Business and Trade*, vol. 13 (2017), no. 1, pp. 41-54.
2. Choi, S.-B., Compliance of Electronic Bill of Lading Regulation in Korea with Model Law on Electronic Transferable Records, *Journal of Korea Trade*, vol. 23 (2019), no. 3, pp. 68-83.
3. Goldby, M., The Electronic Trade Documents Act and the 2003 amendments to Article 7 of the Uniform Commercial Code: Do They Do the Same Thing? *SSRN Electronic Journal*, 15 April 2024, pp. 1-12, https://ssrn.com/abstract=4517265 (accessed 8 January 2026).
4. Jiang, Y., Issues of Surrendered Bill of Lading in China, *Kigyô to Hou Souzou*, vol. 7 (2010), no. 2 (whole no. 24), pp. 151-157.
5. Nezhad, M. E.; Rashidian, S.; Botta, C., Revolutionizing Trade Finance: Leveraging the Power of Blockchain and AI in Electronic Letters of Credit, *Uniform Law Review*, vol. 29 (2024), no. 1, pp. 87-115.
6. Tanikawa, H., Reflections on the Theory of Proprietary Power of a Bill of Lading, *Kaiho Kaishi*, new series, no. 5, 1957, pp. 61-117.

Legislation:

1. Act on the International Carriage of Goods by Sea, Act No. 172 of 13 June 1957, https://www.japaneselawtranslation.go.jp/en/laws/view/4166/en (accessed 8 January 2026).
2. Japanese Act on Book-Entry Transfer of Corporate Bonds and Shares, Act No. 75 of 27 June 2001, https://www.japaneselawtranslation.go.jp/en/laws/view/3237/en (accessed 8 January 2026).
3. Japanese Civil Code, Act No. 89 of 27 April 1896, https://www.japaneselawtranslation.go.jp/en/laws/view/3494/en (accessed 8 January 2026).
4. Japanese Commercial Code, Act No. 48 of 9 March 1899, https://www.japaneselawtranslation.go.jp/en/laws/view/4293/en (accessed 8 January 2026).
5. Japanese Electronically Recorded Monetary Claims Act, Act No. 102 of 27 June 2007, https://www.japaneselawtranslation.go.jp/en/laws/view/3173/en (accessed 8 January 2026).
6. LOI n° 2024-537 du 13 juin 2024 visant à accroître le financement des entreprises et l'attractivité de la France (1).
7. Singapore Electronic Transactions Act, as amended by sec. 6 of the Electronic Transactions (Amendment) Act 2021, Government Gazette, Acts Supplement, No. 5 of 2021, 25 February 2021.
8. UK Electronic Trade Documents Act 2023 (ETDA), 20 July 2023.

9. UNCITRAL Model Law on Electronic Transferable Records (MLETR), 13 July 2017.
10. Uniform Law on Cheques (ULC), 19 March 1931.
11. US Uniform Commercial Code (UCC).

Cases:

1. Great Court of Judicature, *Hôritsu Shinbun*, no. 3139, 14 June 1930.
2. Great Court of Judicature, *Minroku*, vol. 7, 30 May 1901.
3. Osaka District Court, *Hanrei Taimuzu*, no. 1037, 23 February 1999.
4. Tokyo District Court, *Hanrei Taimuzu*, no. 1014, 13 July 1998.
5. Tokyo District Court, *Hanrei Taimuzu*, no. 1167, 26 April 2004.

Government Statements and Reports:

1. Council for the Promotion of Regulatory Reform, Report on the Promotion of the Regulatory Reform: "Realisation" of Regulatory Reform towards the Digital Society, 1 June 2021, https://www8.cao.go.jp/kisei-kaikaku/kisei/publication/toshin/210601/toshin.pdf (accessed 8 January 2026).
2. G7 Germany 2022, G7 Digital Ministers' Track – Annex 2, Principles for Domestic Legal Frameworks to Promote the Use of Electronic Transferable Records, https://www.soumu.go.jp/main_content/000813433.pdf (accessed 8 January 2026).
3. G7 United Kingdom 2021, G7 Digital and Technology Track – Annex 4, Framework for G7 Collaboration on Electronic Transferable Records, https://g7.utoronto.ca/ict/2021-Annex_4__Framework_for_G7_collaboration_on_Electronic_Transferable_Records.pdf (accessed 8 January 2026).
4. Japan Business Federation (Keidanren), Revised Recommendations for Regulatory and Institutional Reforms Towards the Realization of Society 5.0, 13 October 2020, https://www.keidanren.or.jp/policy/2020/091.html (accessed 8 January 2026).
5. Japan Institute of Business Law, Study Group on the Digitization of Commercial Law (Bills of Lading), https://www.shojihomu.or.jp/list/denshika-funani (accessed 8 January 2026).
6. Ministry of Internal Affairs and Communications, Results of G7 Digital Affairs Ministers Meeting, 12 May 2022, https://www.soumu.go.jp/main_sosiki/joho_tsusin/eng/pressrelease/2022/5/12_03.html (accessed 8 January 2026).
7. Ministry of Internal Affairs and Communications, Results of G7 Digital Technology Ministers' Meeting, Video Conference, 30 April 2021, https://www.soumu.go.jp/main_sosiki/joho_tsusin/eng/pressrelease/2021/4/30_07.html (accessed 8 January 2026).

8. Report of the Study Group on Digitisation of the Commercial Law: On Digitisation of Bills of Lading, April 2022, Attachment 2, https://www.shojihomu.or.jp/public/library/848/sv.pdf (accessed 8 January 2026).
9. The Legislative Council, The Outline of the Amendments to the Commercial Code (as Regards Bills of Lading), 9 September 2024, https://www.moj.go.jp/content/001424574.pdf (accessed 8 January 2026).

Other:

1. Korea Trade Network (KTNET), https://www.ktnet.com/board/viewStaticHtmlPage.do?viewName=ktnet_re/comp_prof_en (accessed 8 January 2026).
2. United Nations Commission on International Trade Law, Status: UNCITRAL Model Law on Electronic Transferable Records (2017), https://uncitral.un.org/en/texts/ecommerce/modellaw/electronic_transferable_records/status (accessed 8 January 2026).

Sažetak:

REFORMA JAPANSKOG PRAVA RADI UVOĐENJA ELEKTRONIČKIH PRIJEVOZNIH ISPRAVA

U radu se razmatra aktualna reforma japanskog prava usmjerena na uvođenje elektroničkih teretnica u širem međunarodnom kontekstu digitalizacije trgovinskih isprava. Suvremeni tehnološki razvoj, osobito elektronički podaci i tehnologija distribuirane glavne knjige, potaknuo je brojne države na prilagodbu svojih pravnih okvira. Komisija Ujedinjenih naroda za međunarodno trgovačko pravo (UNCITRAL) predstavlja zajedničko polazište za takve reforme donošenjem Modela zakona o elektroničkim prenosivim zapisima (MLETR). U radu se najprije prikazuju obilježja postojećeg japanskog prava koje uređuje papirnate teretnice te se ističe glavni izazov pri prijelazu na elektronički oblik, odnosno nepostojanje fizičkog posjeda elektroničke teretnice. Nadalje, objašnjava se rješenje koje je predložilo japansko zakonodavno vijeće, a koje uvodi pojam »kontrole« kao funkcionalni ekvivalent posjeda, zajedno s odgovarajućim pojmovima elektroničke predaje i elektroničkog indosiranja. U radu se također razmatraju praktične i političke okolnosti koje su prethodile reformi, pri čemu se osobito ističe regionalna praksa pomorskog prijevoza u istočnoj Aziji te međunarodne obveze, naročito u okviru G7. Usporedna analiza odabranih pravnih sustava, tj. Sjedinjenih Američkih Država, Ujedinjenog Kraljevstva, Singapura, Koreje i Francuske, pokazuje razlike u primijenjenim pravnim rješenjima unatoč zajedničkom prihvaćanju načela funkcionalne ekvivalentnosti. Zaključuje se da se japanski pristup temelji na detaljnoj prilagodbi postojećih pravila, a ne na primjeni općih odredbi. Iako je usklađen s Modelom zakona o elektroničkim prenosivim zapisima (MLETR), takav pristup odražava specifična obilježja japanske pravne tradicije i zakonodavnih metoda te pokazuje kako globalna harmonizacija može ići usporedno s implementacijom prilagođenom pojedinoj jurisdikciji.

Ključne riječi: *elektronička teretnica; Model zakona o elektroničkim prenosivim zapisima (MLETR); harmonizacija prava; funkcionalna ekvivalentnost; pravna reforma.*