COMMITTEE ON INTERNATIONAL MONETARY LAW

WORKING SESSION

Wednesday, 10 August 2016, 9.00am

Chair: Professor Andreas Ziegler (Switzerland)

Sir William Blair (UK) opened the session, and welcomed and thanked the Committee members and other attendees for their participation. He introduced the Chair and commended his expert work in the field of international monetary law. Sir William would be co-chairing the session.

Sir William highlighted that the session would consider the Committee report, the draft resolution to be put by the Committee before the ILA, and the report of the Study Group on Sovereign Bankruptcy. He noted that two members of that Study Group were present to lead the discussion on sovereign bankruptcy (including Professor Cynthia Lichtenstein). He noted that even though the Committee had very few members present, the quality of the Committee's work had not been compromised.

Mr Thomas Baxter, Jr (US) noted that he had stepped down as general counsel of the Federal Reserve Bank of New York and would be speaking in a personal capacity. He commended the work of David Gross in integrating the various contributions into the report and in producing a clear, single-authored report.

Mr Baxter then gave a presentation ethics in finance. The renewed focus had been prompted by the global financial crises that had affected the US, UK, EU and other parts of the world between 2007 and 2009. The presentation would not focus on the crisis itself, but the events that occurred during the financial crisis made that period a suitable starting point for addressing/analysing the renewed focus on ethics in finance. The behaviour of bankers in the industry during and after the financial crisis had contributed to the erosion of trust in the financial and banking industry. Loss of trust from the people the that industry serves. He cited two examples of behaviours that had contributed to the loss of trust:

1. The experience with respect to LIBOR. Bankers manipulated the rate so that they were advantaged. This had a negative impact. It was hard to understand why bankers engaged in manipulative behaviour. Many in the industry exploited the confidential information of customers. This was a basic form of dishonesty.
2. Individuals within the banking house had showed fundamental dishonesty. There was a series of incidents known as "robo-signing" done to facilitate the foreclosure of residential mortgages. Signing financial instruments as robots and falsifying information presented before courts, without conducting due diligence requirements, resulted in the eviction of people from their homes. This was another fundamental failure in terms of honesty and ethics in the financial services and banking industry. Other examples of dishonesty included the securitisation of the wholesale industry, and representations of quality of loans going into securitised vehicles. These fundamental failures contributed to the depth and severity of the financial crisis and the growing recognition that the industry had lost its moral compass.

Mr Baxter noted that the renewed focus on ethics in finance started out as a call for reform of banking business principles. The industry's cry for reform was met with scepticism. Reform

was viewed by cynical people as an effort lacking in substance because it urged bankers to do good. But the call for reform had since gained impetus. The banking industry realised the advantages of reform, mainly to regain the public trust that had been lost. The report highlighted some reforms made to regulatory authorities. The renewed focus on ethics in finance was now coming from the industry itself, and complemented the regulatory measures that had been put in place by the State in response to the financial crisis. After reviewing its performance during the crisis, the industry decided to take positive steps to quash a future possibility of crisis. They realised that it was going to take affirmative and positive steps to change the ethical culture of the industry. Bankers and bank officials had realised that they wanted to be associated with public good and to bring together savers and credit seekers so as to benefit the public at large. They did not want to be only associated with organisations whose main interest was to make money. The renewed focus encapsulated the power of the financial services industry to effect positive change. These realisations started the movement to pay greater attention to an ethical culture in the financial services industry.

Mr Baxter alluded to Angela Duckworth's book entitled *Grit*, in which she defined culture in terms of shared norms and values of a group, whether a group of people, a business organisation, or a country. It was important then to view the culture of business organisations. From the banking industry, it could be observed that bankers were now focused on the culture associated with the banks that they led. He referred to the key changes proposed by the July 2015 report on culture by the Group of 30, which added great value to studying ethics in finance, realising how ethics could change the culture of an organisation. There were several ways to focus on changing the culture of an organisation advanced by the First Savings Bank, the Group of 30, and other industry participants. First, there had been suggestions included changes in respect of human resources – thus, individuals who engage in robo-signings and dishonesty could be addressed in tbe context of performance appraisals or dismissal. Secondly, in the US, there were instances of legal action being brought against dishonest bankers. Pronouncements had been made by the US Department of Justice. Thirdly, there had been actions in respect of "rolling bad actors", ie bank officials who were terminated in one institution for misconduct only to get employed immediately in successive banking houses and continue their unethical behaviour. Action had to be taken so that the history of such individuals was known and the financial services industry could rid itself of such problematic individuals. This was one way in which the industry could be complementary to State policy and law enforcement. A fourth example from the G30 Report of 2016 highlighted the need for renewed effort to address the culture of the financial services industry. Culture renewal was not the only mechanism, but it was one way. The financial industry had not yet regained the trust of the people that it served. This was a work in progress.

The overall objective of the renewed effort was to restore public trust in the financial services industry. There would be far fewer of the kinds of offences seen during the global financial crisis. The industry would gain respect by reference to principles such as reliability, honesty and credibility. The renewed effort must be done on a global basis.

The Committee's draft resolution mentioned earlier was designed to continue to encourage the industry to sustain its focus on ethical culture. The key point in the resolution was that it called on international financial institutions and the international legal community to do the following four things:

1. to devote time and attention to the fostering of ethical culture, and to supplement and inform the operational law within the national and international industry and its institutions.

2. to take steps designed to restore trust in the financial industry nationally and internationally.
3. to study and implement better practices that would lead those who dealt with financial intermediaries having a higher confidence in their integrity.
4. to ensure that supervisors and financial intermediaries and financial service providers were adequately resourced to monitor and guide such entities in their implementation of good culture and conduct, and to encourage sound standard setting initiative.

Sir William noted that the things listed by Mr Baxter were discussed in the Steering Committee meeting, and only stylistic amendments had been made the day before. These amendments did not alter the substance of the resolution. A marked-up copy of the resolution showing the amendments was circulated to members.

Professor Cynthia Lichtenstein (US) made a clarification for the benefit of attendees who were not familiar with ILA resolutions. ILA resolutions went from the working sessions to a Steering Committee (which worked on language not substance) and then on to the plenary session. If the plenary session approved the resolution, it become a resolution of the ILA. That meant that the ILA took note of all things said.

Sir William agreed with Professor Lichtenstein's comments, and added that a copy of the resolution in its final form would be made available to all members before the Committee took a break. He lauded Baxter's presentation, and invited him to elaborate on the "Global Ethics Code".

Mr Baxter informed attendees that the "Global Ethics Code" addressed some of the specific practices that had led to abuse, such as the use of customer information. A novelty of the Code was that it looked to apply to forex trading across the world (not only USD-EUR trade, but trade in other currencies). It supplemented the regulation of specific conduct. The renewed focus on ethics in finance aimed at the culture of the industry. The key word was "complementarity" – all the codes would together work to regain public confidence.

Mr David Gross (US) gave a presentation on recent US and UK litigation. The Committee had decided to look at the ramifications of the global financial crisis in terms of attempts by institutions and public authorities to find those deep pockets for the purpose of recovering compensation for losses suffered as a result of the crisis. This was done through the courts (eg, through misrepresentation claims). The focus had been on commercial disputes between institutions, not so much on consumer disputes. The report commenced with public law claims and also addressed private law claims. The first public law claim was against the US Federal Reserve Bank (the "Fed"), which resulted from the FED's rescue of AIG Corporation. AIG was in financial difficulty as a result of the crisis, and a policy decision was taken to save AIG to prevent its collapse. The Fed came to the rescue with a bailout of USD85 billion, which was given on conduction that the federal government get some 80 percent share/equity in AIG. Star International, a shareholder in AIG claimed against the Fed, since the shareholding had been diluted by the bailout. They claimed that the bailout deal was illegal, done without authority from the Fed to take interest in AIG. Alternatively, if the deal was lawful, the government had not paid just compensation for the deal. The claim was litigated in the US Court of Federal Claims. A case note was available in the 2016 *Harvard Law Review*. The court held that the deal was unlawful, but enquired whether the claimant had suffered any economic loss as a result. The logical answer was that they had not suffered any loss because AIG did no collapse due to the bailout from the Fed.

Mr Gross turned to claims in the private law area. These claims usually ended up in federal courts and commercial courts in New York and London, as detailed in Part III of the report. Because those were common law jurisdictions, there was substantial overlap within notions of negligence, fraud, and dishonesty. The bottom line was that these claims had been overwhelmingly unsuccessful due to long standing contract law rules on disclaimer provisions, even when product representations were made in the contract documents. Essentially, the big institutions were in a better position to protect themselves through the contract documents.

The theme in both the London and New York courts was that the parties had read the contract, they were in a position to make their own bargain, and the courts ought to respect that bargain. This analysis was included in the report, but it must be noted that it did deal with international law; instead, it showed that international financial disputes were mostly played out in domestic courts.

Mr Baxter added that he obviously had so much to say about this presentation. He had strong views regarding the AIG matter, since the litigation was led in terms of his legal opinion. The statute allowed the Fed to rescue AIG in return for interest/equity. The decision to rescue AIG had important policy concerns that required taking consideration in addition to interest. The loan was made by the Fed to avoid the systemic consequences that would have resulted from an AIG insolvency. That was a public purpose, and that was the reason for the world's largest loan in history. It was to avoid the innocent paying the price. AIG was the world's largest insurance company. The Fed did this not to benefit AIG or its shareholders but for the general public in the US and the world economy. That was the primary purpose. The secondary purpose was to protect the taxpayers' interests, and thus to receive a fair amount of consideration for the risk that the taxpayer was taking in making the largest loan in the world. That meant that they had to get consideration to take into account the risk of the lending. The problem with taking interest rate compensation only was that one could not charge an interest rate high enough. The goal was to get consideration consistent with the risk. But if an exorbitant interest rate would be charged on a rescue loan, the debt service faced by the private company would result in further downgrades because it would fail to sustain the debt service, and ultimately the primary purpose (ie, to rescue that organisation from insolvency and to protect the innocent) would not be fulfilled. An alternative to interest compensation was imperative. That alternative in the heat of the AIG moment was equity. A success of the deal would then be realised by the true beneficiaries of the process (the taxpayer). That was public purpose. It was permitted by statute, which conferred incidental power on the Fed. Finally, equity was a successful alternative to charging high interest. The taxpayer was saved. Therefore, the Fed's act was for a greater purpose. Additionally, this decision to bail out AIG came after the private sector had failed or refused to rescue AIG.

The Chair referred the most recent edition of the *The Economist*, which had revisited the collapse of Lehman Brothers. He asked the panel why Lehman Brothers could not be saved.

Mr Baxter responded that a rescue did not success because Lehman Brothers was dealing with Barclays as a rescuer, which had in turn they failed because of London Stock Exchange requirement.

Sir William identified the difference between the two cases. The collapse of Lehman Brothers was containable, but the collapse of AIG would have brought the whole house down. It saved us all from a crisis that would have been much worse.

Professor Christos Gortsos (Greece) gave a presentation on the operation of the European Banking Union (EBU). He began by recalling that the fiscal crisis in the Eurozone in 2010 was partly caused by the global financial crisis. He recalled the 2010 Committee meeting and noted that in that year the EBU did not exist. When the Committee's report was presented in 2012, the EBU was being established.

The political decision to create the EBU was taken on 28-29 June 2012. When the Committee's report was presented in 2014, the creation of the EBU featured significantly. The first pillar of operations of the EBU started in 2014. Therefore, the present report was a stocktake of the developments in the EU Banking Union from its beginning on 4 November 2014 to Spring 2016. A lot had happened in that time.

It was important to briefly define what the EBU was – it was an economic and political organisation. The term "European Banking Union" was all-encompassing. Its functions were divided into several pillars. The EBU had a single supervisory mechanism (SSM), a single resolution mechanism (SRM), and featured a deposit guarantee scheme and deposit guarantee fund. The first two pillars were already in place; the third pillar is yet to be put in place. These pillars were contained in a single rulebook (ie, a set of rules for the supervision, regulation and authorisation of credit institutions or banks in the EU). The substance of these rules had been influenced by developments in international financial law. Therefore, there was a link between European financial law and international financial law.

The first two pillars (the SSM and SRM) could be described as consisting of the hub and some spokes. The hub was the European Central Bank (ECB), and the spokes were the national competent authorities (ie, independent administrative authorities and credit institutions which the ECB did not have the power to supervise in terms of domestic legislation). The SRM had a similar structure. Its hub was a newly established agency based in Brussels (an independent institution). Its independence had some institutional implications. It could not take final decisions as a national resolution authority. The fact that it could take final decisions was demonstrated in Articles 18-19 of the relevant regulations.

Professor Gortsos noted that, if one took into account all the different legal acts which had shaped the EU, the legal bases were different. It was "à la carte" process/framework. The framework was fragmented.

Professor Gortsos concluded by noting that the EBU was a major development in EU economic law. It was the single most important development from an institutional and substantive standpoint, after the creation of the Monetary Union. It was an alleviation of the asymmetry consisting of the fact that, until 2014, monetary policy/activity was conducted at the supranational level, now it was at the national level. In that sense, it had become more consistent with the goal of realising effective banking supervision. Banking regulations at supranational level and now at national level; therefore, the SSM was a major development. The SRM was also a positive development in that a resolution regime did not exist in the EU before 2014. It was the first regime for the resolution of credit institutions. The EBU was now operative, and had been tested through the case of capitalisation of banks within a short period of time. The second major test was going to be the resolution of the Italian banking crisis.

Professor Chiara Zilioli (Italy) made an observation in relation to the recapitalisation of Greek banks in 2015, at a time when the Single Resolution Board (SRB) was not yet in charge, and the Bank Recovery and Resolution Directive (BRRD) rules for compulsory bailing-in before any public money could be contributed to the capital were not yet in force.

The recent EU Court of Justice decision in the Kotnik case had reminded us that the Commission's Banking Communication, which required bailing-in before State aid could be authorised, allowed Member States to submit other reasons for not bailing-in before State aid in exceptional circumstances and obliged the Commission to consider these reasons when making decisions. This was still relevant today in the field of precautionary recapitalisation to which the BRRD did not apply.

Professor Rene Smits (Netherlands) responded to the point made by Professor Gortsos that the European banking framework was fragmented or "à la carte".

He also made the point that Mr Gross had rightly distinguished between significant and non-significant institutions, the former supervised by the ECB, the latter supervised by the national competent authorities under the ECB. But there was one element that was not widely known in the EU system, which was most revolutionary. That was that all banks in the EU (even less significant institutions) were subject to the central provisions of the ECB which dealt with authorisations. All banks were subjected to fit and proper suitability provisions of the ECB. This was crucial, and Professor Smits expressed hope that its elements would develop more profoundly.

The Chair applauded the very interesting and informative presentations and invited attendees to take a short break.

Sir William opened the second half of the working session by inviting Mr Gross to present on virtual currencies.

Mr Gross summarised Part V on recent developments in payment and settlement systems.

He noted that virtual currencies remained a matter of importance for law and public policy. They might affect the central banks' payment systems, stability of prices exchange controls, financial integrity, taxation, fluctuating value, and capital flow management. Underlying concerns also included the absence of government authority, transparency and fairness in terms of fees, hacking, finality of payment, insolvency, and fraud security. In Hong Kong, for example, bitcoin theft had caused the halt of trading. Theft did not happen only online – there had been incidents of bitcoin theft at gunpoint during an attempted sale.

Mr Gross concluded by noting that the Committee acknowledged that regulatory and legislative measures would have to be put in place to curb the negative effects of unregulated virtual currencies, and to accommodate the fast pace at which virtual currencies were operative.

Professor Zilioli offered a belated intervention on Mr Baxter's earlier presentation on ethics in finance. She applauded the draft resolution, and recommended the improvement of the industry's reputation. She queried whether, as an alternative to enforcement to ensure ethical behaviour, bankers could be made to have more "skin in the game" and be more worried about their reputation. At the board level, that message had been clear and well received, but when it came down to the subcultures, there were actors within the ranks who were ready to take risks and exhibit bad behaviours through unethical conduct. In other words, she queried what more could be down at the send level (ie, under the board) so that there was more incentive for officials to maintain ethical behaviour.

Mr Baxter responded that this was a great point. He suggested that the subculture must be integrated into the ethical culture of the organisation as a whole. But it was a challenge. It might be suggested that when an official learnt of unethical behaviour, they must come forth and speak, raise their hand and expose dishonest practice. We could also make the subculture more diverse. He agreed that the less desirable cultures must be broken down. Additionally, there was a need to develop the principle of joint and several liabilities within an organisation.

The Chair commended the Committee for its openness by allowing the officers of other ILA committees to present their work. In this regard, he introduced Dr Freya Baetens and Professor Cynthia Lichtenstein from the Study Group on Sovereign Bankruptcy to present their work.

Dr Freya Baetens (Belgian) thanked the Chair for kind introduction and thanked the Committee for the invitation to present the report of the Study Group on Sovereign Bankruptcy. She began her presentation by noting that she would deal with the highlights of the report on the legal approach to sovereign bankruptcy. This followed on from the 2010 report of the Study Group, which was presented at the Hague Conference. This report set out some issues but did not come to a conclusion on how those issues should be dealt with. Several ways forward for responding to sovereign bankruptcy were identified in the Hague report:

1. a voluntary, contractual regime, which left the resolution for sovereign insolvency to contracts that had been concluded between issuers and bondholders;
2. the adoption by treaty or statute of a limited provision for creditor voting on a plan;
3. the adoption by treaty or statute of a wider bankruptcy regime that reflected the relevant aspects of corporate insolvency reorganisation practice;
4. the adoption of measures to strengthen creditor positions and the dilute the protections insolvent States.

The Study Group examined State practice: the entry of the IMF, the role of the Paris Club, and some specific country situations (eg, Argentina). They examined whether due diligence of a regime for sovereign bankruptcy should be achieved by contract in the bonds themselves, or by treaty or legislation. The realisation was that the method of achievement of a particular result was a secondary issue. The primary issue was to decide what should be the substance of rules for the resolution of bankruptcy, and then procedure could follow. The achievement of a proper regime for State bankruptcy could be a mix of contract and law, which in turn depended on the agreement between the parties.

The work of the Study Group also dealt with collective action clauses in terms of which bondholders could vote by majority so as to bind all bondholders, examined the pros and cons of that, as well as the description of certain clauses and gaps. The main recommendation was that collective action clauses and crucial aggregation clauses had solved many obstacles in resolving sovereign bankruptcy. Their universal use was encouraged in international issues. Their utility in domestic issues should be kept under review.

With respect to standstill clauses, the Study Group recommended that further work needed to be done with the view to developing such clauses. At present, creditor litigation prior to exchange of bonds if the debt was negotiated with creditors seemed rather unusual. But the situation should be monitored to assess whether disruptive and unjustified creditor action became a threat to the resolution of a sovereign bankruptcy.

The Study Group did not consider that sovereign States should be entitled to immunity through the imposition of a unilateral vote or a stay on creditor enforcements or explorations of debt.

The next issue dealt with was that of trustees. The appointment of trustees should be seriously considered on case by case basis. They were a communication link with the sovereign, and the fact that they had to distribute proceeds pro rata was an incentive to aggressive action by a bondholder to secure recovery. To do their job, however, it was sometimes said that trustees should be bolder and they were disincentivised by liability risks. The Study Group recommended that further work be taken to standardise documentation in this respect.

The mixed element of the report dealt with creditor committees and creditor engagement clauses. Creditor engagement clauses were endorsed by some members, while some were less convinced by their substance. The final recommendation was that further work be done to see whether such clauses could be adapted so as to give the regime acceptance and to be routinely used by issuers and bondholders.

On the issue of priorities, the Study Group recommended that the level of priorities in negotiations by public officials and private sector actors be done on a case by case basis. In most cases this worked satisfactorily. If the private sector objected, they could decline to participate and have some say in the priorities.

On the issue of an international sovereign bankruptcy court, the Study Group believed that the case still had to be made for such a court having jurisdiction over sovereign bonds to oust the traditional sovereign jurisdiction of national courts chosen in the bonds.

Professor Lichtenstein thanked the Chair and Vice-Chair for including the Sovereign Bankruptcy Study Group in the session. She noted that the report was written by the Chair of the Study Group, Professor Philip Wood, who was an expert in financial markets. An important point was made on page 4 of the report where an important point is made, namely that the IMF sought to distinguish between cases where the problem was one of liquidity only, and cases where debt stock was is too high (a solvency problem). She queried what it meant to have debt stock too high, and how it got to be too high. This was exactly the same problem that agencies in charge of bank resolution had: was the bank in trouble merely for experiencing temporary liquidity problems, or was it in fact insolvent and should either be resolved or wound up. She posed the question whether there should be an international lender of last resort.

Next, Professor Lichtenstein noted that page 8 of the report referred to a change in solving sovereign bankruptcy. A decision had to be made whether to put money where a sovereign was in arrears either to its private creditors or to bankers before research on sustainability analysis was carried out. Unless it was highly likely that the debt stock was sustainable, money would not be provided. This led to a problem in Greece. Creditors were against reducing the total amount of debt. They were willing to extend the due date of payment, adjusting interest, austerity measures etc, but never to reduce the debt.

The question was how does debt stock become unsustainable. Underwriters on issues of sovereign debt competed with one another. Professor Lichtenstein queried whether there were any rules in international law that forbade lenders to “over-lend” hence causing unsustainability. She then referred to the resolution on ethical standards, and concluded by

posing the question whether there were ethical codes to prevent the above possibility of an unsustainable debt.

Professor Gortsos asked whether the presenters considered establishing or applying the principle of responsible lending to sovereign debt as it was known in consumer lending.

Professor Lichtenstein responded that this aspect had not been taken up by the Study Group, but the principles did exist in private lending. Perhaps the principle could be better formulated and incorporated in international law as possibly binding. But the Study Group would think about in depth.

Professor Zilioli followed up on Professor Gortsos's presentation. What he was suggesting was that we place a duty on the bank to monitor or to ethically discourage issues of bigger/unsustainable debt. The point was to limit States from over-borrowing and other financial institutions from over-lending. We were not yet there, but it was a good point to be further investigated.

Professor Engela Schlemmer (South Africa) asked why lenders should not lend if the risk of not getting paid back was not there. Why should we destroy the rules of the game? She also made a further comment that it remained important to consider private law principles for responsible lending (eg, whether the loan amounted to "reckless lending"). It was also important to consider whether the lender should have required additional security or guarantees.

Sir William closed the discussion on the work of the Study Group on Sovereign Bankruptcy and introduced Mr John Taylor to present on the East African Community Monetary Union.

Mr John Taylor (Australia) began by acknowledging Professor Agasha Mugasha has written the presentation that he would be giving. The EAC was a dynamic community consisting of five members (Uganda, Kenya, Tanzania, Rwanda and Burundi). South Sudan was about to join as a sixth member. They came together historically and signed a treaty in 1999 with the aim to become a complete union – a customs union, a common market with free movement of goods, persons and labour, a monetary union (which was of most interest to the Committee), and a political federation (which is the slowest process in the organisation).

With regards to the monetary union, it was decided in 2013 that concrete efforts should be taken to lean towards monetary union for a potential common/single currency if three members agreed that there should be a single currency. The monetary union had features similar to the European monetary union. The objective of the monetary union was the harmonisation of fiscal policy, financial payment and settlement systems, regulations and supervision of the financial system, and the adoption of a single currency. There were stated prerequisites for the monetary union, and for membership. Other aspects were covered in the treaty. The States had also agreed to build resilience to address economic shocks, and to establish an East African central bank to complement national central banks. Single monetary policy and single exchange rates were also envisaged. It would be a dramatic achievement if EAC States could indeed achieve what the treaty was envisioning.

Mr Taylor noted that there was also an East African Court of Justice that handled human rights, administrative law and constitutional law cases. The objective was that there would be an attempt to harmonise financial laws in the region and that the Court of Justice would be given jurisdiction to deal with commercial cases. Mr Taylor hoped that this would be

successful, and encouraged attendees to watch this space. The success of the monetary union would mean additional strengthening of the other regional unions in West Africa and Southern Africa. It would foster regional groupings in Africa by leading as an example.

Mr Taylor concluded his presentation my emphasising that the EAC consisted of an estimated 150 million people with a GDP of USD 160 billion. This put it in the world's 55th largest grouping by GDP.

Sir William invited Professor Gortsos to give the final presentation on crowdfunding.

Professor Gortsos acknowledged that the part of the report on crowdfunding was prepared by Dr Klaus Peter Follak. It was divided into five parts. It addressed regulatory developments in international financial law. Crownfunding was part of the financial technology known as FinTech. Crowdfunding as a new type of financing raised one major regulatory concern because it involved an unregulated platform. Profssor Gortsos asked whether this type of activity should be regulated, and what type of regulation was necessary. Would the existing rules in capital markets regulation or banking regulation be suitable in protecting investors? There was no conclusive proposal on regulation. There might be a need for regulation, but a lot of work was still to be done. The discussion may be of interest to future Committee meetings.

Sir William noted that FinTech was indeed an important subject to explore. It was also relevant in Africa because of the rise of mobile banking, which is used by large population. This raised significant legal questions.

Professor Lichtenstein made one final note in respect to the East African Monetary Union. She noted that at the time of the entry of the European monetary union, there were difficulties pointed with regard to the fiscal union. She therefore asked whether there was a regime on fiscal union envisioned in the East African Monetary Union. Having a monetary union without a fiscal union might not work.

Mr Taylor responded that there was no such fiscal union. Instead, there were mechanisms of managing or monitoring risks and managing shocks, ie, early warning systems and stabilisations. There was no specific reference to fiscal union. They had considered it but it was not in the plans. Another interesting question to ask further was whether there were provisions in the treaty on the term of the treaty and withdrawal from the treaty.

Sir William intervened that it was important to state that Euro had been a very successful currency. There was a lot of confidence among the EU general public that the Euro meets its objective. The Chair then stated that the Session has come to an end. The draft resolution entitled "The Ethical Culture of Financial Services" was adopted by unanimous vote of members present.

Reporters: Dr Musa Shongwe