HOUSE OF LORDS

Electronic Trade Documents Bill [HL] Special Public Bill Committee

Oral evidence: Electronic Trade Documents Bill [HL]

Thursday 19 January 2023

10.15 am

Watch the meeting

Members present: Lord Thomas of Cwmgiedd (The Chair); Lord Bassam of Brighton; Lord Clement-Jones; Lord Davies of Brixton; Lord Harlech; Lord Holmes of Richmond; Lord Lansley; The Earl of Lindsay; Lord Parkinson of Whitley Bay.

Evidence Session No. 3 Heard in Public Questions 12 – 24

Witnesses

I: Sean Edwards, Chairman, International Trade and Forfaiting Association; Filip Koscielecki, International Group of P&I Clubs; Lars Hansen, Partner, Enigio.

Examination of witnesses

Sean Edwards, Filip Koscielecki and Lars Hansen.

Q12 **The Chair:** Welcome to the second session of evidence on the Electronic Trade Documents Bill. As in the first session, this is being done in a hybrid manner. We are pleased to welcome two of the witnesses here in the room: Sean Edwards, who is chairman of the International Trade and Forfaiting Association, and Filip Koscielecki, who is from the UK P&I—protection and indemnity—Club. Online is Lars Hansen, who is a partner in Enigio. Could you all say a little about your experience in this area?

Sean Edwards: I am chair of the International Trade and Forfaiting Association, which has around 300 members in over 40 countries. We began about 20 years ago in the forfaiting market, which was traditionally the market in negotiable instruments: bills of exchange and promissory notes. In the much less globalised, and certainly undigitised, environment of the 1980s and 1990s, they were the lever or key to opening up the emerging markets.

That is because there is a great deal of standardisation in the financial negotiable instruments. There has been a lot of emphasis on bills of lading, which are of course an important part of international trade. But international trade finance depended on these negotiable instruments, and to some extent it still does in certain markets such as Asia and the Middle East. The use of them has fallen off, because they have to be on paper, and they present the logistical and operational issues and costs that it is one of the objectives of the Bill to remove.

We have tried to recreate that market digitally. Lord Holmes mentioned earlier that work has been done by Lloyds Bank to issue digital promissory notes. That, of course, is being done pre-Act, and it is based on a legal technology that we have produced. It also uses the tech of Enigio, which we will probably hear about later, and I am very proud that we have been able to do that. However, that is not scalable to the degree that we want.

Picking up on some of the questions that were asked earlier, we see a lot of interest in the financial market for these kinds of instruments. In ITFA, we have had conversations with people like ICE, and members have spoken to the local authorities association, so there is a real opportunity there. The goal there is to bring extra liquidity and non-bank investors into the market. There is a $1.7 trillion global trade finance gap, and that can to some extent be plugged by some of the work that we are doing. For the UK, the ICC study shows £500 million in financial negotiable instruments. That is where we come from and what we hope this Bill, when it becomes an Act, will unleash.

Lastly, on the tech side, I am a non-exec director of a Swiss fintech company called Komgo, which is trying to produce these kinds of instruments with a UK oil major in relation to its oil-buying business in the Middle East. That uses a different system from the one that Enigio uses, and perhaps we can touch on that later.

Q13 **The Chair:** Thank you. Let us turn to the world of PNI clubs. Filip Koscielecki, could you explain what a PNI club is? Secondly, what is your experience of, and interest in, these matters?

Filip Koscielecki: Thank you for inviting me today. I am here representing the International Group of P&I Clubs, which comprises 13 mutual protection and indemnity liability insurance associations, known as clubs. Jointly, they provide third-party liability cover to approximately 90% of ocean-going vessels, so it is quite a large group.

In simple terms, we provide cover for damage to cargoes and for pollution incidents, for example, so for any third-party liability issue that arises. From our point of view, as an IG, we are particularly concerned with the digitalisation of electronic bills and, in particular, its effect on shipowners' and carriers' liability exposure.

The Chair: Mr Hansen, could you explain a little of your background and the work that your firm is doing?

Lars Hansen: I have a long background in banking and the financial industry. In the last seven years, I have worked with engineers to create an electronic possessable document that could replicate the paper version perfectly. So we thought about MLETR before we actually knew about it.

Q14 **The Chair:** Your work goes both to what we concentrated on in the first session and what we will now see more of: the non-bill of lading type financial instruments. Does your system work for both?

Lars Hansen: You can use our technology for any kind of document where an original document is required.

Q15 **The Chair:** Thank you. Could I ask you one general question before we start? Attempts have been made in the past to move much more to electronic documents. What is the principal reason why this has not happened?

Sean Edwards: Past attempts have not been thought through in the same way as MLETR. MLETR is the parent of this Bill. You say that there have been attempts in the past, but actually they have not been very substantial. I would say that the substantial move to changing the law to allow digitisation began with MLETR. One could look back at all the UNCITRAL model laws that preceded that, starting with the e-commerce agreement in the late 90s, or the e-commerce model law. There is certainly a pedigree that you can trace through, but, in my opinion, nothing really started to deal with electronic documents until MLETR in 2018.

The Chair: Mr Koscielecki, do you want to add anything in relation to the shipping side of things, bearing in mind all the evidence you heard in the last session?

Filip Koscielecki: We do not have any hard evidence as to why these attempts varied in their rate of success, but the major obstacle we see is the lack of direct recognition in law of electronic bills. Following on from that, parties who did want to use it, or have been using it, had to rely on other legal constructs that are fairly complex, which in itself creates a barrier and hesitation in its use and the risk of outcomes, should it be legally tested.

In the wider supply chain or trade ecosystem, carriers especially are essentially intermediaries moving the goods around, so they are very good at adopting, and I guess there was not enough pressure from the other parties in the ecosystem for the carriers to make a particular push to sign up to the system and campaign for it.

Following on from the legal complexities that currently arise from using the system, there is also a lack of inoperability. They would have to sign up to many systems to cater for the needs of the various shippers and stakeholders they have to work with.

The Chair: Mr Hansen, would you like to add anything to that, particularly on the importance on MLETR?

Lars Hansen: One problem with the solutions that have been out there is that they have required onboarding, and many parties have had difficulties in joining these associations. The documents have not been freely transferable to anyone, which is very important in trade and finance.

Q16 **The Chair:** I think all of you will have heard the discussion we had last time about how important it is that the systems work together and give full effect to MLETR. We would be grateful for any comments you may have on the fact that this Bill deals with the matter by dealing with possession as its centrepiece, whereas Singapore, another common law jurisdiction, has concentrated on exclusive control. You may think much the same as the others: that there is not a lot of difference in practice. Is there any difference that is likely to give rise to any difficulty, and if so, which is the solution you prefer?

Sean Edwards: The difference between us and, for example, Singapore and MLETR is more apparent than real. If you look at the Singaporean law and at MLETR, both strive to create a valid instrument for transferable documents and to deal with the possession problem. Articles 10 and 11 of MLETR are reproduced in the Singaporean law, and Article 10, which deals with control, actually deals with the question of possession. As Sarah Green said last week, in the UK—this is almost certainly the case in Singapore and other common law jurisdictions as well—the problem is that possession was conceived as being possible only in relation to tangible instruments. That is the position that the common law got itself into and, as a result, legislation was needed to change it.

Arguably, the courts could have decided this point. In one House of Lords case there were some dissenting judgments to that effect, but that did not get anywhere. MLETR is equably applicable to, or has a vocation for being used in, both common law and civil law countries. It tries to knock on the head the possession issue, which is the one we have, and, at the same time, the issue in countries where there is no possession problem but there needs to be a recognition of electronic transferable documents or transferable documents in electronic form. It deals with both. In the UK, the only problem we have is with possession, so that is what we deal with in the Bill.

As Hannah said earlier, all of this is traced back to the concept of a qualifying electronic trade document and, for that to happen, there has to be control through the reliable system. You asked questions about how we do that in practice, but legally that is how it is done. We end up with slightly different roads taking us, in my opinion, to the same place.

The Chair: In effect, as regards your area of expertise, you think that, although there is a distinction, it is a distinction in practice without a difference.

Sean Edwards: That is correct, yes.

The Chair: Mr Koscielecki, can we ask you the same question?

Filip Koscielecki: I would echo the same views: we do not think that there is a practical difference. It will not have any material effect on the trade, and most users will not spend much time thinking about whether it is possession or exclusive control at the forefront. We believe that the Law Commission’s explanation of why this approach was taken is sound, and we have no concerns in relation to that.

The Chair: Can I ask you, Mr Hansen, for your views on this question, bearing in mind you come from a country that is not a common law country but is a leading seat of international arbitration?

Lars Hansen: They do equate practically to the same thing, and I do not think that will cause any problems.

The Chair: Thank you all for your concise answers to these questions.

Q17 **Lord Clement-Jones:** Good morning. I wanted to pick up on some of the answers about jurisdictions that we got from our first set of witnesses. You heard what they said: progress is being made; the group of 86; not too much difference between civil and common law jurisdictions, but scope for more progress to be made.

I wondered whether you agreed with what they had to say about the progress being made, particularly by the EU and the issues there, and whether or not that applied to financial markets, if trade was one thing and financial markets or insurance were another, or whether the pattern of activity was pretty much the same across all those markets.

Sean Edwards: Maybe it is just worth recalling the experience that my association had lobbying in Brussels. As has been mentioned, the eIDAS law on electronic signatures is under review in Brussels. There is a very intriguing section, Article 46, which talks about not electronic signatures or trust services but electronic documents. This is wonderful: it means that all the documents we are talking about are actually valid in the EU. Unfortunately, Article 46 has not been accepted as having that effect, so as part of the review process we lobbied to include language in a revised Article 46 that is very similar to MLETR. It was a very slimmed-down version. I worked on it with Sarah Green and we sent it out to the Commission. It went to the Parliament and so on, and it had a lot of support from the Government of Estonia, which is a very advanced country digitally.

Unfortunately, it was not accepted, because the review of that law is being promoted not by DG Trade in Brussels but by a different department. There is an understanding of this issue in DG Trade. As we also mentioned earlier, though, it comes back to a question of state competence. France and Germany and the efforts they are making were mentioned. I have certainly been involved in the French one and peripherally in the German one. There is movement towards reform and an understanding of these issues.

There is no distinction between trade and financial markets. This is one of the important points that I want to bring out. We have had a lot of emphasis on bills of lading, but the financial instruments are an equal part of the legal change. They are in MLETR, in the changes that are being proposed in Europe and in this Bill.

Lord Clement-Jones: We had a slightly mixed report on progress with China. What is your take on that?

Sean Edwards: Again, I will echo what Chris Southworth said. They are very keen adopters of international laws. In China itself, there is a domestic exchange for bills of exchange and promissory notes. That system exists domestically. It is closed to the Chinese banks and does not operate internationally. So they are very au fait with the digitalisation of these kinds of instruments. Things move at a different pace—the legislative process is different there—but I am confident that the Chinese will adopt the law. Especially in the current environment, they are very keen to improve trade.

As to the US, the other big trade partner, UCC Article 12 was mentioned. That is interesting, because it does not look much like MLETR at all, but it has the same effect.

Lord Clement-Jones: Thank you. Filip, is that your take on it as well?

Filip Koscielecki: From the IG's point of view, we do not necessarily see the development of prospective laws in other countries or follow it in great detail. As I mentioned, we focus on legal liability cover and, at the moment, there is very little direct recognition of electronic bills. Therefore, it is hard for us to have experience of it until the prospects become law. Then we will consider how they affect our membership.

Lord Clement-Jones: That is interesting; you are basically further down the pipeline and have to wait until the claims are made or, at least, until the claims are established and then made. I am with you. Lars, what is your view on this?

Lars Hansen: We have been able to support the promotion of MLETR by showing that this can be done. We have engaged with a number of sandboxes, et cetera, where banks and others have put themselves out of their comfort zones and tried to convince themselves. This is a new way to approach trade and financing instruments, and that is our contribution. The ICC and the ITFA have been very successful, and we salute Sean and Chris Southworth's work, which has been fantastic.

Lord Clement-Jones: Is the lack of recognition by the great bulk of countries actively causing real problems for business?

Lars Hansen: For businesses like us, which want to digitalise, it is a problem. We need to work with contractual agreements instead of statutory law instruments. We look forward to the rapid adoption of MLETR across the world, especially in Commonwealth countries, where the Bill could actually be something that—[*Inaudible*].

Lord Clement-Jones: Thank you. What would your members say to that, Sean?

Sean Edwards: Our members want to see it joined up internationally too. By its nature, international trade crosses borders. This is a problem; there is no doubt about it. That is why it is very important that English law changes, because, as has been mentioned, roughly 80% of trade documents, wherever they are, and whether or not they relate to cargoes that will ever touch the shores of the UK, are governed by English law. As a fundamental starting point, it is essential that that instrument is valid in the form of its own governing law.

You then come to the recognition of that, which depends a lot on the conflict laws, the rules of private international law, in that country. This goes back to the points being made about the fundamental change that this Bill is trying to bring about: it is changing just one thing about negotiable instruments, from my point of view, which is that they can now be digital and do not have to be paper. Everything else is the same.

If I were to take a digital English law promissory note to Paraguay, it should be looked on and treated, as a matter of recognition, in the same way as a paper English law promissory note is treated. In theory, there should be no difference. In practice, of course, it would be much better. In fact, South America is also a keen adopter of MLETR. It would be much better if they had the equivalent or same law in their jurisdiction, because there would be a degree of familiarity with these instruments.

The question you asked is very pertinent, because, of course, this has not been tested, because these instruments do not exist. The so-called e-bill of lading is not digital at the moment. I should have said this in my answer: it essentially relies on a contractual closed shop system in which every user signs up to a rulebook. At the moment you unleash the electronic bill of exchange or bill of lading, in principle other courts should treat it in the same way as they treat a paper bill. If somebody in a court in Paraguay were to object—"Hang on, this is digital"—one would then pick up what I would hope is by then the Electronic Trade Documents Act and say, "As a matter of English law, this is okay".

Lord Clement-Jones: Thank you. That is really helpful. Filip, are your members waiting in trepidation for the claims that are going to be made?

Filip Koscielecki: They are probably not waiting in trepidation, as I hope there will not be many claims, or any at all. Despite the legal difficulties we now have without recognition of e-bills, we have not had any claims on the record or situations where any of the parties have tried to undermine the existence of a construct that we would call an e-bill but which is not necessarily an e-bill; it is the emulation of an e-bill that is trying to achieve the same outcome.

The introduction of the Bill will resolve many difficulties in the services that we provide our members. At the moment, because of the complexities mentioned, we help our membership to review these systems vendors, but from a narrow point of view and only in relation to the scope of our cover. You look to achieve legal equivalence through other means. Introducing the Bill would certainly help with adoption and would, I think, drive confidence in using these systems. But, as mentioned earlier today, this is just the beginning, and there is a lot of work to be done to propagate it and make sure that these systems are fit for various trades, for example. That is a very good point.

Q18 **Lord Parkinson of Whitley Bay:** Thank you all for your time. Following up on that, besides passing this Bill quickly and persuading my fellow members of the committee to agree with the previous witnesses, who say that it is in good shape, what more could the Government do to propagate the take-up and use of electronic trade documents internationally?

Sean Edwards: I echo what Chris said: a lot of good work is being done at the trade and e-commerce agreement level—we are a leader in that area. The recognition of standards is very important. I hope we do not tread into the area of accreditation, because I do not think that is the way to go, but certainly the promotion and encouragement of standards for the different instruments are very important. I mentioned the promissory notes that Lloyds issued—Lord Holmes kindly mentioned the first of them in his introductory speech on the Bill—and, since then, there have been more of them.

We have a very small member in ITFA that is assisting SMEs with sub-100,000 promissory notes—those Lloyds promissory notes have been for tens of millions—but that actually excites me a lot more, because it is a regular trade flow, in this case from South America and Africa, towards the UK. So, encouraging the existing standards is important. For financial negotiable instruments, we have ITFA standards that have been accepted by the WTO, and there are standards for bills of lading and so on—and, of course, the Bill covers things like warehouse receipts. So, encouraging standards would be very important, and it is a way in which government can play a big part.

Lord Parkinson of Whitley Bay: Is there a role for the international fora of which we are a member? We have pushed this during our presidency of the G7, but is there a role for other international bodies of which we are a member to do more in this area?

Sean Edwards: This is all about the adoption of MLETR. If we accept that the trade documents Bill is the English law equivalent of MLETR, for us it is about pushing for that in the non-common law countries, which we have been doing; Chris Southworth explained that fully.

Of course, in the Commonwealth, we have a bit of an advantage. For example, the bills of exchange Act in India is one year older than ours—it is from 1881—because we did not get our skates on here then. We should have passed ours at the same time, but the Government of India managed to do so first. It is essentially an identical piece of legislation. So that is a model template for the common law countries. For civil law, it is very much about pushing for MLETR, which I believe we have been doing very well; Chris explained that.

Lord Parkinson of Whitley Bay: That is helpful. Do the other witnesses have anything to add?

Filip Koscielecki: From the IG perspective, the important thing is that government should support industry by facilitating the rate of adoption, which could perhaps be done by supporting the development of international standards and anything that would drive confidence. Ultimately, we do not want to end up with a great legal framework but no users who rely on it. So there is a lot of work to be done in a practical sense, encouraging prospective vendors and users to rely on these systems.

International promotion is also important. Bearing in mind the significance of English law for maritime trade, it is important that this change is broadcast widely.

Q19 **Lord Davies of Brixton:** I will ask a question about the integrity and security of the software. The Bill is dealing just with the law, but it will work only if we have the software. I assume that Enigio is confident about its software—I take that as read—but, from the view of the clubs, do you see a significant difference? We were told by the previous witnesses that the new system could be secure. No system is absolutely secure, but is it your view that there will be an improvement in security with the new system?

Filip Koscielecki: A word of qualification: in the IG, we do not have the technical ability to pass an objective judgment on whether this system is more secure than another. But from our experience of working with various vendors and following the general knowledge that is available, I think these systems have developed sufficiently to provide that comfort. It would be difficult for us to comment on the technical detail—how and to what extent—but there certainly is a general view that this unique digital record, which is needed for the provision of all these documents, is safe and secure. So we have confidence and are told that it is safe.

Sean Edwards: I concur with the point that the inherent security and safety of a digital document is much better than a paper one. Having said that, those risks are of course different. With a paper document, my risk is that someone will mug me and take it. That has happened in the past, when people have tried to steal bearer bonds. The record theft was someone being mugged in an alley of the City of London while carrying a bag full of bearer bonds, which were of course then cancelled. That is the kind of risk that you have with paper.

The kind of risk today, which is much more headline-worthy, is not mugging but hacking by a bad actor somewhere. That is a different kind of risk, but it is, in my opinion, very controllable and safe with the existing technology. In this context, quantum computing is adding another layer of safety to this.

Lord Davies of Brixton: So you see quantum as a plus point, rather than a negative.

Sean Edwards: Yes, it is making it more secure. We have talked a little about digital signatures, which are necessary for all the negotiable instruments that we are talking about. Of course, they are often seen as just the digital equivalent of some ink on a piece of paper, but in fact they are potentially much more than that. If you know the eIDAS regulation, you can have a very high level of electronic signature. So both the system on which the documents are created and the nature or type of the signature are very secure. It is the best security that we have. But of course, as a previous witness said, nothing is completely risk-free.

It is worth mentioning another system for the creation of these. What we in the Swiss fintech company whose board I sit on are trying to do with this UK oil major is create a registry system. It relies not on blockchain but on the integrity of the people running the registry. Being on the board, I would of course say that they are highly reliable and capable people—of course, I would say that—but it is for the market to judge that for any particular provider. So in that environment, which of course is also secure—it has its own computer security—you get a very high degree of certainty.

So there are different risks, but I believe that they are controlled and we have a grip on them. That does not mean that in five years' time some clever Russian hacker will not find a way of breaking this, but I believe that it is inherently more secure than paper.

Lord Davies of Brixton: Lars, do you have anything to add to that?

Lars Hansen: It is fair to point out that the basic technologies we use are well proven. We started experimenting with hashing in the early 1950s. Linked timestamping has been around for a long time. Cryptographic keys are used in all institutions to verify that one server is talking to the other server, et cetera. The basic components that are being used are very well tested, and they have been developed over time as we have received better technology and capacity. If you see quantum computing as a threat, and a challenge that any cryptographer will pick up, if we get this law in place I assure you the level of innovation in this area will take off and you will see a lot of new security initiatives, or thoughts, coming up, because it will be so invigorating for the technicians.

Q20 **Lord Lansley:** Thank you. You may have heard me ask in the earlier panel a question about the system administrator. Could Mr Hansen explain how this works, because I am not sure how the concept of exclusive control is intended to work with system administrators who presumably can exercise control. Maybe possession is the answer: that they have no intention to possess the document and therefore would not be regarded as possessing it. Maybe the common law possession is the answer to the issue. Could Mr Hansen walk me through how the system administrator and the person who is in control of a document work together?

Lars Hansen: I can explain how we have approached it; there are other approaches. In our case, we look at possession. What is a trade document when it is produced by our technology? First, it would be a PDF file that holds the content. That file has a unique number or ID registered on a blockchain, a distributed registry that is held by very many users. The other element of the trade document is the cryptographic key—the owner key. Those two together are the original and make the trade document. If you only have the PDF, you have a copy. You manage the document by presenting the legislation of the correct document and the correct cryptographic key—the only key—to the system, which will enable you to invite someone to sign it, add text, transfer or invalidate the document.

We will never know what is in the document, we will never see it, because it is held by the user. It is never in our system. It is a PDF that is stored locally. We will never know what the cryptographic key is. That is the key to the document. We will have knowledge in the distributed ledger about the lock, which is published in the document and the ledger, but not the actual key. As a system provider, we will never know or be close to the key, and we will never know what is in a document. It is really up to the user.

Lord Lansley: In the Bill there is a reference to persons: one person can be people acting jointly. Is that necessary in part because the person who has control of the PDF file and the person who has the cryptographic key may not necessarily be the same person at the same time?

Lars Hansen: No, that would be an interesting administrative novelty, where someone holds the pen and the other holds the paper, but that was not our intention. Our intention was to make a copy or replica of a very valuable instrument, because in many cases a copy is used rather than the actual trade document, because you distribute it. For all those concerned with trade, being able to verify that the content of the replica is identical to the actual trade document is essential. That creates a lot of comfort and will take away many attempted frauds.

Lord Lansley: But the original document would not necessarily be controlled by one person at one time, because there may be aspects of the security associated with it that are exercised by more than one person.

Lars Hansen: In a bank, for instance, where you have SWIFT keys, you have to take responsibility. Any organisation needs to have good IT security. Most of the incidents we have are caused by staff rather than by the systems, because the systems are usually tested so thoroughly. I do not see any practical problems in the set-up. I only see a lot of opportunity to create a more transparent and safer trade environment, and a better environment in banking.

Sean Edwards: This is perhaps a question for Professor Sarah Green to answer. My understanding of the provision in the Bill is that it is exactly to do with the private arrangements that banks have, whereby you have a four-eyes or maybe six-eyes internal checking system, for example, where two or three people will check a document. Therefore, as a matter of law, you cannot say that one person has control, but they act together, so two or three approve the document. They exercise joint control.

The concern here is that the Bill did not inadvertently exclude trade documents from being electronic trade documents, because in the private arrangement of the recipient more than one person had to receive or sign off on it, for example. I believe that is the origin, but I think it is a question for Professor Green.

Lars Hansen: In a department, you should have multiple persons to exercise and handle a document or a trade. I think that wording in the Bill is a practical issue.

Lord Lansley: Thank you.

Q21 **Lord Bassam of Brighton:** Mine is a narrow point. Are you clear on how time and place will apply when a paper document is converted to an electronic trade document?

Sean Edwards: I think Lars has already touched on how that is quite an old technology, or an old feature of the technology. The blockchain, the private and public key, and the audit trail will have that automatically generated as a matter of course. Where it is necessary, that will happen, and this is part of the reliable system. It is a narrow point, but it feeds into the bigger point, which is that the Bill is technology-neutral. It is trying to future-proof by looking towards the technologies that could be used to do this. Even today, we have companies like Enigio, which use a blockchain and cryptography, and Congo, the Swiss fintech, which uses a registry system, so there is already a mixture.

The Bill—the Act, when it becomes law—allows both. To the extent that any feature, like time and date, is necessary, it will be a feature of that technology and therefore part of a reliable system.

Filip Koscielecki: The Bill essentially creates equivalence with existing paper-based systems, in particular bills of lading. Time and place of issuance are important for legal reasons, but when we change the medium of the document it will perhaps create another date—the date when the medium was changed. That aspect is not reflected in the current legal system and does not affect any liabilities or positions of the parties. If that date is recorded by a particular system, that is a great addition, but the date, time and place of issuing the bill would be the same from the minute it was created in paper form before being converted to electronic form. It would be the same, because it needs to have the same information that it would have had if it was a paper bill throughout.

Lars Hansen: This will possibly be one of those odd cases in which you start with a paper document and change the medium to electronic. In 99% of cases, we will start with an electronic document and might need to convert or transfer it to a paper medium, because the country or authority with which you are dealing cannot handle it electronically. They might not have the administrative systems to do that. I do not see this as a problem at all.

Lord Bassam of Brighton: That is good news.

Q22 **Lord Holmes of Richmond:** Are there any technical risks with the move to electronic trade documents that have not been addressed?

Filip Koscielecki: As mentioned, we do not see any particular risks. The risks are those inherent in moving to a digital sphere and related issues. They are managed well; there is plenty of information about how to manage them. From the insurance point of view, as I mentioned, we have been looking at existing systems to provide electronic bills, and all of them were able to secure cyber insurance in one form or another, which is some comfort. If cyber-risk underwriters think that these systems are safe and secure, they probably are, because they would have weighed that sufficiently in the premium. So I do not think I could identify any particular risk, apart from those that are already known.

Sean Edwards: I would echo that. As I said earlier, it is a different kind of risk to paper, but I believe that those risks are known and that there is good technology to deal with them. The move to quantum computing will add an extra level of security. Of course, it is a challenge to bring that on and it is in its infancy.

I do not think there are any new risks. There are well-known risks, some of which are not new. Some, when they happen, are worthy of headlines.

Being hacked by a bad actor from whichever malicious country it may be makes the headlines. It has unfortunately made the headlines in the UK in relation to the NHS and so on. But those are general risks. I do not think there are any additional risks with trade documents.

Lars Hansen: You will probably be surprised by this, but I would say that we do have a new risk, which is a concentration risk, when many documents are passed through a system. I am not saying that that is unmanageable—it will not be a problem—but we should still admit that it is another type of risk.

On the other hand, we will eliminate tons of other risks. When I heard the question, we had just received 600 questions, mainly regarding IT security, from an onboarding process with a bank. We had to submit material to evidence many of those risks. Those 600 risk areas would probably cover most of these concerns, because onboarding in a bank is a very long and cumbersome process. That is a good accreditation process.

Q23 **Lord Holmes of Richmond:** You are obviously supportive of this move away from paper to electronic trade documents, but do you have any remaining concerns? Have you heard concerns around the piece from colleagues and others whom you deal with on a daily basis?

Lars Hansen: If the industry, corporates and banks are moving forward rapidly, my concern would be that governing institutions would not move forward as rapidly. Everyone has to be on board and committed to this. It is as important that tax authorities, customs and ports are engaged and investing effort in getting this functional.

Filip Koscielecki: I have no concerns. The Bill is fine as it is. I stress that, as mentioned, the work starts after the Bill is passed into law. We need to work on standards and driving confidence for users to rely on this new law and to engage in the digitalisation of trade.

Sean Edwards: On the technology and the law, as it will become, I have no concerns—my questions are not concerns. The challenge I see is in getting widespread adoption of these, and for that we need commercial drivers, because the technology is there. Actually, we will be at a point where there are no excuses not to do it. I always hear the excuse that it is not legal or valid; when I tried to do this five years ago with Barclays, it did not work for that reason. Now, the reason could well be: what is the commercial rationale for this? What problem is it solving and what opportunity is it creating?

To go back to what we in ITFA are doing, we very much see the creation of a market in financial debt instruments as a real opportunity to help solve the trade finance gap and to help SMEs. There is a lot of interest in this from non-bank investors, who are put off by the complexity of standard trade documents because there are a lot of different kinds of trade instruments and there are operational risks and implications attached to them. If you can have a digital promissory note, a bill of exchange or a bill of lading, all that becomes much easier to understand, to process much more cheaply and to put on a registry, on an exchange. At that point, you start getting interest from the new liquidity providers, whom we desperately need.

Q24 **The Chair:** Is there anything that is not in the Bill that you would like to see in it, or is there anything in it that you think should be changed?

Sean Edwards: One thing I would like to see in the Bill—I did not realise until yesterday that it is in the Singapore law, which transposes MLETR, although I do not think it is in MLETR—is a recognition of electronic documents issued and used outside the jurisdiction. That is not in there. I suspect that Sarah Green's answer to that will be that this Bill deals only with English law, and there is a project, which she mentioned, looking at the international private law aspects. It may be well be worth looking at that. I did not realise until yesterday that that provision existed. Lord Thomas, you talked a lot about recognition and international comity, and that could well be helpful, although perhaps not strictly legally necessary.

The Chair: Is this a change you see as helping—

Sean Edwards: It is helpful, rather than legally necessary, for the central purpose of the Bill.

The Chair: Are you saying that we need to look at the Bill to make certain that people actually see its wider implications, rather than see it as a narrow exercise in tinkering with English law?

Sean Edwards: Yes. I do not think it will be a narrow exercise, for the reasons we mentioned—the 80% of trade and so on. The addition that I am suggesting has no real impact, and, if it was not in there, the problem that the Bill is trying to solve would not change at all. But it would help with international recognition; it would show our willingness effectively to be the beacon for change.

Filip Koscielecki: I have nothing to add. I think it is fine as it is.

Lars Hansen: The only thing that I miss is the change from the word "Bill" to the word "Act".

The Chair: We cannot do anything about that.

Lars Hansen: This is a fantastic process, and the Bill needs to pass urgently because so much good is coming from this. It will have a significant effect on other jurisdictions, which are looking at what is happening in Parliament right now. So passing the Bill is really important.

The Chair: I thank Mr Hansen for appearing on this hybrid link to us, and I thank our two witnesses in the room, Mr Koscielecki and Mr Edwards. We are very grateful to you for sparing the time to help us with this, and to those who have rendered assistance to you.