

WORLD LEGAL FORUM

Where the power of law meets the law of power

The Hague, 25 October 2010

Call for the establishment of an international dispute resolution facility for the financial markets in The Hague

A world financial tribunal, to settle some of the most complex international legal disputes, should be established in The Hague. This was the outcome of a round table meeting with leading lawyers and financial experts organized by the World Legal Forum Foundation in the Peace Palace in The Hague today. The new institute is expected to be established in the first half of 2011.

Representatives of the European Central Bank, the US Securities and Exchange Commission and the New York Federal Reserve were among delegates from 14 countries to review the initiative, which is backed by the Dutch Government, the Dutch Central Bank and key market players. Lord Woolf of Barnes, former Lord Chief Justice of England and Wales chaired the meeting.

The tribunal is seen as urgently needed to help resolve the increasing number of intricate global financial disputes – particularly those resulting from complex financial products such as derivatives. It would provide expert judges and advisors to help make decisions based on sound legal and financial grounds, in the process helping to establish an internationally settled body of law.

The tribunal would focus on disputes between financial institutions such as banks, insurance firms and pension funds but could also consider disputes between institutions, such as clearinghouses and exchanges and their customers or institutions and regulators. Cases would be resolved where possible by dispute resolution, using a process of mediation by financial experts. However the tribunal could arbitrate in cases where no agreement is achieved.

The tribunal would be made up of a panel of recognized international market experts in finance (PRIME Finance) and would also facilitate judicial training programmes to increase worldwide expertise in these areas.

The meeting, which included senior lawyers and financial experts from the US, Asia, Europe, Australia and New Zealand, agreed to seek to establish the tribunal as soon as possible. The process will be overseen by the World Legal Forum foundation in The Hague and the city's Peace Palace is the proposed venue for the tribunal.

Contact:

World Legal Forum

T + 31 -(0)70- 750 8688

Jeffrey Golden, Member of the Advisory Board of World Legal Forum

Jan Eijsbouts, Chairman World Legal Forum

Frank Zwetsloot, Director World Legal Forum

Camilla Perera, General Manager World Legal Forum

WORLD LEGAL FORUM

Where the power of law meets the law of power

Quotes:

Lord Woolf said: “This initiative would be a massive step forward which would benefit financial markets around the globe.”

Jeffrey Golden, Visiting Professor of Law at the London School of Economics and Political Science and former Partner at Allen and Overy and member of the Advisory Board of World Legal Forum, said: “The world’s biggest financial cases are too serious, too complicated and too important for most ordinary courts to cope with. This tribunal would have the expertise and the authority to help the world establish a settled and watertight body of law in the financial sector.”

“The financial crisis has been an epidemic which has left many market patients sick or even terminally ill. Better financial regulation is the preventative medicine but in the meantime the courts are our hospitals and we should ensure that they are efficient and that we have the qualified staff to run them.”

Chairman Prof. Jan Eijsbouts of the World Legal Forum’s Board said: “In view of WLF’s mission to implement new initiatives on conflict management and resolution in The Hague the great support for this initiative is encouraging. We at WLF are looking forward to assist in the creation of this unique Institute combining sound legal research with facilities for mediation and arbitration in this highly complex field. The support by worldwide top experts in this field we obtained will be a key success factor.”

Thomas Jasper Founding Chair of ISDA, and CEO Primus Guaranty, said: “This initiative, if well organized, will enhance predictability and legal certainty within the financial markets.”

Governor Wellink, Chairman Basel Committee on Banking Supervision, President Dutch Central Bank (DNB) said: “The establishment of an international dispute resolution facility that contributes to legal certainty in the OTC derivatives markets, fits well in a broad range of initiatives to enhance financial stability. DNB therefore welcomes this initiative. The idea of adding private dispute resolution in the financial markets to this landmark decision would fit perfectly in The Hague’s international judicial tradition.”

Gerard Meijer, Partner, NautaDutilh said: “With the proceedings on the basis of special Arbitration Rules of the United Nations, and the fully independent support of the Secretary General of the Permanent Court of Arbitration for the appointment of the arbitrators on the basis of a special financial expert list, which is created for this purpose, arbitration will be the preferred method for the final resolution of the kind of disputes we have in mind, in case no mediation settlement can be reached.”

Helen Cockroft, General Counsel Global Banking and Markets, Royal Bank of Scotland said: “We support this initiative because predictability of legal outcome is key in reducing risk in the financial sector.”