

## THE NEW ATTRACTIVENESS OF FRENCH LAW FOR INTERNATIONAL TRADE

### Introduction

**F**rench law has long radiated beyond the borders of the country. Thus, the Civil Code left in Europe and the world memories that are still perennial. It has served as references to many foreign legislators, contributed to the creation of an international legal order, trained generations of students and teachers around the world to a method of reasoning and a legal culture peculiar to France.

In fact, this status as a "model" of French law is contested. In a confrontation that would oppose the Romano-Germanic system to which France and Germany belong to, the Common Law system of which England and the United States are the main representatives, and more generally in a competition linked to the globalization of law, continental law would no longer have the dominant position that was able, in many areas, to make the force of French law in particular during the preceding centuries.

It is true that law has become an instrument of major influence in a deeply reconfigured international context. The change in geostrategic and economic balances with the emergence of new powers and actors (multinational companies, non-governmental organisations (NGOs), the irreversibility of the internationalisation movement under the influence of European integration and globalisation) are decisive developments.

In this environment where the games of influence intersect, competition is not only economic and commercial. Competition is also expressed as a model of society, of the prevalence of the system of law, and therefore of principles and values.

For twenty years now, we have witnessed, under the influence of rating agencies, particularly the World Bank, a veritable "war of the legal worlds", largely artificial, since they are limited to assessing a legal system only in relation to its economic efficiency, even though reality shows us that legal systems are built by hybridization and incorporation (A).

The stakes of this competition towards ever more attractiveness, are of an economic but also political order since they tend to impose, including a system of thinking and decision-making (B).

French law in international trade retains a certain influence thanks in particular to its qualities which the legislator has the concern to preserve and develop in the face of ever-increasing competition (C).

Examples of this attractiveness remain numerous, significant and encouraging, especially in the areas of arbitration, international contract law and this attractiveness is also exported(D).

### A. The right use of attractiveness

Although the notion of attractiveness has only been developed for thirty years, French law has historically benefited from such a phenomenon. Indeed, since the end of the 18th century, French law has undoubtedly represented a model from which many states



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throughout the world have been inspired. From that time on the basis of a strong legal tradition, it formed a coherent, modern and intelligible legal system whose qualities are easily reproducible.

In history, the French military and diplomatic power combined with the status of French as a diplomatic cultural language, has created an environment conducive to the dissemination of French law. These factors no longer play as strongly as before, and the feeling dominates of a lesser influence of French law in a confrontation between the Romano-Germanic system and the Common Law system.

However, we must not draw conclusions because the international influence of a legal system is not scientifically measurable, and so today states are faced with a real sporting competition resembling a real Olympic Games of law in order to be placed in the top positions of the international rankings.

French lawyers, all sensibilities combined, without denying the loss of influence of French law, are very critical of these assessments supposed to reflect the attractiveness of a legal system and therefore its adequacy with the world of international trade.

Among these assessments, I would like to mention the most well-known, namely the one from the World Bank, which regularly establishes its ranking of the most attractive countries in its Doing Business reports.

This is an example of what can be excessive, partial or even dangerous this type of notation.

This classification of the attractiveness of law is indeed dangerous because it leads to a form of crispness of relations between legal orders, and as I indicated in the introduction, leads to a real "war of the legal worlds" in a very artificial opposition of Common law and Continental law.

France was at the forefront in the Doing Business reports published since 2004 openly questioned the economic effectiveness of civil rights in general, and more particularly of French-inspired rights.

These assessments are only the logical consequence of the representation of the relationship between the legal order by transposing into law the economic model of competition and the market.

In this approach, legal systems compete with each other for the production of rules most likely to attract economic operators, and the model conveyed by these rankings of attractiveness is based on the rivalry relationships of the different legal systems.

The most noticeable consequence of this, to put it mildly, deviant use of attractiveness is manifested in the attitude of the states, and in particular of the French public authorities, since this is a new competitive obsession expressed by the decision to make the defence of the economic attractiveness of French law one of the priorities, which has led the French public authorities to multiply the actions allegedly intended to maintain or regain attractiveness, in particular by creating a "strategic attractiveness Council" placed before the Prime Minister, by multiplying public reports on the evaluation of French law in its attractiveness, and above all by reforming entire sections of our law.

This desire to win the race for economic attractiveness has not only virtues, since it has proven to experience, likely to lead to certain drifts.

In addition to the risk of exploiting the right to the economy, this search for attractiveness has often led the French authorities to pursue projects which I would describe as counter-nature, consisting in particular of gradually erasing all the specificities of

French law under the pretext of defending its international influence. This operation has sometimes gone through the introduction into French law of totally foreign but considered attractive mechanisms, such as the trust, introduced in France through the resurrection of the trust or the patrimony of assignment.

At other times, it was by renouncing institutions typically French but deemed unsuitable for foreigners that one hoped to defend the attractiveness of French law. A recent example is the reform of contract law through the disappearance of the case as a constituent element of a contract and the simplification of the legal vocabulary applicable to contracts.

This form of attractiveness, and more precisely this assessment of the attractiveness of a particular legal system, such as French law, however, disregarded a reality that the subject of comparative law can teach us in two aspects.

First of all, and without any bias, we have considered that a legal system does not have to be attractive, if this term obviously implies a certain laxity or the subjection of political sovereignty to special interests, national or foreign.

On the other hand, a legal system must be compatible with the requirements of a modern market economy, i.e. ensuring transaction security, predictability of constraints, a fair balance between law and contract, simplicity and adaptability.

Thus, rather than direct competition between the Common law system and the Continental law system, it is actually a phenomenon of the permeability of the law to foreign solutions.

International competition gives rise to the development of an essentially contractual International Economic Law in the context of which certain international standards or elements of soft law emerge.

The use by economic actors of contracts that are virtually detachable from any domestic law has long established the existence of international trade law produced by the same actors. It must be recognized that international commercial and financial activities create rights that often anticipate the positive law of a state.

The operators of international trade thus tend to become their own legislator and to escape rather widely when they wish and when they can, from both national and international regulation, to the point that international trade law can be assimilated to an international company law.

This law is almost naturally inspired by the anglo-saxon system because it is better adapted to a deregulated market and above all by the fact that the contracts thus established have content that often has the same source as that of the common law.

The "model" contracts, the general conditions, the main clauses, have as their author the main actors of international trade, which have created the models, in fact limiting the freedom of contract.

Competition between these two legal systems is therefore only a consequence of the practice of international trade, not a cause of this attractiveness.

On the other hand, reasoning only in relation to the attractiveness of a right to the detriment of another right leads to a lack of knowledge of a reality that comparative law allows us to know almost permanently and which manifests itself in the phenomena of "hybridization" or "legal mixing".

Depending on political, cultural, social and geographical considerations, legal systems become entangled through borrowing, so that this entanglement results in the



coexistence of legal systems and their influence is never unambiguous but exerts itself to the extent that each of the legal systems uses and integrates elements of another.

## **B. The challenges of the attractiveness of the law**

The attractiveness of a national law as a legal and economic objective to be achieved may appear totally futile.

Indeed, operators of international trade have specific tools for their contract, in particular with the substantive rules derived from international conventions specially created to govern this type of relationship, such as the Vienna convention on the international sale of goods, the Unidroit principles on international commercial contracts or the PARIS Convention on the protection of industrial property, to name but a few examples.

These substantive rules pose solutions directly applicable to the substance. However, national law retains some importance for several reasons. First, the authors of international trade are familiar with its content and refer to it by habit or ease.

Second, international regime law may be misapplied by the national court which has to decide a dispute. Indeed, the latter is little familiar with original concepts and categories derived from the practice of international trade.

Finally, the substantive rules of international conventions do not cover all legal issues that may arise, and national law remains of subsidiary application on important issues.

Thus, rather than splitting the law applicable to the contract by choosing to subject it in part to a substantive law of international origin and in part to a national law of residual application, international trade operators frequently choose to subject it to a specific national law. It should be remembered that the parties to an international contract have the freedom to choose the national law they want, practically without any restrictions.

French law will have a chance to be chosen by the operators of international trade if it appears better than the foreign laws with which it will necessarily be compared.

The objective of attractiveness is therefore, through adequate international trade law, to convince foreign companies to choose French law and French companies to keep it. Beyond this attractiveness that French law has always enjoyed for more than 2nd century, it is the influence of France and French legal thinking.

Therefore, the issue is not strictly speaking to make or preserve French law more attractive for international trade because the objectives go beyond the French framework since the attractiveness is conceived today in a form of opposition between civil law countries with a tradition of the Romano-Germanic legal system and Common law countries .

The maintenance of an attractive national law for international trade has consequences, including philosophical and, of course, economic.

In Common law countries, justice focuses primarily on the resolution of the dispute with the idea of choosing the solution most adapted to the particularities of the situations.

It is not necessary to question the overall coherence, conformity or rationality of the proposed solutions : the main thing is to solve the difficulties one after the other.

In the continental conception, on the other hand, and particularly in French law, abstract rule and demonstration occupy a central place.

The result is a way of resonating and a radically different turn of mind.

The continental jurist will bring each species he or she faces closer to a general legal solution, while the Common law jurist will focus on the particularities of the situations.

On the other hand, and more generally, it is difficult not to recognize that it is the dominance of the liberal economic model that largely owes its success to the Common law.

Seemingly simpler and more flexible, Common law is often presented as the most effective solution and Anglo-Saxon law more pragmatic to bring operative solutions that globalization requires

Thus, with regard to contracts, continental law and French law in particular are very attached to the legal and economic equality of the contracting parties, involving a certain formalism in the exchange of consents and in the very content of contractual obligations, and this involving, where appropriate, checks on the part of the judge and sanctions when one of the parties has abused its dominant position in the establishment of the contract.

Common Law does not have this requirement of equality and security of the weak side, only the law of the market and self-regulation of the business world can bring a semblance of control.

Apart from any controversy about the merits or disadvantages of this or that legal system, however, we must not lose sight of what France, but also the European Union, to a large extent, have insufficiently integrated, namely the strategic nature of the rule of law in the context of globalisation.

The law constitutes a weapon for states in the service of their geopolitical, economic, financial and cultural interests.

In France we had to know some illustrations of this hegemony of anglo-saxon law particularly in the conflict between BNP PARIBAS Bank and the US judicial authorities and Alstom, the latter were imposed specular fines (\$9 billion for one ; \$ 600 million for the other).

Let us also recall the dispute that was brought before the US Supreme Court in favor of two US investment funds that demanded repayment of debt securities from Argentina.

Even closer, the disputes in the framework of the negotiations on the transatlantic partnership for trade and investment (TAFTA) provisions relating to the settlement of differences between states and companies.

By imposing their legal principles, the states of the Common law and the United States in the front line, in the absence of governance at the international level and particularly at the European level, are able to take advantage of economic, monetary and financial relations that remain largely to their advantage.

The question of the international influence of French or German law is therefore today as it was yesterday, on the one hand, the way in which the answers given by France or Germany to questions arising in other states or at the international level are understood and evaluated, and on the other hand, the will, the capacity of these two countries to assert the solutions abroad.



These two factors are not legal. In other words, the diffusion of norms and their adoption abroad is first the reflection of a power before being the vector : the civil code did not precede the armies of Napoleon but survived them. It is therefore necessary to relativise the role of "legal models" in the construction of legislation, the institution, or a legal regime and thus to remain lucid about the potential results of a strategy of legal influence.

The internationalization of law has transformed the political and cultural stakes of its export and therefore its attractiveness. It is always a question, as it was yesterday, through the negotiation of bilateral and multilateral international conventions, participation in the structures and work of international organizations, of marking the presence of a state through its law.

However, it is more important than yesterday to conceive the promotion of French law as the way to better know foreign rights in order to enrich and understand them.

Professor LYON-CAEN spoke about the attractiveness "of mirrors of our strengths and weaknesses". It is now also a question of defending a certain cultural diversity by avoiding the uncontrolled importation into French and German law of concepts which are foreign to them or, conversely, by facilitating the dissemination of concepts of Romano-Germanic law in other national laws by their adoption at international level.

More generally, the challenge is to participate in the creation of a new global legal order within which national, transnational and international law may exist.

Thus, having legislation and administrative and jurisdictional institutions corresponding to an international standard is an asset in the competition between states to attract investment in their territory.

### **C. The advantages of the attractiveness of French law**

In contrast to what had its influence for almost two centuries, French law today would suffer from a lack of flexibility and inventiveness, which would not allow it to adapt to international trade. However, it remains true that French law is still among the most widely used national laws, whether the law is applicable to international contracts as *Lex Mercatoria*, or as a law chosen in the context of international arbitrations, in particular before the Court of International Arbitration in Paris.

Criticism of French law must of course be taken into account, but without obscuring the intrinsic qualities of French law, which are structural assets in order to maintain and increase the attractiveness of international trade.

French law has qualities that are precisely sought by operators of international trade, namely its accessibility, security and flexibility.

It is also interesting to note that these criteria are not taken into account in international evaluations (*Doing Business*) for classifying legislation.

*Accessibility of the right* — this is a quality shared by all the rights deriving from the Romano-Germanic system or the system of continental law since this accessibility is manifested on the one hand, by the codification of the texts, and on the other hand, by the intelligibility of the rule.

Without wishing to argue, it is obvious that a rule of law contained in a law or code is clearly easier to access than that which is to be extracted from case-law decisions or from unwritten custom provisions.

In terms of accessibility, Common law rights are scarcely accessible to the uninitiated, and the lawyers of Common law countries have fully understood this since they use the codification technique for the purpose of clarifying the law.

In the United States as well as in Great Britain, in the face of the proliferation of texts, lawyers have resorted to official or private compilations, sometimes referred to as the Code, or even "revised laws" or "consolidates laws" or "restatements of the law".

And as Professor MALAURY humorously put it: "the more codes there will be to park the existing laws, the less there will be texts in freedom : this right in captivity will finally be discovered ; it will be more easily known by the justiciables... »

Accessibility is also manifested by the intelligibility of law.

In accordance with the wishes of these drafters, the French civil code is clear, intelligible by the greatest number to the extent that it uses a "popular" language.

The difficulty actually lies in the contemporary legislative inflation that has contributed to obscuring entire sections of the law, particularly the texts of the French civil code, so that the public authorities for more than twenty years now have reacted in order to preserve this intelligibility by giving this principle constitutional value so that any vague or obscure text can be declared unconstitutional.

French law also presents the asset of security.

From the point of view of its spirit, French law, and more generally the legal systems of Romano-Germanic law, considers that the prevention of disputes matters as much as their resolution.

Thus, the trial is perceived as a sign of a failure of the law, so various security mechanisms have been implemented in order to prevent as much as possible, the birth of a dispute.

Whether it is the rules of evidence, in particular for a number of acts or contracts (the need for a notarial deed for all contracts having as their object a real estate transaction in particular), or even the place left to contractual equality in order to preserve a balance between the contracting parties having different economic powers.

The recent example of the reform of French contract law illustrates this concern to defend the contractual balance in order to avoid economic domination by one of the contracting parties.

In this regard, too, the role given to the French judge goes far beyond the caricature that our Anglo-Saxon friends make of the French judge who would only, as Montesquieu pointed out, be " the mouth of the law ".

In reality, practice shows that the French judge, in his prerogatives, has nothing to envy to the anglo-saxon judge, since he is also the creator of law, when the legislator does not intervene in a specific area (it is the judge who created the notion of unfair competition that is not found in the current civil code).

The French court also modifies laws by interpreting them in a sense that it considers to be more equitable (example: creation of solidarity of commercial debtors, contrary to the provisions of article 1202 of the civil code providing that solidarity is not presumed).

Finally, the third asset of French law to promote attractiveness is its *flexibility*.

The codification system is not synonymous with rigidity.

Indeed, today, French civil and commercial law, written and codified law, has nothing of a rigid law. In fact, one would rather regret the too short life of the ever-changing new laws.



In reality, and unlike Common Law rights, French rules of international trade have a great deal of flexibility because they are expressed in simple terms, and are characterized by generalities which allow them to be adapted to the realities of the moment, either by the interpretation that the authors of international trade will make of them, or by the interpretation of Judges or arbitrators who might be required to settle disputes.

Moreover, this flexibility is also reflected in the supplementary nature of the rule of law. French law distinguishes between the peremptory rules that are most often imposed on individuals and in the context of internal relations, and the supplementary and interpretative rules of Will that apply most often in the world of international business.

These supplementary rules may be waived by the parties or adapted according to the specificities specific to each contract.

In summary, far from freezing the evolution, codes and laws make it possible, on the contrary, to carry out quickly legal changes that would be difficult to achieve by the only way of jurisprudence. However, the examples of this attractiveness and relative success of French law are quite noticeable.

#### **D. The manifestations of this new attractiveness**

Among the areas where the attractiveness of French law has strengthened over the years, some are experiencing strong interest from the business world.

This applies in particular to French arbitration law (a) contract law (b) and other areas(c) in addition to an export of this attractiveness (d).

**A. reform of French arbitration law.** French law on international arbitration has always been modelled in the same way as the civil code at the time.

This right has established principles that are now shared by many countries. The law of international arbitration has been the subject of several codifications since 1980 (notably the decrees of 14 March 1980, 12 May 1981 and 13 January 2011).

Although international competition in arbitration matters is growing, particularly as a result of the development of Arbitration places in London, Geneva, Hong Kong and Singapore, France and its arbitration law remain attractive, thanks in particular to a nearly century-old history since the presence in 1923 on its soil of the International Court of Arbitration, emanating from the International Chamber of commerce.

In a context of ultra-competition dominated by the law of Common Law countries, France did not hesitate to challenge the main principles governing the law of Arbitration in order precisely to preserve its attractiveness.

Before the 1980 reforms, French arbitration law was considered a case law that became difficult to access, especially for foreign companies. Clarification and pragmatism were therefore needed. This new French law of international arbitration, reinforced by the decision of the International Chamber of Commerce to maintain the seat of the Arbitral Tribunal in Paris, has reinforced the attractiveness of French law.

Indeed, this right of arbitration has advantages of flexibility in the modalities of international arbitration, in particular by the possibility of derogations from the rules of validity of arbitration agreements and the decision-making of the arbitral award. This law also provides a clarification of remedies against arbitral awards rendered both abroad and in Paris.

In addition, this law establishes an autonomous system of international jurisdiction that is not linked to any state legal system, so that awards can be retained and enforced according to the criteria set out in the New York convention of 1958.

The various principles implemented by this law, and without this constituting a limiting enumeration, can be summarized in particular in a very simple and practical definition of international arbitration (article 1504 of the code of Civil Procedure) which "is international arbitration that calls into question the interests of international trade.": strengthening the principle of the autonomy of the arbitration agreement from the contract to which it refers; absence of any formal requirement of the arbitration agreement; relief of the arbitration procedure (appointment of arbitrators, determination of the procedure, guarantee of the principle of contradiction); strengthening the authority of the arbitral Tribunal, which may order the parties to take such interim or interim measures as it deems appropriate; clarification of the role of support Judge of the president of the Tribunal de Grande Instance de PARIS, which may thus experience difficulties encountered when the parties have given jurisdiction to the French courts or when one of the parties is exposed to a risk of denial of justice; relief of the exequatur procedure; reduction of the possibilities of appeal against the award made in France, which may be the subject of an appeal for annulment only if the Arbitral Tribunal has wrongly declared itself competent or incompetent, or improperly constituted or has ruled without complying with the task entrusted to it.

In any event, this remedy for annulment has no suspensive effect and the award can therefore be enforced. More generally, French law is characterized by a propensity to develop alternative dispute resolution methods, particularly through mediation, settlement or participatory procedures.

As such, French law has provided examples that have inspired European legislation, and recently the law on justice of the 21st century of November 2016, has brought new legal conditions to the alternative development of conflict resolution.

**B. The attractiveness of contract law.** While it is true that French law on sales of goods is not at first glance very attractive to the seller, contrary to the rights under the Common Law, since the obligations of the seller due to abundant jurisprudence have become very numerous (obligation of delivery, obligation of security, obligation to guarantee hidden defects).

On the other hand, since the sale is concluded between professionals involved in the same sphere of activity, French sales law has significant advantages in particular in that it allows the effectiveness of a number of contractual arrangements.

French sales law is characterized by its simplicity in terms of the transfer of ownership.

Indeed, the exchange of consents on the essential elements of the contract (the thing and the price) is sufficient without the need to specifically organize this transfer by complex and excessively detailed agreements.

Thus, unlike German law, French law does not distinguish between ownership and possession with regard in particular to the determination of the transfer of ownership : Eigentum, Besitz.

The transfer of ownership also operates transfer of risks regardless of the actual delivery. French sales law also allows the limitation period to be adjusted and welcomes jurisdiction and arbitration clauses very favourably.



However, it is true that statistics published by the ICC since 2007 show that English, Swiss, American rights are chosen as *lex contractus* in more than half of the arbitrations. These statistics, far from revealing a domination of the Common Law, which is chosen equally with the Civil Law, show, however, that French law is, with German law, the least attractive of Romano-Germanic rights, chosen behind Swiss law.

This is probably where his weakness lay and which the French legislature sought to remedy.

This reform of contract law implemented in 2016 in France therefore presupposed an integration of the principles of *Lex Mercatoria*, the *Unidroit* principles and a codification of the abundant jurisprudence that over the years has taken the place of the civil code with regard to contract law in general and sales contracts in particular.

Thus, expressly incorporating the objective of attractiveness of the law, the French legislature reformed by order of 10 February 2016 all the law of contracts contained in the Civil Code and which had never been modified since the promulgation of the *Napoleon Code* in 1804!

One of the objectives of this reform is indeed to make it possible to have an accessible and economically efficient contract law in order, in particular, to be chosen by the parties in international contracts and to be chosen as a model by legislators from emerging countries, thus contributing to the consolidation of the position of the countries of romano-Germanic tradition vis-à-vis those of Common Law .

The world of international business requires a secure, legible and stable legal system for businesses. This requirement of Common Sense had been forgotten over time. Consequently, the scope of the Soft Law still needed to be respected.

This attractiveness of the new French contract law strengthens the legal certainty that forms the basis of economic trade and should thus facilitate its involvement in contracts under international law.

Thus, French law has abandoned the notion of cause in contracts, which has given rise to many debates, thus allowing France to move closer to the legislation of many foreign rights, while enshrining in the law the various concepts, including the rebalancing of the contract that the jurisprudence had assigned it.

The reform also established legal mechanisms derived from the practice of business law by providing them with a precise and coherent legal regime such as contract assignment or debt assignment.

The reform also introduces innovative solutions allowing the parties to a contract to put an end to uncertainty about the regularity of the contract, such as questioning actions relating to the existence of a covenant of preference or the willingness of the contracting party to take advantage of the nullity of the contract.

With a view to the economic effectiveness of the law, the reform also gave the contracting party new powers to prevent litigation or resolve it without necessarily having recourse to the judge, including the possibility of unilateral termination of the contract or the possibility of accepting an imperfect service against a reduction in price.

This reform creates a clear, effective legal framework adapted to the challenges of a globalized and constantly changing economy.

This part of the civil code that had never been reformed will no longer be, as Dean Jean Carbonnier pointed out : "the symbol of stopped time" and its Refoundation will also meet a strong international expectation.

**C. Other areas of attractiveness.** Without falling into each of the areas that make up international trade law, it is possible, without excessive optimism, to consider that the French legal system offers both tools appreciated by operators of international trade, be the company law, financial law or industrial property law, and efficient mechanisms for the settlement of commercial disputes, thanks to the functioning of the courts or regulatory authorities

It therefore allows French companies to develop satisfactorily in international competition and foreign companies to establish themselves in France.

Several important successes of French law in the business world are worth mentioning.

The creation of the simplified Joint Stock Company (SAS) for the great flexibility it brings to businesses. This form of commercial society has inspired foreign legislation.

This also applies to all governance rules for listed companies.

These rules are unanimously recognized as effective because they are an original adaptation of Anglo-American rules. In other words, French governance matters the good aspects of Anglo-American governance by not retaining the severity of these rules such as the mandatory composition of committees of the board of directors or the introduction of comparisons between the remuneration of managers and employees

Similarly, the place left to the "Soft Law" in French company law, leaves a great room for manoeuvre to companies with the possibility of modulating the application of certain laws in the field of governance or the communication of non-financial information for example

I would also like to mention French law on companies in difficulty, which has undergone a significant number of reforms in a few years (2008, 2010 and 2014), the aim of which is to better adapt this right to practice and to encourage companies to use the tools of prevention, which is a specificity of French law and a vector of its competitiveness, taking into account other foreign rights that favour the intervention of the courts a posteriori.

French law on firms in difficulty differs in more than one way from other European legislation since traditionally this law is not too favourable to creditors. The main objectives are to safeguard and redress the situation in order to enable economic activity to continue, to maintain employment and to discharge liabilities.

The objective of repayment of Creditors therefore comes after these main objectives and guarantees a certain stability of enterprises.

**D. Export attractiveness.** The example of OHADA (Organization for the harmonization of Business Law in Africa) provides a perfect illustration of this from a perspective of cultural influence but also of business and investment development through the adoption of uniform legislation.

France has largely contributed to the creation of this organization, which today brings together a community of more than 200 million people in 17 member states.

The purpose of this treaty is indeed a perfect illustration of what the legal must serve the economy.

In order to create a climate conducive to investor confidence, it was necessary, in this space constituted by a very large number of African countries, to adopt a uniform system of French-speaking civil business law, chosen for its qualities of simplicity, modernity, security and adaptability.



This organization is an unprecedented example of the adoption of a Civil Law Law for openly economic purposes, and since its inception in 1993, it has had a beneficial impact, particularly on the development of the economies of these countries.

The World Bank itself, so quick to criticize the legal systems of Civil Law (Romano-Germanic law), has acknowledged, however, the positive effects of creating a favourable climate for business and investment.

The U.S. Off Trade Department has also recognized the useful beneficial contribution of this organization, particularly about Equatorial Guinea or Chad.

Without wishing to attempt to dispel all the criticisms made of the French system of law, however, it can be considered that the expansion of the Common Law, which is true in business practice, is actually explained not by intrinsic causes that would be related to the superiority of the Common Law, but not by more easily identifiable external causes such as the power of the American economy, the predominance of the English language in the business world, and, it is true, the development of Anglo-American law firms deeply introduced into the management of international companies.

In this configuration, continental law and French law in particular must play this role as an alternative to anglo-Saxon hegemony in order to ensure a balance of sensitivities and legal traditions.