

The *Fondation* welcomes its new director general

Since June 20, 2012, I have had the pleasure of serving as the new Director General of the *Fondation*.

I would like to take the opportunity of this brief introduction to first pay tribute to Nicole Souletie and Cécile Gauthier, whose investments have proven to be vital for the *Fondation*.

I am very excited to be able to join this great project. Promoting continental law and particularly French law is a critical mission. At least that is what my experience leads me to think. Whether through my doctorate in law, my academic duties or operational missions on behalf of the Ministry of Defense and as legal advisor to the President of the National Assembly, the need to promote continental legal know-how within an ever more competitive international public has always involved building a consensus.

Through the wide array of studies it has conducted, the *Fondation* has thus far been able to try out the various tools at its disposal. My goal now is to lead this organization into a sustainability and rationalization phase, particularly by developing our Actions within key geographic economic law areas and sectors in which our legal system excels.

But this new development cannot take place without the involvement of the entire continental law community. Our ability to work together is what makes our success possible.

I look forward to meeting you very soon. In the meantime please do not hesitate to contact me on any matter.

Yours very truly

Patrick Papazian



While still in quarters provided by the French Ministry of Justice, on June 12, the *Fondation* has moved to the following address:

**2-14 rue des Cévennes 75015 Paris**  
**Underground line 10 or RER C Station "Javel"**

Our telephone number and e-mail address remain the same:

Tél. : +33 1 70 22 41 41

[sg@fondation-droitcontinental.org](mailto:sg@fondation-droitcontinental.org)

## Continental Law Chairs

### Vietnam / Cambodia :

The continental law chair, giving credit toward a Master's in International Business Law, was held for the second year in Ho Chi Minh City and Phnom Penh.



The guest speakers were the following:

- Mr. **Alain Ghozi**, Professor at Université Panthéon-Assas (Paris II) on the topics "The Franchise-Practical Aspects" and "The General Obligation System"
- Mr. **Michel Grimaldi**, Professor at Université Panthéon-Assas (Paris II), at the University of Phnom Penh, Cambodia
- Mr. **Adrien Masset**, Professor at Université de Liège (Belgium) on the topic "Criminal Business Law"
- Ms. **Raymonde Vatinet**, Professor at Université Panthéon-Assas (Paris II), on the topic "Special Agreements (civil and commercial)" at the University of Phnom Penh, Cambodia

[View the entire action...](#)

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### *Mission Report, Michel Grimaldi, Cambodia, April 2012*

Arriving in Phnom-Penh on the evening of Friday, April 20, I taught the 20-hour credit and securities law course to students enrolled in the master's program in international business law from Paris II, on Saturday, April 21 and Sunday, April 22. Around 15 Cambodian students were in attendance. French and Vietnamese students were able to take the course via videoconference in Ho Chi Minh City. Despite the fact that the program was completely booked, the course developed quite satisfactorily.

On Monday morning, I conducted a conference on securities law at the National Bank of Cambodia, whose report is attached herein.

On Monday afternoon, I returned to Ho Chi Minh City to meet with the Vietnamese and French students.

I headed back to Paris the following day.

The outlook for the Chair seems excellent to me, whereas:

- 1°/ The number of Cambodian and Vietnamese students is on the rise.
- 2°/ French students not only receive on-site professional training at local law firms and in many cases envision themselves starting out their professional careers in Asia, (a trend that helps maintain our legal culture in this region of the world), but they also provide practical help to their Vietnamese and Cambodian classmates in understanding French law.
- 3°/ The course given by the Belgian professor in criminal business law went extremely well, a testament to the interest in continental law, and not only in French law.
- 4°/ This training should be replicated in Hanoi next year (financing is fully secured by the Vietnamese partner.)

*Mission Report, Alain Khozi, Vietnam, April 2012*

Professor Khozi's observations:

**On the course:**

As requested, the course's subject was: "The General Obligation System in French Law." Using extended examples, we emphasized the aptness of these rules, many of which come to us from Roman law, for dealing with financial matters of today. Our students were thus able to learn about such topics as:

- financing enterprises by transferring credit, in other words, through our ways of selling debt, particularly by transferring the title to business liabilities;
- the issues raised by liability warranties in terms of the security mechanisms provided by the Civil Code when debt is transferred;
- the debtor's right to liquidate assigned debt promoting the ability to withstand the spread of the "subprime" crisis, protecting many of our banks;
- the originality of methods used to transfer securities in electronic form;
- the practice known as "debt buyback" or "liability restructuring" which is based on the waiving of agreements, principally by the debtor or the assignee;
- the sale of contracts and how that relates to corporate takeovers: the fate of agreements entered into by the acquired company;
- assignments and guarantees, particularly of documentary credit insofar as that enables the financing of imports and exports.

**On the conference:**

Taking the same approach, the key issues raised by this technique for financing manufacturing equipment were discussed:

- criteria for distinguishing the financial lease from other financing methods based on its specific characteristics
- the ability of civil law to arrange this technique through the use of master contracts.
- how the master contracts principle can resolve various types of conflicts in ways that support this method of financing.

These issues, presented mainly in English to an audience including many students of economics, sometimes with the aid of an interpreter, were illustrated with examples taken from practice; these were transposed to situations found in the local press prior to the conference, thereby highlighting the effectiveness of French law in providing clear and nuanced solutions to issues perceived as obscure.

It was a pleasure for us to encounter committed, attentive students from Vietnam able to master these legal mechanisms. In our opinion, the *Fondation* must be lauded for making such opportunities possible. If a suggestion may be added, it might be necessary to reinforce these teachings of a legal nature with French language lessons as supplementary training for students in this field.

**Mexico:**

This new chair was organized in partnership with Mr. Jorge Cordero, member of the *Fondation's* science council.

Guest speakers Marie Goré, Professor at Université Panthéon-Assas (Paris II) and Vice-president of the *Association Henri Capitant des amis de la Culture Juridique Française*, and Michel Grimaldi, Professor at l'Université Panthéon-Assas (Paris II), spoke about "the pluralism of methods in comparative law" and "securities reform in France," respectively.

[View the entire action...](#)

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*Mission Report, Michel Grimaldi, Mexico, May 2012:*

Arrived in Mexico City on May 2, where I gave two speeches:

- On May 3, in the morning, at the *Universidad Nacional Autónoma de México* (UNAM) on securities reform in French law, to an audience of over one hundred students, professors, and practitioners. The text translated into Spanish is in the process of being published.
- That same day, in the evening, at the *Colegio Nacional*, a very prestigious institution in Mexico, on the place of codification in contemporary legal systems, to an audience of over fifty academics, practitioners and politicians (not all of them legal professionals).

These two speeches were retransmitted at several campuses throughout Mexico.

On May 4, I participated in Ms. Marie Goré's conference on comparative law.

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*Mission Report, Marie Goré, Mexico, May 2012*

A session of the Chair in Continental Law was held in Mexico on May 3 and 4, 2012 at the College of Law at the *Universidad Nacional Autónoma de México*. Two lectures by French professors, followed by conferences by Mexican professors took place before an audience of over one hundred people, for the most part students, which also included professors and professionals. Likewise, these conferences were recorded to be broadcast to several campuses throughout Mexico. They will be published in a bilingual, French-Spanish edition very shortly.

The first presentation on May 3, 2012, given by Michel Grimaldi, Professor at Université Panthéon-Assas (Paris II), president of the Science Council of the *Fondation pour le droit continental*, covered securities reform in France. Dr. Jorge Sanchez Cordero, for his part, discussed the difficulties of land-ownership law in Mexico.

The second presentation, on May 4, 2012, was given by Marie Goré, Professor at Université Panthéon-Assas (Paris II) on the following topic: the pluralism of methods in comparative law. Dr. Alfredo Sanchez-Castañeda, for his part, presented a speech on the specific features of legal methods regarding the Romano-Germanic family.

A round-table discussion on the place of codification in contemporary legal systems was held at the *Colegio Nacional*, a very prestigious institution in Mexico, before a crowd of about fifty people: university students, practitioners, and politicians (the audience included professionals from fields other than the legal sector). Michel Grimaldi and Marie Goré provided two contributions on this occasion and participated in the presentation of the work à "*La codificación : la formación de los sistemas jurídicos en Las Américas*" ["Codification: The formation of the legal systems in the Americas"] by its co-directors, Héctor Fix-Zamudio, Diego Valdez, and Jorge Sánchez Cordero. The work presents 6 contributions published in both French and Spanish : « Codification ou décodification au Brésil » [Codification or De-codification in Brazil] (Ligia Maura Costa), « Le code civil français à l'époque de la mondialisation » [The French Civil Code in the Age of Globalization] (Michel Grimaldi), « La transplantation du Code Napoléon en Amérique latine : un acte révolutionnaire » [The Transplanting of the Napoleonic Code in Latin America : A Revolutionary Act] (Jean-Louis Halperin), « La tradition romano germanique dans la codification latino-américaine » [The Romano-Germanic Tradition in Latin American Codification] (Fernando Hinestrosa), « Codification et décodification. La décision légale dans un système de pluralité de sources » [Codification and De-codification. The legal decision in a system of plurality of sources] (Ricardo Lui Lorenzetti), « Les processus d'acculturation juridique. Réflexions mexicaines » [Legal Acculturation Processes. Mexican Reflections.] (Jorge Sanchez Cordero).

**Chile:****When Continental Law shows its advantages in Chile**

In December 2011, and for the third year, the Chair in Continental Law took place in Chile under the topic "Corporate Insolvency Proceedings" with four guest speakers appointed by the *Fondation pour le droit continental* from France, Canada, Germany, and Belgium



Mr. Reinhardt Dammann, attorney Clifford Chance and member of the Science Council of the *Fondation pour le droit continental*, gave us a brief report on this chair where he served as one of the guest speakers.

The Ministry of Justice is in the process of preparing a reform on bankruptcy procedures. The Ministry feels that Chilean law is less attractive than that of its Latin American neighbors, who are graded higher in the World Bank's *Doing Business* report.

On the occasion of my conference, Ms. Josefina Montenegro from the Ministry of Justice gave a speech summarizing the Chilean government's desire to reform the law of bankruptcy procedures in a way that will treat companies' financial difficulties efficiently and to further the influence of Chilean law in South America.

Ms. Montenegro worked for years as an attorney in New York. She believes that United States law (Chapter 11) could serve as inspiration for the reform.

Ms. Montenegro was very interested in French law reforms from 2005 to 2010 that, following the US example, introducing court-protected re-organization and reformed pretrial procedures with the creation of the new, streamlined financial reorganization procedure.

She was also very interested in pretrial procedures and their success rate of around 80%.

Empirical studies show that the success rate remains at 50% after three years, which proves their remarkable efficacy.

My presentation on the effectiveness of pretrial proceedings and the reorganization procedure therefore elicited great interest from Ms. Montenegro.

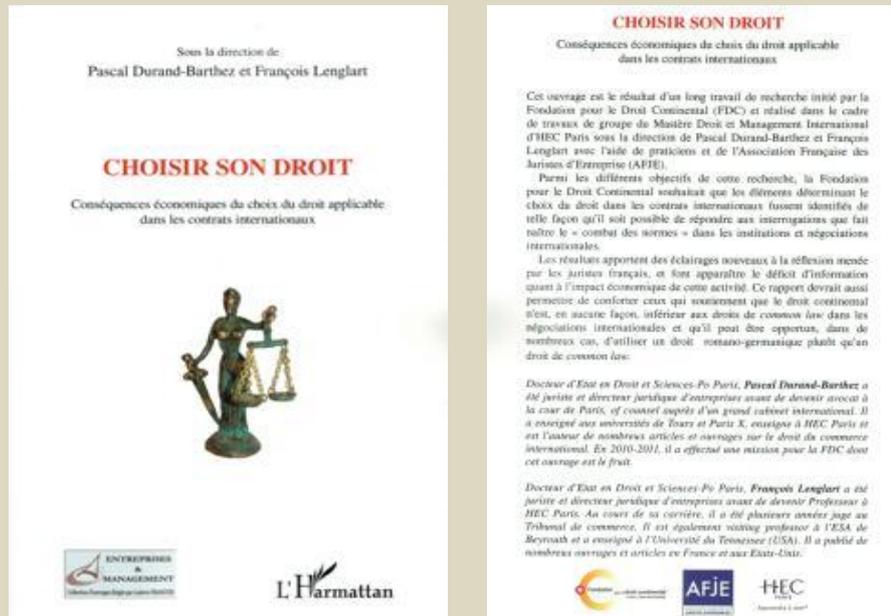
After the conference, she took the initiative of organizing a 4-hour working lunch attended by representatives from the Ministries of Justice and Economy.

Over the course of this exchange, I was able to respond to all questions; I emphasized the appeal of pretrial-proceedings, which granted, could not be copied exactly but may be a source of inspiration for the upcoming reform.

French law has certainly demonstrated that it is possible to adapt foreign procedures successfully. Court-protected reorganization is a forceful example of this.

We agreed with Ms. Montenegro to continue our discussion.

Publication of the report « Choisir son droit » [“Choosing one’s law”] by *Éditions l’Harmattan*



**« Conséquences économiques du choix du droit applicable dans les contrats internationaux »  
[Economic consequences of the applicable legal system option in international agreements]**

*Study under the direction of François Lengart, HEC Paris, and Pascal Durand-Barthez, Fondation pour le droit continental.*

International agreements are found to be increasingly subjected by their drafters to a legal system deriving from the common law system (English law or the laws of a North American State).

The extent of this phenomenon, its causes, as well as its consequences in terms of economic impact on the French business law community, in terms of cost and legal security for companies, are poorly understood. Under the aegis of the *Fondation pour le droit continental* (...) [Read more](#)

### Summer University of continental law

With over 350 applications, we can say without boasting that the 4<sup>th</sup> session of the Summer Continental Law University has been a success.

There were 128 students selected who opened the 2012 university on Monday, July 2, at Université Paris II, with a program that alternates courses, visits, and conferences

### Seminar on Environmental Law in China

Through the partnership between the Fondation pour le droit continental, the French Embassy in Beijing, and the Chinese Ministry of Environment, a seminar was organized on July 10 & 11 in Beijing on the topic: Green Credit and Environmental Liability Insurance.

The two experts sent by the Fondation, Mr. Bruno Deffains and Mr. Gilles Martin spoke during this seminar, especially on the topic "The New Environmental Law Has Arrived: From Administrative Ruling to Economic Law."

### Last call for the "2012 Thesis Prize"

The *Fondation* awards two thesis prizes in each of the following two categories:

- Chinese-French comparative law, or Chinese law and continental law;
- Continental law and the globalization of law.

The first prize carries with it €3,500

The second prize carries with it €2,000

Visit our site for: [Candidacy requirements, Steps, Calendar, Writing and submitting the application.](#)

### Upcoming Actions

- 4<sup>th</sup> Mediterranean Legal Professionals Convention in Algiers in October 2012 (To be confirmed)
  - Inaugural event on Saturday, October 27
  - Workshops: Sunday, October 28 and Monday, October 29
- Chairs in Continental Law :
  - Brazil, on the topic of "Law, Heritage, and Economics" (3<sup>rd</sup> quarter 2012)
  - Chile, on the topic of "Warranties" (3<sup>rd</sup> quarter 2012)
  - Colombia, on the topic of "Consumer Law" (October 2012)
  - Morocco, on the topic of "Warranties" (late September 2012)