



## Staying on course

The oracles are not at all propitious for 2012.

The party is over for an over-spending public authority, living primarily on credit and now caught up by its creditors. The outlook is bleak for banks which have abused the State funds with doubtful results. Economic growth, which is necessary if national budgets are to be balanced, is flagging.

In the end, it is the economic operators, individuals and organisations, which are weakened, for several reasons: a greater tax burden, which undermines long term strategies and stifles creative energy; difficulty in obtaining credit, which makes investment complicated or even impossible. Above all however, economic activity itself is slowing down, with the indispensable confidence in the future, which drives economic prosperity, giving way to mistrust.

It is easy in this morose climate to look for scapegoats, such as the rating agencies, globalisation or competition from developing countries, and I could go on. Pointing the finger at remote and uncertain causes is simply a means of avoiding responsibility.

On the contrary, French entrepreneurs know that it is at these times that they must stay on course.

Staying the course means better management of working capital and stock in the lean years, while continuing with a long term investment strategy.

Staying the course means meeting client needs by offering better goods and services at the best possible price.

Staying the course means rallying employees around an identified project and pushing forward, and adapting if need be, an overall strategy.

Finally, in the 21st century, staying the course means seizing international opportunities.

French organisations provide proof every day of their ability to assume leading roles in the world economy. On 19 October 2011 at Les Bernardins, Xavier FONTANET, the Chairman of Essilor, showed how globalisation could bring « joy ».

It is with this fighting spirit that we accompany our clients abroad.

**Amaury NARDONE**  
Chairman of the Board of Directors



# DE LA RELATION

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## Structuring an international practice

Projects with an international component are increasingly frequent, but remain complex, more particularly with regard to the legal and tax aspects. Differences in the legal culture from one country to another, as well as economic, managerial and behavioural differences, contribute to this complexity. The specific nature of the stakeholders, their way of functioning, the relative weight of the public and private sectors, limitations relating to language, time and geographical accessibility etc add increased levels of difficulty.

This is why, in our opinion, there is no such thing as an « international lawyer ». Each lawyer remains a « domestic » lawyer, national or even bi-national depending on his/her training and admission to one or more bars. It is only at the level of the firm that an international practice can be developed, in other words offering a range of human and technical resources which allows the firm to accompany its clients in their international pursuits.

This international practice relies on a number of skills: firstly awareness of foreign legal concepts and systems, the ability to work in several languages (at least business English), open mindedness, an interest in the economic and cultural reality of the main French economic partners, the organisation of a network of privileged partners in each country, experience in project management and in the coordination of multi-national teams.

Some 25% of DELSOL Avocats' practice is internationally oriented. The firm accompanies French economic operators which export their goods and services, which create a joint venture with a foreign partner, create a subsidiary outside of France, buy or sell a company or business abroad, expatriate their employees, hire foreign talent, come face to face with different tax rules etc.

The firm also accompanies foreign companies or organisations with their investments in France, with their relationship with the French administrative authorities, their replies to public tenders, the day-to-day legal, social and tax management of their French subsidiaries, and helps them deal with disputes.

The firm's international practice thus involves lawyers from nearly all departments: company law, mergers and acquisitions, employment law, tax law, public law, litigation and not-for-profit organisations. Many of these lawyers have studied or trained outside of France, immersing themselves in a different culture. Some are admitted to a foreign bar in addition to the French bar.

In order to exchange good practice, they are involved in international associations, chambers of commerce and think tanks (International Bar Association, European Employment Law Association, the Institut Thomas More, the French/Italian Chamber of Commerce, the Brazilian Chamber of Commerce, etc.).

The firm regularly welcomes foreign interns, more particularly in the framework of a partnership with Georgetown University in Washington, and is actively involved in an associate exchange programme within the Parlex network.



**Franck BUFFAUD**, Director,  
responsible for the international practice

Because local contacts are essential, the firm leads a network of foreign correspondent law firms which have been carefully selected over the years, all of which share our firm's beliefs and quality requirements and with which we have non-exclusive strategic alliances.

The firm is more particularly a member of the international network « The Parlex Group of European Lawyers », and is represented in China by the firm Zhonglun W&D.

The main objective is to work together in these various countries, on the basis of the same criteria despite cultural differences, and to deliver the same technical quality and level of service. This implies the introduction of comparable procedures, homogenous documents, harmonised billing systems and rigorous reporting.



# An international practice with various angles of approach

## Negotiation of an earn-out clause agreement for a German group



On behalf of a German group, which is one of the world's largest private energy operators (turnover of nearly € 93 billion, over 85,000 employees and located in over 30 countries), Amaury NARDONE, partner, and Alexis CHABERT, negotiated a settlement agreement on an earn-out clause included in a an agreement for the sale of shares in French companies involved in the photovoltaic energy sector.



Amaury NARDONE, partner in the Company law – Mergers & Acquisitions department

## Sale of AM2C to the US group Provisur Technologies

Amaury NARDONE, partner, Henri-Louis DELSOL and Fanny LAYRISSE, assisted the Brittany-based group Kerdiles with the sale of AM2C, leader in mechanical separation equipment for the food industry, and its sister company Mecaprecis, which manufactures high tolerance machined parts, to the US group Provisur Technologies, which is specialised in industrial equipment for the food industry.



## The advantage of an international network: Parlex



Created in 1971 to provide legal support for international projects, the Parlex group (« The Parlex Group of European Lawyers ») brings together 25 law firms established in 23 European countries (Germany, England, Austria, Belgium, Bulgaria, Cyprus, Denmark, Scotland, Spain, France, Greece, Hungary, Ireland, Iceland, Italy, Luxembourg, Norway, The Netherlands, Poland, Portugal, The Czech Republic, Sweden, Switzerland), together with 4 firms located in China, the United States, Israel and Malaysia. Each firm must be at least average size on its own national market. This network allows the clients of the member firms to have speedy access to seasoned legal professionals, both within and beyond the European Union. Each member firm must prove its level of expertise in the main legal areas, together with its ability to work in English and its system performance. Each firm is audited every 5 years by its peers.

Twice-yearly seminars allow them to review the work they have undertaken together, the development of the network, its strategic choices, the sharing of good commercial or managerial practices etc. They also facilitate the meeting of thematic commissions which consider how a given situation is dealt with in each country. For example, during the last seminar in Rotterdam in November 2011, the Employment Law Special Interest Group (SIG), set up and managed by Anne IMBERT, conducted some comparative work on the main clauses of a long-term employment contract in different countries. Anne IMBERT explains: « The work of the commissions allows us to understand the basic culture of our

discipline as practiced in other countries; we are then able to inform our clients of the employment law implications of their projects, to ask them the right questions, and to warn them of risky areas and to properly inform our Parlex partners. This « clearing » phase increases the client's confidence and allows it to save precious time. Our clients also know that we know the foreign colleagues we recommend well, both professionally and socially, and that we are not simply passing on contact details from a web site. That makes all the difference. ».



Members of the Parlex Employment law SIG, jointly chaired by Anne IMBERT

## A « best friend » partner in the United Kingdom



Cobbetts is a major English « full service » law firm with 85 partners and 40 directors, managing a team of legal professionals. It has offices in Birmingham, Leeds, London and Manchester. Cobbetts and DELSOL Avocats have been working together for four years on French/British issues: British companies wishing to set up or develop their businesses in France, and French companies wishing to do the same thing in the United Kingdom, as well as companies already established in both countries with restructuring needs. Around ten different matters are dealt with each year, mainly involving experts in company law, mergers and acquisitions, employment law, tax law and real estate law.

Dominic PRENTIS, partner in the Corporate law department in the Birmingham office, has looked at the reasons for this fruitful cooperation: « The partners of both firms who work on matters together are bilingual, have the same level of expertise, the same way of seeing their work, the same working methods ... and the same billing process. This is fundamental if we are to work well together. But it goes further than that: we are regularly in contact, meet up on either side of the Channel and share more than files. ».



Dominic PRENTIS, partner in Cobbetts' Corporate law department

## Litigation IP/IT against a competitor in The Netherlands

Stéphane PERRIN, partner, and Gilles VERMONT, assisted a world leader in ink chemistry and printing technologies with the defence of its trademark portfolio against a competitor in The Netherlands which had used these trademarks as « adwords » on the Internet. Their intention was to stop the use of these trademarks as « adwords » by the host, and to have the competitor convicted of unfair competition.



## An example of a lawyer admitted to a foreign bar: Marcelo MAZZILLI



Marcelo MAZZILLI, admitted to the Minas Gerais bar, Brazil

At 31 years of age, with Italian and Brazilian nationality, Marcelo MAZZILLI is one of the three Brazilian lawyers practising in France. He is admitted to the bars of Lyon and Minas Gerais (Brazil).

He has an MSc in management (EM Lyon), a research Master 2 in business law (University of Paris, Dauphine), a degree and masters in company law (faculdade Milton Campos, Belo Horizonte, Brazil), Marcelo has been an associate in the Company law – Mergers & Acquisitions department for three years. He is a member of the Brazilian Chamber of Commerce in France, is trilingual (French, Portuguese and English). He is the special contact person for our Brazilian clients and partners in France, and our French clients and partners in Brazil.



Frédéric SUBRA, Partner in the Tax Law department



## Tax aspects of cross-border acquisitions

The acquisition of a foreign company raises a number of tax questions which must be resolved before starting the operation, in order to ensure maximum tax optimisation.

Frédéric SUBRA has recently been involved in two cross-border acquisitions, in the USA and in Italy. The selection of the location for the holding company – in the target's country, in France or elsewhere – was a fundamental issue in determining the acquisition structure, more particularly in the light of the following criteria: exemption for the holding company on dividends collected and capital gains on the sale of equity shares, the existence of rules capping interest deduction, in particular in the case of under-capitalisation, the existence of tax consolidation rules, of withholding tax on dividends distributed by the holding company. In all cases, the holding company must have genuine legal and economic substance. The tax authorities are not necessarily fans of « treaty shopping »!



Stéphane Perrin, partner in the Litigation and IP/IT department

DELSOL AVOCATS  
LA QUALITÉ DE LA RELATION



## Takeover of Genolier Swiss Medical Network and the takeover bid

At the beginning of 2011, Jean-Philippe DELSOL, partner, Séverine BRAVARD, of counsel, and Henri-Louis DELSOL, assisted Antoine Hubert and Michel Reybier with the takeover of the listed Swiss private clinic group Genolier Swiss Medical Network (GSMN). In cooperation with the Swiss law firm Lenz & Staehelin, they were also involved in the launching of the bid for shares owned by the general public, which valued GSMN at € 90 million.



Jean-Philippe DELSOL, partner in the Company law – Mergers & Acquisitions department

## Strategic alliance with a Chinese law firm



In 2007, we entered into a strategic alliance with the law firm Zhonglun W&D, located in Beijing, Shanghai, Tianjin, Chengdu, Shijiazhuang, Taiyuan, Wuhan, Chongqing, Hangzhou, Jinan and Shenzhen, as well as in London and Riyad. This firm has 400 lawyers, with 50 partners and of counsel, and is involved in all business law areas, with a marked international orientation.

DELSOL Avocats is Zhonglun W&D's representative in France, and vice versa.

The two firms co-operate on a variety of matters, and several partners have already worked on common projects. They have collaborated on Chinese investment in France in the real estate sector and in various industrial sectors, the licensing of French trademarks in China, and the opening of French establishments in China.

As Wei LIN, a French-speaking partner in charge of Zhonglun W&D's Shanghai office, likes to recall: « We go to France, and they come to China; this cooperation works because we know each other well, we get on and it is a pleasure to work together. »



Wei LIN, partner in charge of the Zhonglun W&D office in Shanghai



Nathalie PEYRON, partner in the Real Estate department

## A Chinese banner (Hong Kong) hotel in Paris

Nathalie PEYRON is frequently contacted by foreign companies wishing to carry out a construction project in France. She helps them with the legal structuring of the project, taking account of the requirements of French law, deals with the drafting and negotiation of contractual documents, and the resolution of any disputes concerning the completion of the project. As an example, she is assisting with the construction of a Chinese (Hong Kong) luxury hotel in Paris.



## The Italian desk

Philippe DUMEZ, partner in the Company law – Mergers & Acquisitions department, Camille ROUSSET, partner in the Employment law - Social Protection department, and Aldo SEVINO, partner in the Public Law department, are behind the Italian desk, created to provide both Italian and French professionals with a full Italian language service for their transalpine business. All three speak fluent Italian, have either studied and/or worked in Italy, and have comparative experience in French/Italian law in their respective areas of competence.



Philippe PACOTTE, partner in the Employment Law – Social Protection department



Philippe DUMEZ, Camille ROUSSET and Aldo SEVINO, partners



## Social aspects of international mobility

In July 2010, the Accor group's pre-paid service cheques branch (for example the brands Ticket Restaurant and Kadeos) changed its name to Edenred. Philippe PACOTTE, partner, and Julie LAYAT, assisted with the social aspects of this spin off, which concerned six thousand employees in forty countries on five continents, of which one thousand were based in France: transfer of the Accor group's employees to Edenred, creation of employee representative bodies, introduction of an attractive employee savings scheme, and of appropriate contingency schemes, international mobility etc.

With the help of Anne IMBERT, Philippe also contributed to the definition and implementation of a European mobility policy for employees of the Chateauform group, which organises tailor-made seminars. In order to prepare the contractual documents, as well as confirming and social and tax aspects in each country, he coordinated a team of local service providers who are members of the Parlex network.

## Accompanying human commitment throughout the world



Alexis BECQUART, partner of the Not-for-profit department

For over ten years, Alexis BECQUART has accompanied a world-wide animal protection organisation based in the USA, with the development of its activities and its search for funding in France. He has also assisted a number of humanitarian associations with the legal structuring of their activities organised from France, in particular for India, Madagascar and Haiti. He has also advised a number of French trade associations concerning their relationship with European trade associations, mainly based in Brussels.





## In the press...

**Lionel DEVIC**, of counsel in the Not-for-profit department, was interviewed by **Le Monde** at the end of June for its article « *Mode d'emploi pour devenir un philanthrope* », and by **Le Nouvel Economiste** for its October issue « *Fondations – En attendant un Bill Gates ou un Warren Buffet – La philanthropie à la française aurait un bel avenir, sans compter avec la crise ou le rabetage des avantages fiscaux.* » and its November issue « *Fiscalité – Dons, donations et legs pour la bonne cause – Donner, oui, mais à qui, comment et pour quoi faire ?* ».



Mathieu LE TACON

**Mathieu LE TACON**, of counsel in the Tax Law department, has contributed to a number of economic and legal publications: a column in **Nouvelles Fiscales** (1 July) concerning the proposed « exit tax »: « *La chasse aux non-résidents bientôt ouverte ?* »; a video interview of 2 September for **Les Echos** on « *La réforme de la fiscalité du patrimoine* »; contribution to an article published by **Les Echos** under the heading *Patrimoine des Echos* of 30 September on « *Niches fiscales : ce qui vous attend en 2012* »; a satirical piece in **Nouvelles Fiscales** (1 October) on tax searches: « *Article L. 16 B du LPF : en finir avec les ordonnances pré-rédigées* ».

On 28 July, he published, along with **Frédéric SUBRA**, partner, an analysis of the reform of asset taxation voted by parliament on 6 July in **Editions juridiques Lexbase**; an article in **Option Finance** of 29 August, entitled: « *Réforme de la fiscalité du patrimoine : des assouplissements bienvenus en matière de biens professionnels et de pactes Dutreil* »; an article in **La Semaine Juridique** on 10 October on the reform of asset taxation; an article in **Option Finance** on 24 October entitled: « *La CVAE, nouveau repoussoir de l'intégration fiscale ?* ».

In mid-September, **Jérôme CUBER**, lawyer in the Tax Law department, published an article in **Nouvelles Fiscales** entitled « *Taxation à l'ISF et aux DMTG des biens et droits placés dans un trust: la fin d'un no man's land.* »

**Stéphane PERRIN**, partner in the Litigation department, and a pharmaceutical sector expert, was interviewed by **Le Pharmacien de France** concerning his article on the reasons for the shortage of medication stocks, published in the July-August 2011 issue.

Stéphane PERRIN



**Jean-Philippe DELSOL**, partner in the Company law – Mergers & Acquisitions department, published an article entitled « *Surtaxer les riches : la fausse bonne idée* » on the **Cercle des Echos** site in mid-August 2011.

**Xavier DELSOL**, partner in the Not-for-profit department was interviewed by the legal daily **Petites Affiches – La Loi** concerning an article published on 27 June entitled « *Philanthropie : les frontières continuent à s'estomper* ». On 15 November, he published a plea in the bi-monthly **Juris Associations** for new governance rules for foundations leaving more room for private initiative: *Fondations RUP : quelle gouvernance ? Un plaidoyer pour les fondateurs.* ». He wrote an article with **Wilfried MEYNET**, of counsel, entitled « *De nouvelles avancées dans la construction de la notion d'Eurodonateur* », published in the **Agefi Luxembourg** July issue.

In its 2011 ranking of the best law firms in the mergers & acquisitions sector, the magazine **Décideurs Stratégie Finance Droit** ranked the Company Law - Mergers & Acquisitions department in pole position of front-line firms for deals up to € 75 million.

## Soirée SIPAREX – DELSOL Avocats 19 octobre Collège des Bernardins

The firm organised a debate at the Collège des Bernardins in Paris on 19 October, in partnership with SIPAREX, an independent French specialist in investment in small and medium-sized businesses, and with the Fondation Entreprendre.

The contribution of Xavier FONTANET, Chairman of the Essilor International group, was entitled

« *Vive la concurrence ! Un champion se construit dans l'affrontement. Sans grand adversaire, il n'y a pas de grand champion.* ». Resolutely optimistic about the ability of French businesses to bounce back, Xavier FONTANET instilled his faith in competitiveness in the French private sector into a captivated audience.

Organised by the Collège des Bernardins, a jewel of Cistercian architecture in the heart of Paris, the soirée attracted over 150 participants

Xavier FONTANET,  
Chairman of Essilor International Group

**Frédéric SUBRA**, partner, **Mathieu LE TACON**, of counsel, **Jérôme CUBER** and **Laure GAY-BELLILE**, lawyers in the Tax Law department, considered the major principles of the reform of asset taxation during two breakfast debates in **Paris on 14 September, and in Lyon on 15 September**. They looked at the new wealth tax scales, new rules relating to gifts and succession, the creation of an Exit Tax, new tax rules for trusts, etc. **Mathieu LE TACON** also led a module entitled « *Comment calculer la valeur ajoutée de la CVAE* », during the Omnidroit workshops on **6 December in Paris**.



Camille ROUSSET

**Camille ROUSSET**, partner, **Delphine BRETAGNOLLE**, **Audrey BABORIER** and **Carine MERIAU**, lawyers in the Employment Law - Social Protection department led a training session in **Lyon on 23 September** on various aspects of

mandatory collective negotiation, severance payments, the employment of seniors, prevention in terms of physically demanding work, agreements and action plans on work-place equality, participation in dividends, employment contracts with a fixed number of working days, reform of industrial accident tariffs and occupational illness, reform of occupational health, psycho-social risks, immigration law etc.

**Wilfried MEYNET**, of counsel in the Not-for-profit department, who initiated the project, has become the co-director of a new training scheme leading to a higher university diploma (*DESU*) in « *Droit de l'économie sociale et solidaire* », (law relating to the social economy) introduced by the Université Paul Cézanne **Aix-Marseille III**, business law institute. In **Marseille on 29 November** he co-led, with the firm Deloitte and the Caisse d'Epargne Provence Alpes Côte d'Azur, a morning meeting on cooperation, associations and mergers in the social economy.



Wilfried MEYNET

On **27 October in Paris** **Lionel DEVIC**, of counsel in the Not-for-profit department, jointly led a workshop for the *Forum National des Associations* with the theme « *Territorialité et fiscalité du don* » with Isabelle COMBES, legal director of the Fondation de France, and Ludwig FORREST, philanthropy advisor of the King Baudouin Foundation. During a training day in **Paris on 5 December** organised by the *Demeure Historique* on the theme « *Transmettre son monument historique* », he spoke about « *Opportunités et limites des organismes sans but lucratif comme outils de transmission (fondation, association ou fonds de dotation)* ».

**Alexis BECQUART**, partner in the Not-for-profit department, **Aldo SEVINO**, partner in the « Public Law » department, **Benoît de PEYRAMONT**, of counsel in the Public Law department, and **Mathilde PRIEUR**, lawyer in the Not-for-profit department, drafted a practical guide for the *Fédération Nationale des Offices de Tourisme et Syndicats d'Initiative de France* defining rules for the creation, management, operating and transformation of a tourist office into an *EPIC* (*établissement public industriel et commercial* - public industrial and commercial establishment). This guide, completed with the assistance of around twenty tourist office directors, was launched at the *Fédération's* national congress in **La Rochelle at the beginning of October**.

**Alexis BECQUART**, partner in the Not-for-profit department, will lead various training sessions in **2012 in Paris** on behalf of Francis Lefebvre Formation: a two day training session on 2 and 3 February, and then on 24 and 25 September, on the taxation of not-for-profit organisations; on 20 June and 13 November, one day on trade associations; 4 April, 8 June and 3 October on tax rules applicable to corporate sponsorship; 10 April and 27 September, one day on specific aspects of the legal and tax management of associations.

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Publication Manager  
Amaury NARDONE

PARIS  
38, rue Saint Ferdinand  
75017 PARIS  
Telephone: 33 (0)1 53 70 69 69  
Facsimile: 33 (0)1 53 70 69 60

LYON  
12, quai André Lassagne  
69001 LYON  
Telephone: 33 (0)4 72 10 20 30  
Facsimile: 33 (0)4 72 10 20 31

MARSEILLE  
1, place Félix Baret  
13006 MARSEILLE  
Telephone: 33 (0)4 96 11 42 54  
Facsimile: 33 (0)4 96 11 42 52



For more information:

[www.delsolavocats.com](http://www.delsolavocats.com)