

Original Article: The Interplay between Civil Law and Commercial Law in Structuring International Trade Relations

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ABSTRACT

This paper explores the intersection of civil law and commercial law in regulating international trade relations. In today's globalized economy, legal systems must reconcile the foundational principles of civil law—such as contract freedom and private rights—with the dynamic and often complex requirements of international commerce. The article examines how legal frameworks rooted in civil law principles adapt to the demands of international business, including cross-border transactions, international arbitration, and multinational commercial agreements. It also analyzes the role of national legislations, treaties such as the CISG (United Nations Convention on Contracts for the International Sale of Goods), and supranational institutions like the ICC (International Chamber of Commerce) in harmonizing civil and commercial legal norms. Special attention is given to challenges such as legal uncertainty, jurisdictional conflicts, and enforcement mechanisms. The study concludes that effective integration of civil and commercial law principles is essential for fostering legal predictability and economic efficiency in international trade relations.

Introduction

Civil law and commercial law serve as the backbone of legal systems worldwide, each addressing different yet interconnected aspects of social and economic life [1]. Civil law typically governs private relationships and general obligations, while commercial law is designed to regulate trade, commerce, and business activities [2]. In international trade, the boundaries between these two fields often blur, requiring a nuanced understanding of

how civil obligations and commercial mechanisms interact [3].

This article seeks to provide a detailed analytical exploration of the role of civil and commercial law in the regulation of international trade. It considers the challenges of applying domestic civil and commercial principles across borders and explores solutions offered by transnational legal harmonization initiatives [4].

In the increasingly interconnected landscape of the global economy, legal systems face mounting pressure to adapt to the complex

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realities of international trade. The convergence of civil law and commercial law, particularly in the context of cross-border transactions, has become a crucial area of legal scholarship and practical application. As business activities transcend national boundaries and enterprises operate across multiple jurisdictions, the question of how to harmonize different legal traditions and regulatory approaches is more pertinent than ever. Civil law, with its roots in codified statutes and an emphasis on private rights and duties, must be reconciled with the pragmatic, business-oriented framework of commercial law to effectively govern the myriad transactions that constitute international commerce [5].

Civil law, traditionally focused on relationships between private individuals, offers a structured and predictable legal framework that governs contracts, obligations, torts, property, and family law. Its codified nature ensures consistency and legal certainty. However, it was not originally designed to address the fast-paced, risk-laden, and multifaceted nature of international trade. In contrast, commercial law—though often derived from civil law systems—evolved as a specialized subset of private law, aimed at regulating the rights, responsibilities, and practices of merchants, businesses, and commercial actors. Its flexibility, reliance on trade customs, and emphasis on dispute resolution mechanisms such as arbitration have made it more responsive to the needs of the global market [6].

The relationship between civil and commercial law becomes even more intricate when applied to international trade relations. Businesses engaged in cross-border transactions must navigate a legal landscape that often includes conflicting national laws, differing interpretations of key contractual principles, and varying degrees of legal enforceability.

Legal harmonization and integration become necessary tools to ensure consistency, reduce transaction costs, and mitigate legal risk. As such, national legislatures, international treaties, and supranational legal bodies have increasingly sought to align civil and commercial law doctrines to foster smoother commercial interactions across borders [7].

One of the most influential instruments in this domain is the United Nations Convention on Contracts for the International Sale of Goods (CISG), which attempts to bridge civil and commercial legal traditions by providing a uniform set of rules for international sales contracts. The CISG borrows principles from both civil and common law traditions, aiming to create a neutral legal ground where businesses from different countries can operate with confidence. Similarly, organizations such as the International Chamber of Commerce (ICC) play a vital role in developing globally accepted standards and dispute resolution mechanisms, such as the Incoterms rules and International Arbitration, which complement both civil and commercial legal systems [8].

Despite these efforts, numerous challenges persist. One of the primary concerns is the lack of uniformity in the interpretation and application of international conventions and commercial practices. While some jurisdictions maintain a clear distinction between civil and commercial law, others have merged the two, leading to potential conflicts of law in international contracts. Moreover, legal uncertainty regarding the applicable law, forum selection, and enforcement of foreign judgments or arbitral awards remains a significant barrier to international commerce. These issues are further complicated by cultural differences, varying levels of economic development, and divergent political and regulatory philosophies [9].

Another point of contention is the role of contractual autonomy in international trade. Civil law systems, especially those influenced by the Napoleonic Code, tend to emphasize state control and statutory limitations on private agreements, particularly where public policy or consumer protection is concerned. On the other hand, commercial law—especially as applied in international business—often champions the principle of freedom of contract, granting parties significant leeway to define their own rights and responsibilities. This divergence can lead to complications when disputes arise over contract interpretation, validity, or enforceability in different jurisdictions [10].

Furthermore, the increasing use of digital contracts, electronic signatures, and online dispute resolution mechanisms adds another layer of complexity to the integration of civil and commercial legal norms. Many civil law systems have been slow to adapt their procedural and evidentiary rules to accommodate technological innovations, while commercial law tends to be more dynamic in this regard. Bridging this gap is critical to ensure the continued relevance of civil law in the digital age of international commerce [11]. The interplay between civil and commercial law is also visible in the context of international investment, intellectual property rights, banking and finance, and transport and logistics. In each of these sectors, private law doctrines must interact with commercial practices and public international regulations. For instance, the enforcement of cross-border intellectual property agreements often requires civil remedies such as injunctions or damages, while also relying on commercial norms related to licensing, royalties, and competition. Similarly, investment treaties and bilateral agreements frequently incorporate civil law principles within a broader commercial and political framework [12].

As global trade continues to evolve in scope and complexity, the need for a comprehensive legal approach that effectively blends civil and commercial law becomes more pressing. This demands not only legal reform and innovation but also greater cooperation between legal scholars, policymakers, and practitioners across jurisdictions. The establishment of transnational legal education programs, comparative legal research, and international judicial cooperation are all essential components in achieving a more integrated legal environment for global commerce [13].

In this paper, we aim to provide a detailed analytical perspective on the evolving relationship between civil and commercial law in the regulation of international trade relations. We begin by examining the foundational concepts of civil and commercial law and their respective historical trajectories. We then explore the practical implications of their interaction in international business, including challenges and opportunities for harmonization. Case studies and legal instruments such as the CISG, ICC rules, and selected national laws will be analyzed to demonstrate how integration can be achieved in real-world scenarios. Finally, we conclude with recommendations for policymakers and legal professionals to enhance the coherence and effectiveness of legal frameworks in supporting international trade [14].

By investigating the convergence of civil and commercial law, this study contributes to a deeper understanding of how legal systems can evolve to meet the demands of a rapidly changing global economy. It underscores the importance of flexibility, legal certainty, and institutional cooperation in shaping a legal order that not only supports but also promotes fair, efficient, and sustainable international trade.

Table 1. Research Background Table: Civil and Commercial Law in International Trade Relations

Ref No.	Author(s) & Year	Focus of Study	Methodology	Key Findings	Contribution to Current Study
[15]	Schwenzer, I. (2021)	Uniform application of CISG in global trade	Doctrinal legal analysis	The CISG helps unify international sales law, but interpretation still varies among jurisdictions	Highlights the tension between uniform commercial law and national civil systems
[16]	Ziegler, A. et al. (2022)	Interaction of WTO law with private commercial contracts	Case study and legal review	WTO frameworks influence private law through soft-law and arbitration	Shows indirect influence of public international law on civil-commercial systems
[17]	Mistelis, L. (2020)	Harmonization of commercial arbitration practices	Empirical and comparative law	Strong convergence in arbitration rules globally due to UNCITRAL and ICC influence	Demonstrates commercial law as a flexible interface for resolving transnational disputes
[18]	Hachez & Wouters (2021)	Civil law's response to global value chains	Socio-legal analysis	Private international law must adapt to supply chain fragmentation	Indicates civil law's evolving role in regulating global transactions
[19]	Lando, O. (2020)	Principles of European Contract Law in trade relations	Normative proposal	Advocates harmonization of civil contract law at regional levels	Supports blending civil law with commercial norms to foster legal predictability
[20]	Leebron, D. (2023)	Sovereignty vs. transnational commercial regulation	Legal-political analysis	States are reluctant to cede authority to transnational norms	Civil codes still reflect state-specific commercial values
[21]	Kessedjian, C. (2022)	Public policy exceptions in private international law	Case law analysis	Courts often use public policy as a tool to block enforcement of foreign commercial rules	Limits the effect of commercial law harmonization in civil jurisdictions
[22]	Titi, C. (2021)	Investment law and national	Mixed legal methodology	Tension between investor rights and	Reflects conflict between

		contract enforcement		state regulatory autonomy	commercial freedom and civil regulatory frameworks
[23]	Basedow, J. (2020)	Lex mercatoria's role in international trade	Doctrinal analysis	Lex mercatoria complements national laws but lacks binding force	Demonstrates gap between commercial practices and enforceable civil norms
[24]	Gómez, K.F. (2021)	Role of soft law in international commerce	Comparative analysis	UNIDROIT principles help bridge civil and commercial legal regimes	Useful tool for contract design in cross-border settings

Analytical Commentary (with citations)

The relationship between civil law and commercial law in the domain of international trade has drawn increasing scholarly attention, particularly in the context of globalization, regulatory pluralism, and the rise of transnational commerce [25]. A central issue highlighted in the literature is the degree of harmonization necessary and feasible between diverse national civil law traditions and globally evolving commercial norms. This is particularly relevant when national courts interpret transnational instruments such as the CISG or apply principles like *lex mercatoria*. Studies such as Mistelis (2020) demonstrate how international commercial arbitration has become a highly harmonized field due to the widespread adoption of model laws and procedural rules, which offers predictability and neutrality in resolving disputes. However, the harmonization is less effective when dealing with substantive civil law doctrines, such as contract formation, damages, or good faith, which often reflect national cultural and legal values [26].

There is also considerable literature exploring the interaction between public international law and private commercial relationships,

especially in contexts involving WTO law or investment law regimes. While these frameworks aim to foster investor protection and liberalize trade, they sometimes conflict with civil law doctrines regarding regulatory autonomy, sovereignty, and public interest.

Another key insight is that civil law systems tend to be more formalistic, grounded in codified principles, while commercial law is more pragmatic and shaped by industry practices, such as in international supply chains. This leads to tension when courts attempt to balance formal legal rules with flexible, often soft-law-based commercial norms [27].

Moreover, while regional legal harmonization efforts (such as the PECL or UNIDROIT) offer frameworks for integration, their effectiveness varies based on judicial willingness to adopt these principles. National courts may invoke public policy exceptions to avoid applying foreign commercial standards that are seen as inconsistent with local civil values, thereby limiting the effectiveness of legal harmonization.

Thus, the literature converges on the idea that a complete convergence between civil and commercial law in international trade is

unlikely, but that strategic alignment through arbitration, soft law instruments, and judicial cooperation may enhance predictability and trust in global trade relations.

The Role of Civil Law in International Trade

Civil law establishes the foundation for contractual relationships in international trade. Key principles such as freedom of contract, good faith, liability for breach, and remedies stem from civil codes, particularly in civil law jurisdictions (e.g., Germany, France, Iran, Japan) [28].

These civil principles are crucial when parties from different legal traditions enter into cross-border contracts. For instance, the legal validity of a contract, its enforceability, and interpretation often depend on civil law doctrines that vary across countries, potentially leading to conflicts or uncertainties in international dealings.

Civil law plays a foundational and indispensable role in shaping the framework of international trade. As global commerce continues to expand and evolve, the importance of civil law systems in providing a consistent and reliable legal structure for cross-border transactions becomes increasingly apparent. Unlike commercial law, which often focuses on the specialized needs of merchants and commercial entities, civil law governs the broader legal principles that underpin contractual obligations, property rights, and dispute resolution mechanisms. This foundational role is crucial for ensuring legal certainty, fairness, and enforceability in international trade relationships [29].

One of the primary contributions of civil law to international trade is its codified nature, which offers clear rules and regulations that parties can anticipate and rely upon when entering into contracts. This codification reduces ambiguity and fosters predictability, essential factors for businesses operating across diverse

jurisdictions with varying legal traditions. By establishing uniform principles such as offer and acceptance, capacity, consent, and contractual performance, civil law creates a common legal language that facilitates international commercial dealings and reduces the risks associated with legal uncertainty.

Moreover, civil law provides the normative basis for interpreting and enforcing contracts, thereby strengthening the integrity of trade agreements. The principles of good faith, equity, and fairness enshrined in many civil law systems serve as protective measures that balance the interests of contracting parties and help prevent exploitative practices. In doing so, civil law supports not only economic efficiency but also ethical standards within international trade. This ethical grounding is especially important in an era marked by complex supply chains and diverse regulatory environments, where parties may have unequal bargaining power or differing expectations.

Civil law's influence is further reinforced through its interaction with international legal instruments such as the United Nations Convention on Contracts for the International Sale of Goods (CISG) and the UNIDROIT Principles of International Commercial Contracts. These instruments often draw heavily from civil law traditions, reflecting the universality of civil law principles in harmonizing international commercial law. Their widespread adoption demonstrates civil law's pivotal role in bridging legal systems, reducing conflicts of law, and promoting smoother trade relations [30].

Despite its strengths, civil law faces challenges in adapting to the dynamic nature of international trade, particularly in areas characterized by rapid technological change and innovation. Digital commerce, electronic contracts, and emerging trade practices require flexibility and modernization that traditional civil codes may lack. Nonetheless,

civil law systems are increasingly engaging with these challenges by integrating commercial law norms, embracing alternative dispute resolution mechanisms, and reforming outdated provisions to better accommodate contemporary trade realities.

Furthermore, the enforcement of civil law provisions depends heavily on the efficiency and independence of judicial systems. In many countries, delays, corruption, or lack of specialized commercial courts can undermine the effectiveness of civil law in international trade. Thus, legal reforms aimed at strengthening judicial capacity and ensuring transparency are essential complements to civil law's formal structure [31].

In conclusion, civil law constitutes the bedrock of international trade law by providing essential principles and frameworks that ensure legal clarity, fairness, and enforceability. Its codified nature, ethical foundations, and compatibility with international legal instruments make it indispensable for the regulation of cross-border commercial relations. To remain relevant and effective, civil law systems must continue to evolve and collaborate with commercial law frameworks and international institutions. By doing so, civil law will sustain its crucial role in facilitating secure, equitable, and efficient international trade in an increasingly interconnected global economy.

The Contribution of Commercial Law to International Trade

Commercial law brings specificity, speed, and adaptability to trade regulation. It includes areas such as negotiable instruments, banking law, international sales, transportation, and arbitration. Most importantly, it offers business-oriented solutions to complex commercial issues [32].

International instruments like the United Nations Convention on Contracts for the

International Sale of Goods (CISG) and the UNIDROIT Principles aim to create a universal commercial legal framework, simplifying transactions across jurisdictions.

Commercial law plays a critical and dynamic role in facilitating international trade by providing a specialized legal framework tailored to the complex and fast-paced nature of commercial transactions. Unlike civil law, which serves as a broad foundation for private legal relationships, commercial law addresses the unique needs and challenges faced by merchants, corporations, and international traders. Its contribution lies not only in regulating trade practices but also in promoting legal certainty, efficiency, and dispute resolution mechanisms suited to cross-border commerce.

A primary contribution of commercial law to international trade is its focus on harmonizing and standardizing commercial practices through codified rules, customary principles, and international conventions. By establishing clear regulations regarding contracts, negotiable instruments, letters of credit, sales of goods, and trade financing, commercial law reduces transactional risks and fosters confidence among trading partners. This predictability is especially vital in international markets characterized by diverse legal systems, cultural norms, and regulatory environments.

Moreover, commercial law facilitates international trade by incorporating flexibility and adaptability in its regulations. Commercial transactions often involve rapidly changing technologies, evolving market conditions, and innovative contractual arrangements. Commercial law's capacity to integrate customary practices such as *lex mercatoria*, general principles of trade, and alternative dispute resolution mechanisms enables it to remain relevant and effective. Arbitration and mediation, frequently embedded within

commercial law frameworks, offer expedited and neutral venues for resolving disputes, thereby minimizing disruptions to trade and preserving business relationships [33].

International commercial law instruments such as the United Nations Convention on Contracts for the International Sale of Goods (CISG) and the Uniform Commercial Code (UCC) exemplify commercial law's role in unifying trade rules across jurisdictions. These instruments harmonize contractual obligations, mitigate conflicts of laws, and provide standardized remedies for breach, facilitating smoother and more efficient cross-border transactions. Their widespread adoption underscores commercial law's pivotal function in bridging gaps between diverse national legal systems.

Furthermore, commercial law supports the regulation of modern trade mechanisms including e-commerce, digital payments, and supply chain logistics. By addressing emerging issues such as electronic contracts, data security, and international trade compliance, commercial law adapts to the evolving realities of global trade. Its proactive development in response to innovation is key to maintaining an environment conducive to investment and trade expansion.

Despite its significant contributions, commercial law faces challenges such as uneven enforcement across jurisdictions, legal fragmentation, and potential conflicts with domestic civil law provisions. Ensuring coherence between commercial and civil law, particularly regarding mandatory rules and public policy considerations, remains crucial for maintaining a reliable legal framework for trade. Moreover, strengthening institutional capacities and judicial expertise in commercial law is essential to uphold the effectiveness and credibility of international trade regulations.

In conclusion, commercial law serves as an essential pillar of the international trade

system by delivering specialized, adaptable, and harmonized legal frameworks that address the unique demands of cross-border commerce. Its emphasis on predictability, dispute resolution, and responsiveness to innovation facilitates a stable and efficient trading environment. For international trade to continue flourishing, commercial law must evolve in tandem with economic developments and collaborate closely with civil law systems and international institutions. Through this continued evolution and cooperation, commercial law will sustain its vital contribution to global economic integration and the facilitation of equitable and secure international trade.

Legal Conflicts and the Need for Harmonization

The coexistence of civil and commercial law can lead to friction when applied to international trade:

- Divergent contract principles (e.g., interpretation, force majeure).
- Jurisdictional issues and recognition of foreign judgments [34].
- Inconsistent dispute resolution methods (e.g., court vs. arbitration).

Harmonization efforts, such as the UNCITRAL Model Law on International Commercial Arbitration, aim to reduce these conflicts. Moreover, regional initiatives (e.g., the EU Civil and Commercial Law instruments) work toward creating uniform legal standards.

The rapid growth of international trade and globalization has exposed significant legal conflicts arising from the diversity of national legal systems, particularly between civil law and commercial law traditions. These conflicts pose substantial challenges to the predictability, efficiency, and fairness of cross-border commercial transactions. Consequently, there is an urgent and ongoing need for harmonization of laws to bridge gaps,

reduce legal uncertainties, and facilitate smoother international trade relations [35]. Legal conflicts often emerge due to divergent approaches in contract interpretation, dispute resolution, enforcement mechanisms, and substantive trade regulations. Civil law systems, characterized by comprehensive codification and emphasis on public policy, may clash with more flexible, case-driven common law or commercial law principles. This divergence complicates contractual relationships, increases transaction costs, and creates barriers to international cooperation. For example, differing views on the doctrine of good faith or force majeure can lead to inconsistent outcomes in disputes, undermining trust among trading partners. Harmonization of laws aims to create a more unified legal framework that transcends national boundaries, thereby reducing these conflicts. The adoption of international instruments such as the United Nations Convention on Contracts for the International Sale of Goods (CISG), UNIDROIT Principles, and UNCITRAL Model Laws exemplifies efforts to standardize commercial law principles worldwide [36]. These frameworks provide common rules for contract formation, performance, and remedies, fostering legal certainty and predictability. By offering a shared legal language, harmonization minimizes the risk of conflicting interpretations and enhances the enforceability of international agreements. Beyond formal treaties, harmonization also involves aligning domestic laws with international standards and improving coordination among jurisdictions. This process requires not only legislative reform but also judicial training, institutional strengthening, and greater cooperation between legal practitioners across borders. Harmonization efforts facilitate dispute resolution by promoting consistent application of laws and

encouraging the use of arbitration and mediation, which are better suited to international contexts.

Despite its clear benefits, harmonization faces several challenges. Sovereign states may resist ceding control over their legal systems or perceive harmonization as a threat to cultural or economic interests. Additionally, the diversity of legal traditions and economic development levels complicates the adoption of uniform rules. Therefore, harmonization must be a flexible, gradual process that respects national identities while promoting common commercial objectives.

In conclusion, legal conflicts rooted in diverse national legal systems significantly hinder the efficiency and reliability of international trade. Harmonization of laws emerges as a critical solution to these challenges by offering unified principles, reducing legal uncertainty, and fostering cooperation among jurisdictions. Successful harmonization not only facilitates cross-border commerce but also promotes fairness, predictability, and stability in international markets. To achieve these goals, continuous international collaboration, legislative modernization, and capacity-building within legal institutions are essential. Ultimately, harmonization represents a vital step toward a more integrated, transparent, and efficient global trading system, enabling businesses and states to navigate the complexities of international commerce with greater confidence and security [37].

International Instruments Bridging the Gap

- CISG (1980) – Standardizes key aspects of sales contracts.
- UNIDROIT Principles of International Commercial Contracts (2016) – Offer soft law guidance on civil-commercial integration.

- PECL (Principles of European Contract Law) – A model for civil and commercial contract convergence.

These instruments serve as “legal bridges” that facilitate smoother contractual negotiations and enforcement across diverse legal environments.

As digital trade, e-commerce, and global supply chains expand, civil and commercial laws must adapt:

- Smart contracts and blockchain raise questions about contract formation and performance under civil law.
- Corporate liability and consumer protection in commercial law require reevaluation in light of cross-border digital services [38].

Legal reforms must be aimed at increasing transparency, predictability, and fairness for all parties engaged in international trade. The analysis of the hypothetical data gathered from 50 cross-border trade cases involving different legal jurisdictions revealed notable trends in the application and effectiveness of civil and commercial laws in governing international trade relations.

In the complex landscape of international trade law, the coexistence of diverse national legal systems presents significant challenges for cross-border commerce. Differences in civil law and commercial law traditions, procedural rules, and enforcement mechanisms often create legal uncertainties and hinder smooth international transactions. Against this backdrop, international instruments have emerged as essential tools for bridging these gaps, promoting legal harmonization, and facilitating cooperation among jurisdictions.

International instruments such as the United Nations Convention on Contracts for the International Sale of Goods (CISG), the UNIDROIT Principles of International Commercial Contracts, and the UNCITRAL

Model Laws serve as frameworks that unify legal standards and provide common ground for traders and legal practitioners worldwide. These instruments offer standardized rules for contract formation, obligations, remedies, and dispute resolution that transcend national boundaries. Their adoption enhances predictability and legal certainty, reducing transactional risks and costs in international commerce [39].

One of the major contributions of these instruments is their ability to reconcile conflicting legal traditions. For instance, the CISG integrates elements from both civil law and common law systems, providing a balanced regime that respects the core principles of each tradition. This approach fosters wider acceptance and applicability, enabling parties from diverse legal backgrounds to engage in trade with a shared understanding of their rights and obligations. Similarly, the UNIDROIT Principles supplement national laws by offering flexible and coherent rules adaptable to different contractual contexts.

Beyond substantive law, international instruments also facilitate dispute resolution by endorsing arbitration, mediation, and other alternative mechanisms. The UNCITRAL Model Law on International Commercial Arbitration has been widely adopted to harmonize procedural rules, ensuring fairness and efficiency in resolving cross-border disputes. These frameworks reduce reliance on domestic courts, which may be slow, costly, or influenced by national biases, thus improving the enforceability of international contracts and safeguarding business relationships [40].

Moreover, the role of international organizations such as UNCITRAL, UNIDROIT, the International Chamber of Commerce (ICC), and the World Trade Organization (WTO) is critical in promoting the development, dissemination, and implementation of these

instruments. Their efforts foster dialogue among states, facilitate legal reforms, and provide guidance to ensure that international standards align with evolving commercial realities. This dynamic process contributes to the continuous refinement of legal instruments to address emerging challenges such as digital trade, e-commerce, and sustainable development.

Despite their significant benefits, the effectiveness of international instruments depends largely on their adoption and implementation at the national level. Legal harmonization requires political will, institutional capacity, and cooperation among stakeholders. Variations in domestic legal culture, economic development, and policy priorities can affect the uniform application of international standards. Therefore, ongoing efforts to promote education, capacity-building, and judicial training are essential to maximize the bridging function of these instruments [41].

In conclusion, international instruments play a vital role in bridging the gap between diverse national legal systems and enhancing the efficiency of international trade. By providing unified legal frameworks, facilitating dispute resolution, and fostering cooperation, they reduce legal uncertainty and transactional barriers in cross-border commerce. The continuous evolution and widespread adoption of these instruments are imperative for a more integrated, transparent, and resilient global trading system. Ultimately, their success will empower businesses and states to engage confidently in international markets, contributing to global economic growth and sustainable development [42].

Conceptual Differentiation and Overlaps

Civil law—traditionally private law—governs relationships among individuals, encompassing obligations, property, family,

and contracts. Commercial law, in contrast, deals specifically with merchants, trade, and commercial activities. It is inherently dynamic and evolves in response to economic demands and technological innovations.

In international commercial settings, civil law provides the general framework (e.g., rules of contract formation and liability), while commercial law introduces specificity, especially regarding negotiable instruments, bankruptcy, international sales, and arbitration. The UNIDROIT Principles and Vienna Convention on Contracts for the International Sale of Goods (CISG) exemplify this duality: they build on civil law principles while focusing on commercial practices.

The relationship between civil law and commercial law in the context of international trade is characterized by both clear conceptual differentiation and significant areas of overlap. Understanding these distinctions and intersections is essential for legal practitioners, policymakers, and scholars engaged in cross-border commerce. This nuanced interplay shapes the legal environment in which international transactions occur and influences how disputes are resolved and contracts enforced [43].

Civil law, as a branch of private law, primarily governs general legal principles concerning persons, property, obligations, and contracts. It establishes foundational rules that regulate interpersonal relationships and provide the broad legal framework applicable across a wide range of scenarios. Commercial law, by contrast, is a specialized subset of private law that focuses on the rules and norms specifically tailored to commercial transactions, merchant activities, and business organizations. This specialization reflects the unique needs and dynamics of trade and commerce, which require flexible, adaptive, and sometimes expedited legal processes.

Despite these differences, there are notable overlaps between civil and commercial law. Both systems address contractual obligations, liability, and remedies, but commercial law often builds upon and refines civil law principles to accommodate the practical realities of business. For example, commercial law incorporates customary practices such as the *lex mercatoria* and international conventions like the CISG, which supplement and sometimes override civil law provisions. This blending enables commercial law to respond swiftly to evolving market demands while maintaining a connection to the stable and well-established foundations of civil law [44].

The conceptual overlaps also present challenges. Jurisdictions may vary in how they delineate civil and commercial law, leading to legal uncertainty and potential conflicts. In some countries, commercial law is fully integrated within the civil code, whereas in others, it exists as a separate body of law with distinct procedural rules. Such divergence complicates the interpretation and enforcement of international contracts and requires careful conflict-of-law analysis to determine the applicable rules. Parties engaging in international trade must navigate these complexities through contractual choice-of-law clauses and arbitration agreements to mitigate risks.

Furthermore, the overlap between civil and commercial law underscores the importance of legal harmonization and the development of international legal instruments. Instruments such as the UNIDROIT Principles and UNCITRAL Model Laws harmonize concepts that straddle both fields, providing consistent standards that transcend national boundaries. These frameworks help bridge the conceptual gaps and reduce fragmentation by offering unified rules that accommodate the nuances of both civil and commercial legal systems.

In conclusion, the conceptual differentiation and overlaps between civil and commercial law form a complex but complementary legal landscape in international trade [45].

Civil law provides the essential structural framework, while commercial law adds specificity and adaptability to meet the demands of commerce. Recognizing and managing their intersections is crucial for ensuring legal certainty, reducing conflicts, and fostering efficient dispute resolution in global trade. Moving forward, continued efforts in harmonization and cross-disciplinary legal education are necessary to optimize the interplay between these two legal domains, thereby supporting the growth and stability of international commercial relations.

Harmonization and Legal Certainty in International Trade

The harmonization of civil and commercial law principles across jurisdictions has become vital due to globalization. Businesses seek legal certainty, predictable outcomes, and minimal transaction costs. However, divergent legal cultures (e.g., common law vs. civil law systems) often result in varying interpretations of core legal doctrines such as *force majeure*, good faith, or contractual liability.

Civil law, in most jurisdictions, tends to adopt codified systems—providing clarity but often lacking commercial adaptability. Conversely, commercial law tends to be case-driven or customary, particularly in jurisdictions influenced by *lex mercatoria* or general principles of trade. These variances may lead to disputes or enforcement difficulties in cross-border trade unless carefully managed through choice-of-law clauses or international arbitration agreements [46].

Contractual Freedom vs. Mandatory Rules

A central tension in structuring international commercial relations lies between the freedom of contract—a pillar of civil law—and mandatory provisions of commercial law. Civil law often allows parties to determine the terms of their engagement, provided they do not violate public policy. However, commercial law in many countries imposes mandatory norms regarding consumer protection, disclosure, and fair competition, particularly in sectors like finance or logistics.

In multinational commercial transactions, such tensions can manifest when one jurisdiction imposes non-derogable obligations that override contractual autonomy, potentially invalidating or modifying parts of international contracts. The Rome I Regulation in the EU is a pertinent example—it allows parties to choose the governing law but enforces certain mandatory protections regardless of such choices [47].

Dispute Resolution Mechanisms

One of the most crucial functions of both civil and commercial law is offering effective remedies in case of breach or conflict. Civil law systems traditionally emphasize judicial litigation, whereas commercial disputes, particularly international ones, are increasingly resolved through arbitration, mediation, or expert adjudication.

The New York Convention (1958) has facilitated the widespread acceptance of international arbitration awards, creating a favorable climate for the resolution of commercial disputes. However, civil law procedural doctrines (e.g., burden of proof, evidence rules) can still influence arbitration outcomes depending on the arbitrators' background or the procedural seat of arbitration.

Role of International Organizations and Model Laws

International organizations have played a pivotal role in bridging civil and commercial legal standards. UNCITRAL, UNIDROIT, and the World Bank have developed model laws and legal guides (e.g., the Model Law on Cross-Border Insolvency) that encourage convergence and reduce legal fragmentation. Nonetheless, challenges persist. Not all jurisdictions adopt these models verbatim, and even when they do, implementation may differ. This inconsistency necessitates that legal practitioners possess deep knowledge of both the formal structures and the practical application of civil and commercial law in multiple jurisdictions [48].

Digital Commerce and Emerging Legal Needs

The rise of e-commerce, blockchain-based contracts, and digital assets further strains traditional legal categories. Civil codes may lack the conceptual tools to classify and regulate these novel constructs, while commercial law often adapts more swiftly. Smart contracts, for example, challenge the traditional notion of offer and acceptance, causality, and remedies. Here, commercial law principles must be creatively reconciled with civil obligations such as fairness, good faith, and personal data protection—the latter gaining importance under frameworks like the GDPR.

Practical Considerations for Legal Practitioners and Policymakers

For legal professionals engaged in international commercial law, understanding the interdependence of civil and commercial norms is essential. Drafting robust contracts, ensuring enforceability, and structuring joint ventures or supply chains requires nuanced awareness of:

- Civil law obligations (e.g., validity of consent, capacity, damages)
- Commercial law rules (e.g., Incoterms, payment instruments, anti-money laundering)
- Conflict-of-law doctrines
- Soft law instruments and customary practices [49].

Policymakers, meanwhile, must strive for coherent legal systems that preserve the flexibility of commercial transactions while embedding them within the moral and procedural protections of civil law. This involves regular reform of outdated provisions, alignment with international standards, and capacity-building within legal institutions [50].

Conclusion

The integration of civil and commercial law is not merely a theoretical aspiration but a practical necessity in the globalized world. By recognizing the complementary functions of these legal regimes, international commerce can be structured more equitably and predictably. Moreover, as new challenges arise—from digital economies to sustainability regulations—the synergy between these branches must be continuously reevaluated and recalibrated.

If you'd like, I can also provide visual aids (like legal comparison tables, contract templates, or flowcharts for international dispute resolution) to enrich this discussion or turn it into a publishable academic article.

The hypothetical data confirms the vital role of both civil and commercial law systems in facilitating secure, enforceable, and efficient international trade. Codified legal systems, harmonized regulations, transparent judiciary practices, and institutionalized ADR mechanisms all contribute significantly to lower dispute incidence, faster resolution, and higher trade confidence. These findings advocate for continuous legal reforms and

greater international collaboration in aligning national laws with global trade standards to foster economic globalization and cross-border cooperation. The interaction between civil and commercial law is pivotal in structuring and regulating international trade relations. While each has distinct functions, their integration is increasingly necessary in a globalized economy. The development and harmonization of legal standards through international instruments are essential for reducing legal uncertainty and fostering economic cooperation.

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