*"The international importance of English commercial law"*

**The Jill Poole Memorial Lecture 2026**

**The Rt. Hon. Lord Hamblen of Kersey**[*]

1. It is both a pleasure and a privilege to be asked to give this year's Jill Poole memorial lecture on its tenth anniversary. It is also a pleasure to welcome members of Jill's family and in particular her son and daughter. The topic I have chosen to discuss today is the international importance of English commercial law, a subject of which I am sure Jill would have approved.

2. I propose to focus my discussion around three questions. First, in what ways is English commercial law important internationally? Secondly, what are the features of English law which support its importance? Thirdly, how can English law continue to be important in the future?

## How is English commercial law important?

3. The influence of English commercial law internationally can be seen in the widespread choice of English law and English dispute resolution mechanisms by commercial parties, in the enduring reach of the common law tradition, and in the role English courts play in interpreting both internationally used standard form contracts and international conventions. These all help to make English

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commercial law part of the legal infrastructure upon which global commerce operates.

a) Choice of English law as the governing law

4. The most direct evidence of the importance of English law is the frequency with which international commercial parties choose it as the governing law for their transactions. English law inevitably governs the majority of contracts between UK-based parties. But its significance lies in the fact that it is also chosen throughout the world to govern international agreements, often where neither party nor the subject matter has any connection with the United Kingdom.

5. According to the TheCityUK, an industry-led body representing UK financial and related professional services, English law is used for about 40% of the world's cross-border business and financial transactions. That makes it, along with New York law, one of the two most widely used legal systems chosen to govern international contracts.[1]

6. Those contracts are not limited to the sectors in which English law has traditionally dominated and span the full scope of transactional matters, from mergers and acquisitions, to insurance, and to maritime and commodities trading. The breadth and scale of its choice as governing law is illustrated by a report commissioned by the Ministry of Justice in March 2026 into the economic value of English law.[2] It was found that in 2025 English law Master Agreements governed over £250 trillion of the outstanding value of global derivatives; and between £73 and £83 billion of global gross written insurance premiums. English law also governed about £250 billion of global mergers and acquisitions annually

[1] TheCityUK, 'UK Legal Services 2025: Legal excellence, internationally renowned', p6. Available at: uk-legal-services-2025-legal-excellence-internationally-renowned.pdf.
[2] Hook Tangaza, 'Harnessing English Law for Economic Growth' (March 2026). Available at: harnessing-english-law-report.pdf

and was chosen as the governing law in around 40% of global corporate arbitrations.[3]

7. In the maritime sector, English law is "the global industry standard" for maritime contracts and is the preferred law across the sector globally.[4] Around half of all international seaborne trade is conducted under English law contracts in any year, [5] along with around a third of global marine insurance premiums and almost two-thirds of P&I insurance.[6] Significantly more maritime disputes are settled by English arbitration than the rest of the world in total. It is estimated that more than 80% of the world's maritime arbitrations are handled in the UK.[7]

8. The same pattern can be seen in international commodities trading. For example, English law governed trades account for 75% of global metals trading annually and at least 28% of all global agricultural trade. This includes 80% of the global grains trade and 85% for global oils, seeds and fats.[8]

9. These trends also result in the large-scale export of our legal services – legal services exports were valued at £9.02 billion in 2024, making England and Wales the second largest legal market in the world after the United States.[9] As the Law Society has observed, "there is a growing demand internationally for expertise in English law".[10]

b) Choice of jurisdiction

[3] The Law Society 'International Data Insights Report 3rd Edition 2025: The Law Society of England and Wales' (09 September 2025), p15. Available at: Global position of English law in 2025 – International Data Insights Report | The Law Society.
[4] Maritime UK, 'Maritime Business Services'. Available at: Maritime Business Services | Maritime UK (accessed 12th August 2026).
[5] Hook Tangaza (n2), p22.
[6] Maritime UK (n4).
[7] TheCityUK (n1), p29; Law Society (n3) p15.
[8] Hook Tangaza (n2), p22-23.
[9] Law Society (n3), p16.
[10] Ibid., p17.

10. The choice of English law as the governing law is only part of the picture, however, as commercial parties must also choose the forum in which their disputes will be resolved. Again, the figures demonstrate the frequency with which the English courts are a top choice.

11. Despite increasing global competition, the London Commercial Court continues to handle more disputes and issue more judgments in comparison with its main, specialist commercial court counterparts across the globe.[11]

12. Its caseload is predominantly international. In its most recent report, it was noted that approximately three quarters of cases were international in nature, meaning that at least one of the parties or the subject matter of the dispute were not based in the UK.[12] 49% of those international cases involved only international parties.[13] This is supported by Portland's most recent Commercial Court Report, which found that 62% of litigants in the London Commercial Courts were not from the United Kingdom, with 93 different nationalities represented.[14]

13. The same trend is visible across the Business and Property Courts more generally. According to TheCityUK, in 2024, 80% of cases in the Patents Court and 54% in the Competition List were international in nature, involving at least one international party.[15]

[11] Law Society (n3), p7-8. In comparison with the New York Commercial Division, Dubai International Financial Centre Civil and Commercial Division, Qatar International Court, and Singapore International Commercial Court.
[12] Courts and Tribunals Judiciary, Commercial Court Report 2023-2024 (Including the Admiralty Court Report) (February 2026), pp20-21. Available at: The Commercial Court Report 2024–2025 (Including the Admiralty Court Report).
[13] TheCityUK (n1), p6.
[14] Law Society (n3), p2. Portland, 'Commercial Courts Report 2025'. Available at: Commercial Courts Report 2025 - Portland
[15] TheCityUK (n1), p6.

14. The choice of England as a forum is not limited to English courts, but also to our alternative dispute resolution centres. For arbitration, London has long been recognised as a leading centre, and remains the preferred seat for arbitration globally.[16] Taking the London Court of International Arbitration as an example, in 2024, 95% of its referrals were international in nature, 75% involved only international parties, and parties originated from 101 different jurisdictions.[17]

15. These figures matter because international parties are not bound to choose English law or English courts or tribunals. In a global commercial environment, parties are free to choose the governing law of their agreements and the forum in which their disputes are to be resolved, according to what they regard as most reliable and commercially effective.

c) English common law tradition

16. English law's significance in international commerce is not confined to the transactions it governs or the disputes it resolves. It also derives from its history; the English legal tradition is the foundation for legal systems across the world. The English common law forms the basis of 85 legal jurisdictions[18] and it is estimated to govern almost one third of the world's population.[19] The result is a large community of jurisdictions, with shared legal concepts, principles and methods of reasoning, within which courts can draw upon one another's experience in addressing comparable legal problems.

[16]The Law Society (n3), p9.
[17]London Court of International Arbitration, 'Annual Casework Report: 2024', p.5. Available at: download.aspx.
[18] Phillip Wood, 'Governing Law Risks in International Business Transactions' (OUP 2022), para 1.17.
[19] Wood (n18), para 18.154.

17. As Lord Bingham observed, comparative jurisprudence can prove particularly persuasive where domestic authority either yields no answer to a particular question; or it would lead to an unjust or inappropriate result.[20] In commercial law, where commerce is increasingly globalised, similar problems frequently arise across borders, and so a shared body of persuasive common law authority can prove particularly useful.

18. As the "mother" common law jurisdiction, many of the other common law jurisdictions will look for guidance from the decisions of the UK Supreme Court and the Judicial Committee of the Privy Council ("the Privy Council"), including in commercial law.

19. The Privy Council provides a good illustration of the commercial benefits of these common law relationships. It continues to hear appeals from thirty overseas jurisdictions, including several important offshore financial centres, such as Bermuda, the British Virgin Islands and the Cayman Islands. As a result, it is regularly asked to resolve commercial disputes of substantial value and complexity.

20. The international standing of the Privy Council in determining these high-value disputes helps to underpin the development of these financial centres,[21] and it creates a larger body of authority for smaller Privy Council jurisdictions to rely upon.[22]

21. The benefits of the Privy Council extend beyond the jurisdictions it serves. By providing a forum in which significant international commercial law disputes

[20] Lord Bingham of Cornhill, 'Widening Horizons: The Influence of Comparative Law and International Law on Domestic Law' (Cambridge University Press 2014) p8.
[21] Lord Hamblen, 'Rule of Law and Economic Prosperity: The Sir Cassam Moolan Memorial Lecture 2025', paras 6.3-6.5. Available at: speech_lord_hamblen_28_11_2025_dd30465d14.pdf
[22] Lord Hodge, 'The work of the Judicial Committee of the Privy Council', p12. Available at: speech_lord_hodge_jcpc_270225_03e7773ac9.pdf.

can be resolved, the Privy Council can contribute to and enrich the development of commercial law across the common law world.

22. A recent appeal from the British Virgin Islands ("BVI"), *Sian Participation v Halimeda*,[23] provides a good illustration. The appeal raised an issue of considerable commercial significance, concerning the threshold to be applied by the courts when asked to dismiss or stay insolvency proceedings in favour of arbitration on the basis of a disputed debt. The Board of course primarily considered the approach of the BVI courts, but also drew on authorities from England and Wales, Malaysia, Singapore, and Hong Kong, to hold that the debt must be the subject of a genuine dispute on substantial grounds in order to dismiss or stay the insolvency in favour of arbitration.[24] Although the decision applied BVI law, it also provided an opportunity to resolve an issue that had divided the English courts. The Board directed that the decision was also binding as a matter of English law and that the previous governing English Court of Appeal authority, that applied a much wider definition of a disputed debt, should cease to apply – a *Willers v Joyce* direction. [25] This is a jurisdiction which is increasingly used.[26]

23. In the two years since it was decided, the judgment in *Sian Participation v Halimeda* has been cited with approval in the Malaysian Court of Appeal,[27] the

[23] *Sian Participation Corp (In Liquidation) v Halimeda International Ltd (Virgin Islands)* [2024] UKPC 16.
[24] *Sian Participation v Halimeda*, para 99.
[25] Ibid., paras 124-127, overturning the English Court of Appeal decision of *Salford Estates (No 2) Ltd v Altomart Ltd (No 2)* [2014] EWCA Civ 1575 through use of a *Willers v Joyce* direction, which allows the JCPC to direct that its decision is should be treated as representing the law of England and Wales (*Willers v Joyce (No 2)* [2016] UKSC 44; [2018] AC 844).
[26] See also, for example, the Privy Council decision in *Jardine Strategic Limited v Oasis Investments II Master Fund Ltd (No 2)* [2025] UKPC 34 which abolished the shareholder rule exception to legal advice privilege
[27] *Peninsula Education (Setia Alam) Sdn Bhd V Biaxis (M) Sdn Bhd (In Liquidation)* [2024] MLJU 1896, Lee Swee Seng JJA at paras 58-61.

Irish High Court,[28] and the Grand Court of the Cayman Islands.[29] Even in jurisdictions where a different approach has been followed, the opportunity to test the approach of one jurisdiction against the law of another is valuable, as is the contribution of the Privy Council to this shared body of authority.

d) Interpretation of standard form contracts

24. The next area in which English commercial law has an important influence is in the interpretation of standard form contracts. Much of international commerce today will be conducted through standard form contracts rather than bespoke, negotiated agreements. Their advantages for commercial parties, and for the development of commercial law, are many. As Lord Diplock stated in *The Maratha Envoy,* one of the main benefits of standard form contracts is that they become the subject of judicial interpretation, such that the way in which the agreement will apply will be understood by both parties when they are agreeing and carrying out the contract.[30]

25. This is why the judicial interpretation of standard form contracts carries particular importance. Where a clause is used throughout the international market, an English court judgment interpreting that clause may influence not only the parties before the courts, but also commercial actors and courts in other jurisdictions, including in cases governed by other laws.

26. This general public importance of issues of construction of internationally used standard form contracts is recognised by the Supreme Court in its grant of permission to appeal and is why such cases frequently come before the Court.

[28] *San Leon Energy Plc v Brightwaters Energy Ltd* [2026] IEHC 1, Mr Justice Kennedy at para 51.
[29] *The Companies Act (2025 Revision) and NaaS Technology Inc* [2025] CIGC (FSD) 28, Justice David Doyle at paras 51-62.
[30] *Federal Commerce and Navigation Co Ltd v Tradax Export SA (The Maratha Envoy)* [1978] A.C. 1, 8.

The Norwegian Saleform provides one example. This is the most commonly used standard form contract for the sale and purchase of second-hand ships. Within the last year alone, the Supreme Court has given judgment in two cases concerning the interpretation of the Norwegian Saleform 2012, *Great Asia Maritime v Orion Shipping* ("*The Lisla Lisbon"*)[31] and *King Crude Carriers v Ridgbury*.[32] It is shortly to hear the appeal in another, *Oktan Energy and another v Maersk Tankers Singapore PTE Ltd* (*"The Skyros & Agios Minas"*).[33] Decisions on the standard form contribute to a body of authority which assists parties across the international shipping market who have contracted on, or are negotiating, precisely the same terms as the parties before the court.

27. The International Swaps and Derivatives Association ("ISDA") Master Agreement is another example. It is estimated to govern 80-90% of all OTC derivatives trades,[34] and was described by Lord Briggs (as a judge of the High Court) as "probably the most important standard market agreement used in the financial world."[35]

28. English law and New York Law are the two default options for governing law and jurisdiction in both the 1992 and 2002 versions of the Master Agreement, which places English courts at the centre of a major international financial market. The result is that English law has contributed substantially, in dialogue with the New York courts,[36] to the creation of a coherent and influential body of authority in the global derivatives market.

29. A striking example of the English courts' willingness and ability to assist business, and of an internationally important English law standard form

[31] *Great Asia Maritime Limited v Orion Shipping and Trading LLC* [2026] UKSC 23
[32] *King Crude Carriers SA and others v Ridgbury Novembre LLC and others* [2025] UKSC 39.
[33] *Oktan Energy and another v Maersk Tankers Singapore PTE Ltd* [2026] EWHC 917 (Comm).
[34] Hook Tangaza (n2), p24. English law governs 50.01% of ISDA Master Agreements (ibid.)
[35] *Lomas v JFB Firth Rixson Inc (International Swaps and Derivatives Association intervening)* 21 Dec 2010 [2010] EWHC 3372 (Ch), para 53.
[36]Joanne Braithwaite, 'The Financial Courts: Adjudicating Disputes in Derivatives Markets' (Cambridge University Press 2020) p78, p111-112.

decision, is the Supreme Court's decision in *Financial Conduct Authority v Arch Insurance (UK) Ltd and others*[37], which concerned the recoverability of losses under business interruption insurance policies during the Covid 19 pandemic. This was a key issue for businesses in the UK and around the world. Using the Financial List test case procedure the FCA and leading insurers brought proceedings to determine the recoverability of such losses under the most commonly used policy clauses. The proceedings were commenced in June 2020; the case was heard in July 2020 by a Financial List 'divisional' court comprising the Chancellor and a Commercial Court judge; their judgment was issued in September 2020; there was then an appeal direct to the Supreme Court which was heard over four days in November 2020, with judgment being given in January 2021. From the start of the proceedings to a Supreme Court judgment took only seven months. That prompt decision, and in particular its analysis of the causation issues arising, provided significant guidance to courts in other jurisdictions which had to address similar issues, such as Australia, and Ireland.[38]

e) Interpretation of international instruments

30. Relatedly, the English courts contribute to international commercial law through their interpretation of international conventions. Modern commerce law increasingly requires national courts to interpret international instruments governing trade which are designed to have a uniform effect across borders.[39]

[37] [2021] UKSC 1
[38] See, for example, *LCA Marrickville Pty Limited v Swiss Re International SE* [2022] FCAFC 17; *Hyper Trust Ltd v FBD Insurance Plc* [2021] IEHC 78*; Marlin Apartments Ltd t/a Marlin Hotel Dublin v Allianz plc* [2024] IEHC 550
[39] Lord Briggs, 'International Commerce: Mapping the Law in a Borderless World, Sultan Azlan Shah Law Lecture 2019', para 19. Available at: International Commerce: Mapping the Law in a Borderless World

31. Prominent examples of such instruments are the Hague and Hague Visby Rules, international instruments for the unification of rules of law relating to bills of lading, which govern almost all contracts for the international carriage of goods by sea. A recent example of a Supreme Court decision determining an important issue relating to the application of these Conventions is *Fimbank Plc v KCH Shipping Co Ltd* ("*The Giant Ace"*) which concerned whether the one year time bar under the Rules applies to claims for misdelivery of goods arising after discharge from the vessel. [40]

32. Another recent example of an internationally important decision is *Evergreen Marine (UK) Ltd v Nautical Challenge Ltd*,[41] in which the Supreme Court considered the proper interpretation of the International Regulations for Preventing Collisions at Sea 1972. These regulations are intended to provide a uniform international code governing navigation at sea. As noted in the judgment, its rules "are of cardinal importance to the safety of navigation"[42] and the questions "are of real importance to mariners, and to the effectiveness of the Collision Regulations in preventing, as far as possible, collisions at sea."[43] In deciding such questions, the English courts are not merely answering a question in domestic law, but are contributing to the interpretation of internationally adopted rules, which depend upon coherent and consistent application across the states who have ratified them.

33. Other international conventions in relation to which there have been recent significant UK Supreme Court decisions include the Convention on Limitation of Liability for Maritime Claims 1976 (the Limitation Convention)[44]; the International Convention on Salvage 1989 (the Salvage Convention)[45]; the

[40] *Fimbank Plc v KCH Shipping Co Ltd* [2024] UKSC 38.
[41] *Evergreen Marine (UK) Limited v Nautical Challenge Ltd* [2021] UKSC 6.
[42] Ibid., para 2.
[43] Ibid., para 7.
[44] See *MSC Mediterranean Shipping Company SA v Conti 11 Container Schiffahrts-GmbH & Co KG ("The MSC Flaminia")* [2025] UKSC 14.
[45] See *Argentum Exploration Ltd v Republic of South Africa* (2024) UKSC 16.

Convention on the Contract for the International Carriage of Goods by Road 1956 (the CMR Convention)[46]; the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (the New York Convention)[47]; the ICSID Convention 1965[48] and the Vienna Convention on the Law of Treaties 1969 (the Vienna Convention)[49]. All of these decisions are likely to be influential in other jurisdictions and many of them will be followed, both in terms of general approach and the specific decision.

34. In summary, the significance of English commercial law is seen not only in the widespread choice of English law and English courts by international commercial parties, but also in the continuing influence of the common law tradition, and in the contribution of English courts to the interpretation of widely used standard form contracts and international instruments. In each of these ways, English law can contribute to a wider body of commercial law, which is an essential element of the framework for international commerce.

**2) Why is English commercial law important?**

35. That leads me to the second question I posed at the outset: what is it about English commercial law which makes it attractive to commercial parties around the world, or rather, why is it so important?

36. Research commissioned by the Ministry of Justice into why London is such a popular jurisdiction for the litigation of high-value cross-border disputes found that there were two main reasons:

    1) first, the qualities of English law;

[46] See *JTI Polska Sp. Z o.o. v Jakubowski* ("*JTI Polska*") [2023] UKSC 19.
[47] See *Kabab-Ji SAL (Lebanon) v Kout Food Group (Kuwait)* [2021] UKSC 48.
[48] See *The Kingdom of Spain v Infrastructure Services Luxembourg S.A.R.L.* (2026) UKSC 9.
[49] See *JTI Polska.*

2) and secondly, the reputation and experience of English judges.[50]

a) Qualities of English law

37. I will first consider the key qualities of English law that are attractive to commercial parties. I propose to highlight four.

i) Freedom of contract and enforcement of parties' bargains

38. First, English law places significant emphasis on freedom of contract and enforcement of parties' bargains. As Lord Burrows and I recently stated in *RTI Ltd v MUR Shipping BV*: "The principle of freedom of contract is fundamental to the English law of contract". As Lord Diplock observed: "A basic principle of the common law of contract…is that parties to a contract are free to determine for themselves what primary obligations they will accept."[51]

39. This respects party autonomy: the English courts generally consider that commercial parties, who are of equal bargaining power, are capable of looking after their own affairs, and so they should be free to allocate risk as they choose. It is accordingly not the role of the courts to interfere and re-write the terms of the contract.[52]

[50] Eva Lein et al, 'Factors influencing international litigants' decisions to bring commercial claims to the London based courts' (Ministry of Justice 2015), p2, p15. Available at: Ministry of Justice Analytical Series 2015 - Factors Influencing International Litigants' Decisions to Bring Commercial Claims to the London Based Courts.
[51] *RTI Ltd v MUR Shipping BV* [2024] UKSC 18, para 41 (Lord Hamblen and Lord Burrows). *Photo Production Ltd v Securior Transport Ltd* [1980] AC 827, 848 (Lord Diplock).
[52] *Photo Production Ltd v Securicor Transport Ltd* [1980] AC 827, 843 (Lord Wilberforce) and 851 (Lord Diplock). See also *Impact Funding Solutions Limited v AIG Europe Insurance Ltd (formerly known as Chartis Insurance (UK) Ltd)* [2016] UKSC 57, para 38 (Lord Toulson).

40. This contrasts with the position in some civil law jurisdictions, where courts will more readily intervene by overriding express contractual terms to correct what might be deemed an unfair bargain.[53] The results are less predictable, and this restricts the ability of commercial parties to build certainty into their contracts.[54]

41. English law accordingly enables commercial parties to organise their affairs and structure their transactions in accordance with their own commercial objectives.[55] For businesses operating across borders, this allows parties to negotiate and invest with confidence that their agreement will be enforced, which provides the necessary trust for parties to transact with one another in the first place.[56]

ii) Body of precedent and established legal framework

42. Secondly, through our system of precedent, English law offers commercial parties the benefit of a vast body of authority and an established legal framework upon which to transact. The common law develops incrementally over time through judicial decisions, which are made in response to the disputes which reach the courts. This creates an accumulated body of commercial decision making upon which parties, their advisors, and the courts can rely.

43. The same applies both to the incremental development of common law principles and rules of law, but also directly to the interpretation of standard clauses in commercial contracts. For example, in shipping there are English law texts which discuss each clause of the most commonly used standard form charterparties,

[53] Wood (n18), paras 5.33-5.35, and Chapter 8.
[54] Wood (n18), para 5.4.
[55] LegalUK, 'Why businesses should choose English law and UK jurisdiction' (2023), p1. Available at: Why businesses should choose English law - LegalUK.
[56] Lord Leggatt, 'What is the point of commercial law?' paras 29-33. Available at: 'https://supremecourt.uk/uploads/what_is_the_point_of_commercial_law_eea1e25f15.pdf.

drawing on a considerable body of English authority which addresses virtually all of those clauses.[57]

44. This is reinforced by the doctrine of *stare decisis*, by which decisions of higher courts are binding on lower courts. This ensures that like cases are decided alike, which can then inspire confidence in commercial parties that legal principles will be applied consistently. It enables business to assess legal risk, structure transactions and predict with a reasonable degree of confidence how contractual provisions will be interpreted and enforced.[58]

iii) Certainty and predictability

45. Thirdly, English law offers a high degree of certainty and predictability, which naturally follows from both its system of precedent and its respect for parties' bargains. As the former Lord Chief Justice, Lord Thomas, has observed:

> "Clarity and predictability in the law, as well as its ability to develop in a principled manner, is the bedrock upon which businesses, just as much as individuals, order their affairs and enter into binding agreements. It is a necessary pre-condition for understanding rights and obligations, something which is of crucial importance whether the person is an individual entering into an agreement to buy a washing machine, a house or a car, or whether the person is a business entering into a debt finance agreement, an international sales transaction or a reinsurance agreement.

[57] Wilford on Time Charters; Cooke and Young on Voyage Charters.
[58] LegalUK (n46), pp1-2; Dr Laura Lopez-Gomez, 'Literature Review: The Rule of Law and the Institutional Roots of Economic Performance' (The Bingham Centre, March 2026), pp24-25. Available at: 172_the_rule_of_law_and_the_institutional_roots_of_economic_performance.pdf.

As Lord Salmon rightly noted in The *Laconia*, "Certainty is of primary importance in all commercial transactions." [59]

46. The economic importance of such predictability should not be underestimated. As a recent literature review by the Bingham Centre notes, clear and consistently enforced legal rules allow individuals and businesses to invest, contract and cooperate with confidence that their rights and agreements will be protected. Conversely, uncertainty increases the costs associated with negotiating, monitoring and enforcing agreements, which discourages economic activity. [60] In this way, legal certainty does not only regulate how a dispute will be resolved, but it creates the conditions in which commerce can take place in the first place.

iv) Flexibility and adaptability of common law

47. Fourthly, English law has the advantage of flexibility. A key strength of our common law lies in its ability to adapt incrementally to new developments and novel issues, while also remaining stable and predictable by applying established legal principles.[61]

48. Lord Diplock explained the importance of this characteristic in *Cassell v Broome:*

> "The common law would not have survived in any of those countries which have adopted it, if it did not reflect the changing norms of the particular society of which it is the basic legal system. It has survived because the common law subsumes a power in judges to adapt its rules to

[59]Lord Thomas, 'Developing commercial law through the courts: rebalancing the relationship between the courts and arbitration: The Bailii Lecture 2016'. Available at: Lord Chief Justice speech: The Bailii Lecture 2016.
[60] Dr Lopez-Gomez 'Literature Review' (n49), pp12-14.
[61]Lord Burnett of Maldon, 'The Hidden Value of the Rule of Law and English Law: Blackstone Lecture 2021', paras 41-42. Available at: Blackstone Lecture 2022 (final).

the changing needs of contemporary society - to discard those which have outlived their usefulness, to develop new rules to meet new situations." [62]

49. This reasoning applies equally to the common law's place in the commercial world: the English common law would not have had thrived in and become the foundation for international commerce if it did not adapt to the changing needs of global business.

50. This is particularly relevant today, as technological developments accelerate the pace of change. AI, digital assets, and smart contracts are just a few examples of new technologies which are rapidly changing the ways in which parties do business. The Business and Property Courts have proved that English law is capable of adapting to these developments, through its application of common law principles to digital disputes.[63] The Law Commission, in its recent report on digital assets,[64] has agreed, concluding that:

> "[…] the common law of England and Wales has already proven itself sufficiently resilient in the face of new technology and flexible enough to answer legal questions concerning digital assets. It is already developing a sophisticated legal regime that recognises and protects the nuanced features of those digital assets, providing the market with a good balance of certainty and flexibility. The jurisdiction of England and Wales is well placed to provide a coherent, globally relevant legal regime for existing and new types of digital asset."[65]

51. This readiness is in large part down to the common law's flexibility, which has enabled it to remain both reliable and relevant in the international commercial

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[62] *Broome v Cassell & Co Ltd* [1972] AC 1027, 1127.
[63]See eg Courts and Tribunals Judiciary, 'Digital Disputes'. Available at: Digital Disputes - Courts and Tribunals Judiciary.
[64] Law Commission, 'Digital assets: Final report' (HC 1486, 2023). Available at: Digital assets – Law Commission.
[65] Ibid., para 2.10.

sphere. In this way, as Lord Burnett of Malden has observed, "English law and our Business and Property Courts are demonstrating that they are ready and willing to provide the necessary legal infrastructure to allow these technologies to enter mainstream financial and commercial life." [66]

52. The four qualities of English law I have highlighted are not independent of one another; they operate together. By increasing the attractiveness of English law and the English courts for commercial actors, they have contributed to the widespread international adoption of English law. This creates more opportunities for the English courts to resolve complex commercial disputes, adding to the accumulated body of learning and authority available for future parties, and developing the law in response to changing conditions and new challenges. This has been described by the consultancy Oxera as "the network effect of English law" by which "the benefit gained by all English law users grows with the total number of users."[67] In this way, the widespread adoption of English law helps to sustain the very qualities which made it attractive in the first place.

b) Qualities of Judicial Decision Making

53. I turn then to the second major attraction of English law: the quality and reputation of its judiciary. As I noted earlier, the reputation and experience of judges is identified as a significant factor influencing choice of English jurisdiction. But what are the qualities of our judiciary which have led to its positive reputation in commercial law?

i) Impartiality and independence

[66] Lord Burnett (n52), para 42.
[67] Oxera, 'Economic value of English Law: Prepared for LegalUK' (5 October 2021), p8, 10-11.

54. A first and fundamental factor is judicial impartiality and independence. Commercial parties need confidence that, if a dispute arises, their rights will be determined according to law by courts which are independent of government, impartial, and free from corruption.[68] That confidence is necessary not only as an aspect of the rule of law, but as a condition for doing business.

55. Research shows a correlation between the strength of a country's legal institutions, particularly independent and impartial courts, and higher levels of economic growth. Conversely, countries with higher levels of corruption and weaker institutions tend to attract lower levels of foreign investment, productivity and economic activity.[69] Independent and impartial courts are therefore an essential part of the infrastructure upon which commercial relationships are formed.

ii) Commercial Expertise

56. Secondly, commercial parties value a judiciary which understands the markets and transactions with which they are dealing. Parties choosing a governing law need confidence that their disputes will be resolved by judges who understand how commercial markets operate.[70] One of the traditional strengths of the English judiciary has been its commercial expertise, and willingness to engage flexibly with recognised commercial practice. Taking the words of Lord Goff, one of our most distinguished commercial judges, writing extra-judicially:

> "We are there to help businessmen, not to hinder them: we are there to give effect to their transaction, not to frustrate them: we are there to oil

[68] Lord Hamblen, 'The rule of law and economic prosperity' (n21), paras 3.1-3.2.
[69] Dr Lopez-Gomez, 'Literature Review' (n49), p21.

[70] Wood (n18), para 16.9.

the wheels of commerce, not to put a spanner in the works, or even grit in the oil."[71]

57. The development of freedom of contract and enforcing commercial parties' bargains stems from this commercial experience, as does the recognition of established business practice.

58. A recent example of this in practice is *Great Asia Maritime v Orion Shipping*, which I mentioned earlier, concerning the interpretation of the Norwegian Saleform 2012. The Supreme Court emphasised that where contractual language has acquired an established meaning through market usage and judicial interpretation, the onus will be on the party seeking to depart from that established meaning to demonstrate a good reason why that meaning did not apply.[72] The reason for that approach is summarised by Lord Hobhouse in *The World Symphony*:

> "Without such a principle the certainty and continuity of commercial law is lost and there is a risk of frustrating rather than giving effect to the intentions of the parties. Parties must be able to contract on the basis of established decisions about the words they are choosing to use to express their contractual intention."[73]

59. By respecting established commercial understandings, English courts provide the predictability and certainty which is necessary for effective international commerce.

iii) High standard of judgments

[71] Goff R, "Commercial Contracts and the Commercial Court" [1984] LMCLQ 382, 391.
[72] *Great Asia Maritime v Orion Shipping* (n30), paras 31-46.
[73] *Chiswell Shipping Ltd v National Iranian Tanker Co ("The World Symphony")* [1991] 2 Lloyd's Rep 251 at 257; *Great Asia Maritime v Orion Shipping* (n32), para 44.

60. Thirdly, the quality of judicial reasoning itself is important. In our system of precedent, judges in apex courts are not only resolving the disputes before them but laying down a principle of law which will bind future courts and guide future parties. It is accordingly essential that the principles it lays down and are clear and accessible.

61. This emphasis on reasoning distinguishes the common law tradition from many civil law systems, where appellate courts often issue relatively concise statements of outcome. In the common law, it is not only the outcome that matters, but the reasoning by which that outcome is reached. It is the reasoning which will form part of the development of the law through precedent, and which will be of interest to future courts in coming to decisions and commercial parties when organising their affairs.

62. Lord Bingham has rightly observed that "No one would choose to do business, possibly involving huge sums of money, in a country where the parties' rights and obligations are vague or undecided."[74] Indeed, he argued that a court which fails to lay down a clear principle of law, capable of application by other courts, is failing to perform its judicial function;[75] and this would fail to provide the certainty upon which commercial activity depends.

c) Keys to the quality of English judicial decision-making

63. It is important to recognise that the existence of these qualities is not down to individual judges but derives from several important institutional and procedural features of our system.

i) Judicial Recruitment

[74] Lord Bingham of Cornhill, "The Rule of Law' (Penguin 2010) p38.
[75] Ibid., p45.

64. First, this is ensured by our process of judicial recruitment. Judicial appointments are overseen by the Judicial Appointments Commission, an independent statutory public body which selects candidates based solely upon merit.[76] This serves two important functions. It reinforces judicial independence, by ensuring that the appointment process is free from political influence; while the meritocratic nature of appointment ensures that the judiciary is drawn from the most able practitioners in their respective fields.[77]

ii) Professional Experience

65. This leads on to the second key to quality, which is that judges are generally only appointed after substantial careers in legal practice. Unlike many civil law jurisdictions, where the judiciary is a career option chosen at the completion of legal study, our judges are drawn from experienced barristers and solicitors who have spent many years in practice themselves. This is a great advantage of our legal system, which is particularly valuable in commercial law. It means that judges frequently arrive on the bench with practical experience of the commercial world, which can assist in quickly understanding the commercial context, and in producing decisions which are commercially workable in practice. [78]

iii) Oral Advocacy

66. A third contributor is our tradition of oral advocacy. Although substantial submissions are provided before a hearing and judges will have spent considerable time reading the papers in advance, it remains a central feature of our legal system that a judge's decision is not settled until the arguments have

[76] Constitutional Reform Act 2005, s63(2).
[77] Lord Burnett (n52), para 23.
[78] Wood (n18), paras16.4-16.5; LegalUK (n46), p2.

been tested in court. As Lord Justice Laws observed, "that judges…change their minds under the influence of oral argument is not an arcane feature of the system; it is at the centre of it."[79]

67. The substantive hearing is accordingly an essential aspect of the decision-making process. Judges can and do ask questions of counsel, and it is often at this stage, through testing the arguments of both parties, that decisive issues will be identified. This allows the judges to focus on the issues that truly matter.

68. The quality of judicial decisions therefore also depends on the quality of the advocates who appear before them.[80] In commercial disputes, which frequently involve complex contractual arrangements and market practices, skilled advocates can assist the judiciary with understanding the relevant background, legal framework and implications of its decision. In this way, oral advocacy helps to refine judicial reasoning and contribute to the clarity and rigour of final decisions, which can be relied upon as authoritative guidance in the future.

iv) Judgment Writing Process

69. Finally, the quality of English judgments is reinforced by the process through by which decisions are reached and written. Judgments are the personal responsibility of the judgment writer. They are not anonymised judgments of the court. The focus is, or should be, on a clear structure and fully reasoned conclusions. Appellate judgments involve collaboration rather than drafting by committee.

[79] Lord Reed of Allermuir, 'Oral Hearings in the United Kingdom: Past, Present and Future' (November 2023), para 1.2, Available at: speech_231129_reed_c6c3c2d800.pdf.
[80] Lord Neuberger, 'Keynote closing address to the International Council of Advocates and Barristers' (April 2016), paras 4-5. Available at: Full text - PDF (20).pdf. Lord Reed (n70), para 3.10.

70. Taking the example of the Supreme Court, following a hearing the members of the panel will deliberate collectively, with each judge in turn having the opportunity to explain their view of the issues and the reasoning which supports it. During that meeting, the presiding Justice will choose which Justice, or Justices, should write the main judgment.

71. There has been a move in the Supreme Court towards producing a single judgment of the court, prepared by either one Justice or more than one Justice jointly. While each Justice remains free to give a separate concurring judgment, producing a single judgment can reduce the uncertainty that may arise where several judgments have reached the same result by slightly different reasoning. A single judgment can make the ratio more readily identifiable, which provides clearer guidance to future courts and parties.

72. After the deliberation, judges may also undertake further research where necessary, with the aid of our judicial assistants, before preparing draft judgments. These are circulated among other members of the panel for comment and critique. This allows colleagues to identify any weaknesses and suggest improvements to the draft to which, if they agree, they will also be signing up. It is an iterative and collegiate decision-making process, in which judicial reasoning is tested, refined and improved, and which ultimately improves the quality of the final judgment.

73. Together, these institutional and procedural features of our system help to produce judgments that are independent, well-reasoned and commercially informed: qualities which reinforce the confidence placed in our courts by international parties.

### 3) How can English commercial law remain important in the future?

74. Looking to the future, the continued international importance of English commercial law will depend upon its ability to remain both responsive and outward-looking. History suggests that English law's success has rested not only upon its existing strengths, but also upon its capacity to adapt to changing commercial conditions and engage with developments beyond its own borders.

75. First, applying the flexibility that is a strength of our common law system, English law must continue to adapt to technological innovation. New technologies will continue to emerge and to reshape commercial activity. The challenge is to ensure that English law continues to provide a stable and predictable legal framework for new forms of commerce, while retaining its certainty and quality which have historically attracted international parties. Developments in relation to digital assets demonstrate that the common law is capable of meeting that challenge. As Sir Geoffrey Vos, Master of the Rolls, has argued, if English law can establish itself as a preferred legal framework for these developing technologies, it may replicate in these new sectors the success it has long enjoyed in fields such as finance, insurance and shipping. [81]

76. Secondly, English courts must continue to engage actively with the growing numbers of specialist courts which are entering the commercial dispute resolution market. Around the world, specialist commercial courts are being established to attract international business. Many have adopted common law procedures or appointed former English and British judges to their benches, which reflects the continuing international reputation of English legal expertise, even as new forums emerge.

77. The growth of such courts worldwide should not be viewed in terms of competition. It presents important opportunities for collaboration and learning.

[81] Sir Geoffrey Vos, 'Keynote speech: The economic value of English law in relation to DLT and digital assets' (2022), para 52. Available at: Speech by the Master of the Rolls: The economic value of English law in relation to DLT and digital assets - Courts and Tribunals Judiciary.

An important example of this is the Standing International Forum of Commercial Courts (SIFoCC), which was established in 2016 by the then Lord Chief Justice, Lord Thomas, to strengthen relationships between commercial courts worldwide. Its rapid growth since its inception reflects the success of Lord Thomas's vision: at its inaugural meeting 25 jurisdictions were represented. At its Sixth meeting, held in Delhi, India, last year, its membership had reached 67 jurisdictions, with new members including Cambodia, Ethiopia, Montenegro, Ukraine, Vietnam, and Western Sahara.[82]

78. SIFoCC has three main objectives. First, the sharing of best practice to allow courts to better serve their users. Secondly, to contribute to the rule of law, as courts around the globe acting in concert can make a stronger contribution to the stability and prosperity the rule of law brings than they would separately. And thirdly, to contribute to the development of developing or emerging jurisdictions, by offering effective means for resolving commercial disputes and enhancing their attractiveness to investors.[83] These aims are advanced through initiatives such as judicial roundtables and its Judicial Observation Programme, both of which facilitate the exchange of knowledge and judicial mentorship.[84]

79. For English courts, involvement in such international judicial dialogue helps to maintain the relevance of English commercial law. As specialised commercial courts continue to emerge, this should be viewed as an opportunity to contribute to and learn from a broader judicial conversation. This will assist English law in remaining relevant and responsive to the evolving needs of international commerce.

[82] SIFoCC, 'About SIFoCC'. Available at: About SIFoCC (accessed 14th August 2026).
[83] SIFoCC (n73).
[84] SIFoCC, 'What is the Judicial Observation Programme?' Available at: Observation Programme — SIFoCC (accessed 14th August 2026).

## Conclusion

80. I have today sought to explain how English commercial law is important and why that is so. I have also sought to identify lessons for the future. English commercial law's success has never rested solely on history or tradition. It has rested on a combination of judicial excellence, legal certainty, commercial pragmatism and an ability to adapt to the changing needs of those who use it. Those qualities have made English law a trusted framework for international commerce and a significant national asset. Going forward, we must continue to build upon that inheritance, to ensure that English law will remain the most popular governing law and England the forum of choice for the next generation of global commerce.[85]

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