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NEW RESOURCEs FOR LEGAL TRANSLATORS

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Problems facing the legal translator

Different types of problems facing legal translators have been discussed at length in the literature¹. The aim of this work, however, is not to provide a comprehensive theoretical framework for these problems but rather to present a classification of the problems encountered by translators as a result of shortcomings in their field-specific knowledge, and to analyse the tools available to them when seeking appropriate solutions. The problems identified below are applicable to all legal texts. It is the expertise of translators, their previous experience, and the degree of specialisation of a particular text which ultimately determines whether or not one or more of these problems may arise:

- 1- Lack of knowledge of the terminology, register, collocations, or units of specialised meaning (USMs) used in the source text or that should be used by the translator in the target text if target text readers' expectations are to be met.
- 2- Lack of knowledge of the textual characteristics of legal documents (both source and target texts). For example, the branch of law to which the document pertains (Tort law, case law, etc.); the genre of the text (macrostructure, format); and the function of the text (both legal and communicative).
- 3- Lack of knowledge concerning the agents involved in the translation setting. For example, specific individuals or entities that feature or are likely to feature in the legal context of the text in question, such as courts, officials, lawyers, second or third parties, statute law that might apply², etc.
- 4- Lack of knowledge of the possible legal consequences arising out of the target text translation. Certain texts require the person to whom they are addressed to respond in a specific manner or take a particular course of action; others involve actions taken by third parties (individuals, financial institutions, etc.); or require target text readers to know that the provisions made in the translated text are not final (as in cases in which there is scope for an appeal or a final ruling, for instance).

Members of the general public, when attempting to understand a legal text in their native language, usually experience these same problems. To solve their problems they consult lawyers or other legal specialists. Translators, however, must find solutions not only to these problems but also the problems arising out of translating a text produced in one specific language and legal context and received in a different language and legal context. Knowledge of the language pairs and the two legal systems involved plus awareness of the translation context and characteristics of the communicative situation are all required (i.e. whether or not the translated text is to be legally valid in the target legal system, or if the translation is being undertaken for informative purposes only). Such considerations clearly affect the way in which a text is translated.

Problems during the translation process: the search for equivalents

When facing problems during the translation process, the legal translator will take into account all the named features in order to choose the most appropriate equivalents. This will be done at three different levels:

1. At the microtextual lexical level. For every legal term or USM, the translator will choose between three different possibilities³: (i) a legal equivalent, i.e. using a term in the target text legal system that represents a similar concept in the source text legal system. For example, “separation agreement” in English has its equivalent in Spanish in “convenio regulador”. Legal equivalents, however, are not commonplace, especially when translating between legal systems which belong to different law families, such as Common Law and Civil Law. Where a legal equivalent exists, this is clearly the best solution; (ii) a contextual equivalent, i.e. when the term in the source text language has different possible equivalents in the target language, depending on the context in which it is used. This would be the case of the term “Attorney”. It may be used to describe a lawyer, a specific legal document –a Power of Attorney- or even a position, as in “Attorney General”. In this example, the same English term would be translated into Spanish, depending on the context, as “abogado”, “poderes” or “Fiscal General del Estado” ;(iii) a lexical translation or calque, which may be used when no equivalent term exists in the target legal system. For example, the English “The Business Names Act” may be translated into Spanish as “Ley de nombres de empresas”. No such Act exists in Spain, but the translator opts for a lexical translation because s/he wishes the target text reader to clearly understand the term which does not belong to the target text legal system. Should target readers be interested in consulting the contents of the Act, the translator would then provide, alongside the lexical translation, the term in the source text language to facilitate direct access to the information contained in the Act; (iv) a periphrastic translation, i.e. explaining a source text term in the target text language. For example, the term “joint venture”. This term does not have an equivalent in the Spanish legal system so that a translator may decide to use a whole sentence such as “negocio con la participación de dos o más empresas” (literally “business in which two or more companies participate”) to ensure that the meaning of the term is made quite clear to readers.

2. At the microtextual level, but this time at the sentence level. In this case, translators will choose collocations and phraseologically functional equivalences in order to produce a target text that satisfies reader expectations with regard to syntax and style conventions. For example, the parties named in an agreement in English are typically introduced as follows: “This agreement is made by and between.... and” . A possible translation into Spanish would be “Este contrato se celebra por y entre.... y....” . Whilst understandable, however, the translation is at odds with readers’ expectations concerning stylistic conventions. A more acceptable translation would be “Este contrato se celebra entre, de una parte... y de otra parte....” which reflects the typical syntax of an agreement written originally in Spanish.

3. At the textual level. Translators will choose to reproduce the specific characteristics of the macrostructure of the source text in the target text whilst at the same time considering the possibility of having to adapt it to the particular characteristics of the same genre in the target legal system, when necessary. For instance, in a typical agreement in English, the date is usually found at the beginning of the document : “This agreement is made and entered by and between... on this... day of” . In Spanish texts, however, the date is usually placed at the very end of the agreement, just before the signature of the parties involved. Thus, if an agreement translated into Spanish is to be signed and used in Spain, and the brief includes adapting it to the Spanish legal system, the date should be placed at the end of the agreement.

Tools to facilitate the legal translators’ task

All translators today use different types of tools to help solve the problems they encounter during the translation process as a result of their lack of field-specific knowledge. As a result, an ever-increasing range of instruments and tools are currently

available to facilitate their task. But which tools are available? Are they useful? Have they been customised for legal translators? Could legal translators create better tools? An overview is provided in this section of the tools currently available to legal translators to facilitate their task.

Lexicographic reference works Available in printed and digital format, traditional lexicographic reference works serve to help solve translators' problems of lack of knowledge of terminology, collocations, USMs. They take the form of either specialised monolingual dictionaries and encyclopaedias, or specialised bilingual dictionaries.

Generally speaking, entries in specialised bilingual legal dictionaries provide equivalent terms in the target text legal system for given terms in the source text legal system. These may be literal translations of the terms, or supposedly functional equivalents. Caution must, however, be exercised before accepting any one of the terms proposed at face value and further investigation should be carried out to ensure the term selected is an appropriate equivalent. For example, when translating the term "magistrate" from English into Spanish, some bilingual dictionaries suggest "Magistrado" as an equivalent term in Spanish. This literal translation is in fact a "false friend", given that a magistrate in England is the lowest rank of judge who does not necessarily have any legal qualifications. In Spain, on the other hand, a "Magistrado" is a highly qualified judge of the highest rank. The literal translation of the term "magistrate" as "Magistrado" (a term which does exist in the target text legal system) completely changes the meaning of the original term in the target text. Other bilingual dictionaries propose the equivalent term for "magistrate" as "juez municipal" (literally "town judge") - a term and concept that have no place in the Spanish legal system. Errors also occur in bilingual dictionaries that propose functional equivalents. For example, by translating "Magistrate's Court" as "juzgado correccional". Whilst a magistrate's court in England deals with petty crime and traffic offences, a "juzgado correccional" in Spain deals with crimes committed by young people under the age of majority. Similarly, the terms "High Court"⁴ or even "Supreme Court"⁵ are often found erroneously translated into Spanish as "Tribunal Supremo"⁶ when the function of each of these courts is quite different.

In the unskilled hands of translator trainees, inexperienced translators, or translators with no formal training such as journalists, bilingual legal dictionary entries can give rise to multiple errors in translation and, ultimately, to a breakdown in communication between the parties involved in the translation setting. Excessive reliance on the "equivalent" terms provided by bilingual dictionaries can have extremely negative consequences and should be regarded as mere options to be contrasted with other relevant data before they being incorporated into a translation.

Terminology databases. Terminology databases can also provide partial solutions to compensate for translators' lack of knowledge of legal terminology and, potentially, for their lack of knowledge of the textual characteristics of legal documents. If the information provided for each entry is sufficiently complete, it is possible to identify the branch of law to which the document pertains and even the textual genre to which it belongs - provided that an individual term does not feature in more than one genre, something that is not very common in legal texts.

Terminology databases, however, have their limitations. In theory, they are much more flexible than any work of a lexicographical nature. In a database, a unique concept is believed to exist that is represented by a term in each of the languages included in the database. This term, together with all accompanying information, is contained in a single file. In the case of legal terminology databases, the problem with the methodology used is that each file contains a single concept which corresponds to only one of the legal systems involved in a translation, usually the source text legal system. Even though files may contain information in more than one language, legal terminology databases must be understood to be unidirectional - with one source language and one or more target languages - because the underlying conceptual system is that of the source language only. Thus, the concepts presented correspond to the conceptual system of the source language legal system, and the terms given for the target text languages are mere proposals or adaptations geared to reproducing the

conceptual system of the source language. They do *not* reflect the conceptual system of the target languages⁷. Legal translators must learn to recognise this inherent feature if they work with databases and exercise the same caution in their use as when using bilingual legal dictionaries.

Models of legal documents. Numerous publications currently provide models of legal documents which may be used to compensate for translators' lack of knowledge of the textual characteristics of a legal document. These models can help translators identify macrostructures and textual genres, as well as to select the appropriate phraseology and collocations for his/her translation. They are particularly useful as parallel texts⁸.

Tools designed to help compensate for translators' lack of knowledge concerning the agents involved in the translation setting and/or their lack of knowledge of the possible legal consequences arising out of the target text translation are limited and have their drawbacks.

Specialised monographs provide translators with all manner of information on the legal system corresponding to a specific country and language. They may even provide information on comparative law, highlighting the differences between two particular legal systems. The field of law, however, encompasses such a large knowledge domain that specialised monographs have come to cover very broad aspects of law. As a result they are often too general or too complex for the purposes of the legal translator who does not have the specialist knowledge required to be able to understand them in any depth. Furthermore, no reference is made to nor explicit mention made of the broader context to which these monographs belong.

Knowledge bases Whilst major developments in computer-assisted technologies and artificial intelligence over recent years have made it possible to create very different types of knowledge bases and expert systems, including ontologies, translators have found that none of the existing ontologies or knowledge bases have been customised for non-experts⁹. They have been designed for lawyers, judges, public prosecutors, or legal consultants⁹. Assuming that legal translators are not usually legal experts and have no legal qualifications, using these tools is no simple matter. To do so presupposes a wide range of knowledge that the translator often does not possess (not just of the law in general, but also of the intertextual relationships and agents involved in each legal setting). Furthermore, they tend to be monolingual, whilst those that are multilingual usually refer to specific (national law) or supranational (European Community law) legal systems and are not applicable to texts translated between two given languages and legal systems.

Expert knowledge systems in the form of **ontologies**¹⁰. Whilst legal ontologies would appear to have tremendous potential in the future, those available at present offer limited information of the kind that are of use to legal translators.

The objective of the LRI-Core ontology, developed by Breuker (2004),¹¹ was to develop ontologies that would cover the areas of Dutch, Polish and Italian criminal law, and to provide a basis from which to analyse the differences and similarities between their legal systems with a view to making progress towards the much sought-after "harmonisation" of the legal systems of European Union Member States. This idea of harmonisation was based on the theory that the legal systems in question have a common moral basis and that the main difference between them lies in the concepts used (for example, abortion is regarded as homicide in Holland because the definition of "life" differs from that established by the Italian criminal system). Whilst claiming that the LRI-Core has overcome the limitations of earlier systems such as SUMO or DOLCE, Breuker (2004) states that the LRI-Core has not fulfilled its established objective – the main obstacle (other than financial restrictions) being the problem of translation. Attempts to map out similar legal concepts was a much more complex matter than mapping out vocabulary in different languages, as in the case of EuroWordNet. Similarly, Breuker (2004) confirmed that comparative law -in this case, texts comparing the criminal law system in the three countries mentioned - is of relatively limited use, given that it mainly focuses on the classification of basic

principles in law and the corresponding historical context that has resulted in the differences and similarities between criminal legislation in each of these countries.

The Laboratory for Applied Ontology (ISTC-CNR) in Rome, based on its experience in various European projects (DOLCE+, NIR and the Italian version of JurWordNet), suggests that ontologies should be used to formalise legal knowledge and lexicon, with a view to comparing legislation and detecting incompatibilities and/or differences between national legislation -in this case, Italy- and supranational legislation (Gangemi et al., 2002). Their aim is to develop an information recovery system that will make it possible to access heterogeneous, multilingual data, which, at the same time, will provide a source of conceptual information. The tool in question is currently being developed and, if successful, could prove to be of great use to translators.

New reference sources created specifically for translators

Bearing in mind the observations made above concerning the absence of quality information resources specifically designed to satisfy the needs of legal translators, readers might mistakenly conclude that the work of legal translators is necessarily inaccurate. This is not the case. The fact is that translators who work exclusively within the field of legal translation have become increasingly specialised and, over time, have overcome the knowledge gaps referred to at the beginning of this work. They have managed to do this either by attending specialist training programmes - postgraduate courses in legal translation, law degrees, specific courses on particular areas of legal knowledge - studying monographs and articles in specialist journals, or simply through personal contact with legal experts. Some legal translators have acquired the necessary knowledge by actually working in teams with legal experts (mainly lawyers), through their work as legal liaison interpreters or even as administrative staff in legal practices.

Be that as it may, now that advances in technology have made it possible to customise instruments for which there is sufficient demand, it is the authors' belief that the time has come to provide legal translators with new reference sources that allow them to compensate for knowledge gaps in the relevant legal systems involved in the translation task both quickly and effectively. These reference sources should provide both the terminology required, and its equivalents, in both the source text and the target text languages at the same time.

A bilingual ontology is therefore proposed that will provide translators with a reference source which compares terms in the two languages and legal systems involved in a translation setting. This may appear to be precisely the function of comparative law, but translators need more than just a comparison of two legal systems in terms of legislation, courts, etc. They also need a comparison of categories of concepts underlying the two systems given that the concepts involved in different legal systems are not necessarily equivalent to one other. Translators must familiarise themselves with the concepts that underlie the source text and those that reflect the same - or similar situations - in the target language and legal system. A bilingual ontology would help establish terminological equivalences that would be legally, lexically, periphrastically and contextually equivalent translations depending on the nature of the translation brief¹² and the specific communicative situation. The bilingual¹³ ontology proposed, used in association with existing reference sources, would allow translators to obtain all the information they require quickly and effectively in order to produce a target text to meet clients' requirements.

A research project is thus planned to design an ontology which, over time, could encompass all areas of the two legal systems (in the case under study, Spanish and English) involved in a translation. For the time being, however, it is only possible to present an example of how this proposed bilingual ontology could be developed.

A brief introduction to legal terminology management and the conceptualisation of legal systems from a linguistic point of view will assist readers' understanding of the ontology proposed. The examples given of how to work with the ontology are taken from the field of commercial law (contracts, company charters, articles of association, etc.) Although much translation work is done in this particular field, translation errors

nonetheless abound, often due to the incorrect use of dictionaries and terminology databases.

Legal terminology management

Legal translators are some of the main users of legal terminology, but not the only ones. In other subject areas, such as the technical or scientific disciplines, it is possible to distinguish between two types of terminology management: firstly, descriptive or functional terminology management, and, secondly, prescriptive terminology management. The former refers to any work that includes terminology related to a specific discipline, generally in more than one language. Their function is to help experts or others in the field to understand specific terms and even to find equivalents for these terms in other languages. Such works are merely informative and have no normative value. The latter, i.e. prescriptive terminology management works, are those developed by institutions that establish concepts, definitions and terms in one or more languages. Examples of such institutions are the ISO (at an international level), AENOR (Spain) and DIN (Germany). Their role consists of standardising terms and concepts in highly specialised areas. They are able to do this because the areas in which they operate are common to the international community. When establishing concepts at an international level in fields such as pharmacology, telecommunications, hydrocarbons, etc., it is essential for knowledge to evolve and flow internationally and, above all, to facilitate technological and commercial exchange between different communities.

With the exception of international law, however, prescriptive terminology management is not the norm in legal environments. Each community has its own language and legal system so that prescriptive legal terminology management encompassing different languages and their corresponding legal communities is not possible. Terminology reference works available to legal translators are thus merely descriptive and informative, and tend to treat legal terminology in the same way as that of any other area, without paying due attention to the specific nature of the concepts underlying the legal systems involved.

The conceptualisation of the legal system from a linguistic point of view

Attention has been drawn to the limitations of terminology databases, not only where legal terminology is concerned, but also in other fields of knowledge where no single shared conceptual system exists. In recent years more complex terminology management systems, emanating from the world of artificial intelligence, have been favoured - namely knowledge management systems or ontologies.

According to Sowa (2000: 492), the discipline of ontology consists of “the study of the *categories* of things that exist or may exist in some domain.” Artificial intelligence has adapted this branch of philosophy and developed methodologies and tools that allow for the conceptualisation of fields of knowledge: “an abstract, simplified view of the world that we wish to represent for some purpose...” (Gruber, 1993: 2), and their representation in the form of an ontology or “an explicit specification of a conceptualisation...” (ibid.).

Ontologies are effectively terminology management systems since they are based on concepts as units, and these concepts are represented by names in each language.

The advantages of the use of ontologies are many. Noy and McGuinness (2004: 1) summarise them as follows:

- “ - To share common understanding of the structure of information among people or software agents.
- To enable reuse of domain knowledge.
- To make domain assumptions explicit.
- To separate domain knowledge from the operational knowledge.
- To analyse domain knowledge.”

Steve et al. (1998a: 1) establish three categories of ontologies, namely single-domain ontologies; generic ontologies; and representational ontologies. The ontology proposed by the authors in this work has many characteristics in common with single-domain ontologies, although the relevant domain (legal translation) straddles two different areas of knowledge, namely law and translation. The ontology proposed will be developed with a specific application in mind: to provide legal translators with the information they require to facilitate the translation process.

Ontologies are extremely useful for the kind of legal terminology management proposed, for two main reasons. Firstly, the underlying conceptual outline of a given field of knowledge is specified in ontologies, but is not linked to a particular language. This characteristic is especially relevant in the area of legal terminology since categories of concepts may be grouped together independently of a language and its corresponding legal system. It is also possible to group concepts together on the basis of abstract categories not necessarily envisaged in a given legal system. Moreover, one particular aspect of the methodology established by WordNet (one of the better known terminological ontologies) is also partially applicable to the ontology proposed, namely “synsets” or sets of synonyms. Synsets are sets of terms that are equivalent or almost equivalent to each other, and which therefore share characteristics and relationships with other terms in the ontology.

Characteristics of the ontology proposed

Given that the ontology proposed is to be used by legal translators, both the conceptual structure and the characteristics that describe the concepts involved must enable the translator to understand the subject area, assimilate new concepts on the basis of the knowledge that s/he already possesses, and obtain appropriate solutions for whatever translation problem may arise. It must help the translator avoid mistakes attributable to the contact between two different legal systems and facilitate the production of target texts that satisfy the translation brief.

With this objective in mind, it is essential to omit one of the main characteristics of ontologies, namely the use of a single conceptual structure unrelated to linguistic considerations and linked to a particular conceptual system. In fields of knowledge other than law, such as science, it may well be appropriate for there to be a conceptual structure that is independent of any language and which might even serve as a link between the lexicons for different languages, considering that -theoretically at least- scientific knowledge is deemed to exist independently of any language. However, this is not the case where law is concerned.

The decision was therefore made to do away with a single conceptual structure which would be linked to only one particular legal system, and to construct a system consisting of categories encompassing concepts from two legal systems, English and Spanish. Each category would thus include concepts corresponding to both legal systems involved and, consequently, both languages.

An ontology of legal terms

One example of an ontology of concepts that are clearly defined in the British and Spanish legal systems is that proposed by Orozco and Sánchez Gijón (2006), and encompasses concepts related to company law in the English and Spanish legal systems. The ontology proposed in this work relates to the setting up of companies under the British and Spanish systems. Four categories have been established:

- 1- Companies: the types of companies envisaged in each legal system.
- 2- Agents: the figures legally involved in companies.
- 3- Documentation: this category is based on the classification of textual genres established by Borja (2000: 85) and includes the documentation that is essential for obtaining information about the legal context of companies, i.e.. prescriptive texts (legislation) and texts related to legal requirements (documents that must be submitted in order to register a company and begin operating).

- 4- Authorities: places where companies must be registered in order to begin operating.

The above categories are not concepts described and envisaged in the corresponding legal systems, but rather generic descriptions that make it possible to group together terms from the English and Spanish legal systems. Based on these categories, a documentary framework is proposed which translators can use to familiarise themselves with, and make comparisons between, each of the concepts described. To be more specific, companies are described by listing their characteristics as established in each legal system. The following characteristics are defined:

- Minimum number of partners: the minimum number of people required to form the company.
- Maximum number of partners: maximum number of people who may form the company.
- Liability of partners to third parties: the values envisaged for this characteristic are limited; unlimited; limited for sleeping partners; and unlimited for general partners.
- Own legal status: the envisaged values are “yes”, which means that the company is a legal entity and is to be regarded as such in the eyes of the law; or “no”, which means that each partner is a legal entity acting on their own behalf.
- Decision-making bodies: agents involved in the management of companies. These concepts are included in the category Agents | Decision-making bodies.
- Share capital: explicit share capital requirement.
- Classification of capital: different possible types of capital (shares, securities, etc.). These concepts are included in the category Companies | Share capital.
- The option to offer these types of capital (shares, securities, etc.) for sale to the public.
- Minimum share capital: minimum amount of share capital (where required) expressed in the corresponding currency (pounds sterling or euros).
- Initial capital outlay: minimum amount that must be paid out prior to beginning the corresponding economic activity.
- Registration in: place (registry) where the company must be registered.
- Registration formalities: required key documents for formally registering the company in the corresponding registry.
- Governed by: law or laws governing the operation of the company.
- Legal equivalent: legal equivalent, if applicable (concept from the other legal system covered by the same category).
- Hypernym / Hyponym: allows for interrelated terms to be listed.

The ontology includes a ‘direct queries’ option for all terms included in the system, in English and in Spanish, which provides the information necessary to be able to obtain a better understanding of each. Should a legal equivalent exist, this is included in the description of the term. In those cases in which no legal equivalent exists, the ontology includes a ‘specific characteristics’ option which can offer partially equivalent terms.

An ontology of notions

Arguments based on legal notions that are implicit, or that are only explicitly referred to in a veiled or indirect manner, are one of the characteristics of legal rhetoric. Examples of such cases are the “spirit of the law” in Spanish or the underlying legal notion behind each provision of a contract. An example of the latter serves to illustrate how an ontology may be used in a legal translation bearing in mind two objectives - the need to :

1. Provide the information necessary to be able to understand the original text and possible parallel texts

2. Provide the linguistic information required to be able to understand the source text and to produce the target text.

The provisions of a contract make statements that reflect, to one degree or another, an aspect, idea, or concept of the law as expressed in the agreement undertaken, e.g. a pledge made by the parties involved, the nature of the subject matter of the contract, etc. Taking this notion as a starting point, the provisions or clauses of a contract can be conceptualised with a view to subsequent classification, taking into account the underlying legal notion (e.g. the warranty or guarantee provision); the characteristics that give content to a specific provision; or the textual genre to which each clause belongs.

From the outset, drafting an agreement is subject to the will of the parties to enter into an agreement, provided that none of the provisions is rendered void by law. This is the case in both Civil law and Common law¹⁴.

The ontology proposed is thus based on three initial categories:

- Provisions or clauses.
- Legal agents.
- Documents.

Like the ontology proposed for legal terminology, the categories envisaged include concepts from both Common law (English) and Civil law (Spanish) legal systems). These categories are not legal entities pertaining to individual legal systems, but rather serve as hypernyms that encompass, or help to describe, concepts from different legal systems. Before dealing with the category 'Provisions or clauses', which constitutes the heart of this proposal for an ontology, a description is given of the categories 'Legal agents' and 'Documents'

Although clauses are the main focus of this ontology, aspects such as the legal agents involved and the documents that include, or condition, the clauses in a document are also deemed of importance. Within the category 'Legal agents', a distinction is made between "agents" and "witnesses". "Agents" are those who participate in an agreement and who are assigned different names in each different contractual relationship (e.g. buyer-seller, lessor-lessee, etc.). "Witnesses" – although the word used in Spanish is "fedatarios", which corresponds to the Spanish figure of the Notary Public who acts as an official witness - are those responsible for attesting a legal act.

The category 'Documentation' features a classification of legal documents based on that proposed by Borja (2000: 85). This classification distinguishes between prescriptive texts; texts related to the application of law; judicial texts; doctrinal texts; and jurisprudence. Texts related to the application of law include contracts, while the laws that govern them are classified as prescriptive texts. In addition to these text types, a sub-category 'Data' has been included in the category 'Documentation', thereby enabling the data contained in the relevant documents to be specified. Such data is often related to the agents figures involved in the agreement or to the subject matter of the contract.

The category 'Provisions or clauses' is divided into three further sub-categories:

- Underlying legal notion: this is an abstract category that classifies the various concepts that may be embodied by a clause.
- Sample clauses: real clauses and provisions extracted from both English and Spanish contracts.
- Units of legal meaning (ULM; USJ in Spanish): linguistic expressions that have a specific meaning in legal language and whose use is linked to a textual genre.

Although the prototype of the ontology proposed has been constructed using the Protégé 3.0¹⁵ ontology editor, the relationship between the different categories and sub-categories in the ontology is not always hierarchical. In certain cases, the mental image of a network between categories is more illustrative than that of a hierarchical structure. A detailed description of each of the sub-categories envisaged in the category 'Provisions and clauses' now follows.

Descriptive fields for the <i>Underlying legal notion</i> category			
Slot ¹⁰	Description	Inverse slot ¹¹	Description
IN DOCUMENT	Link with the document type that includes a clause with the legal notion in question.	CLAUSE WITH UNDERLYING LEGAL NOTION	Documentation slot that links the document type with the legal notions of the clauses that it contains.
SAMPLE TEXT	Link with a clause with the legal notion in question.	UNDERLYING LEGAL NOTION	Sample clauses slot that links the clause with its corresponding underlying legal notion.
ULM	Link with the ULM commonly used in clauses that express the legal notion in question.	LEGAL NOTION OF CLAUSE	ULM slot that links the ULM with the underlying legal notion of the clauses in which it is used.
HEADING, CLAUSES, END	Part of a contract in which the legal notion in question is usually included.	--	--
EQUIVALENT	Linguistic equivalent in the other language. ¹⁸	--	--

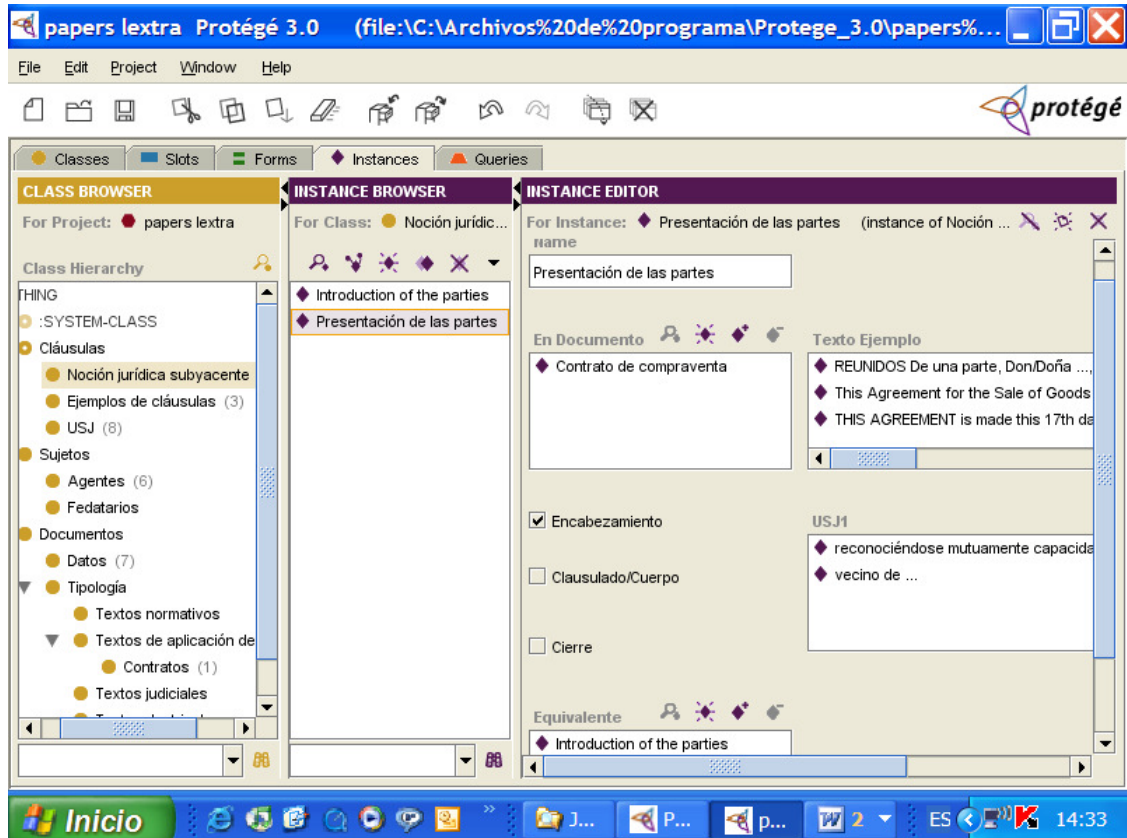


Figure 1: Screen-shot of the editor file for an underlying legal notion.

The descriptive fields in question relate each of the legal notions to sample clauses; the ULMs that are most commonly used to express the relevant notion; and the documents in which it features. The documents may be of a specific genre (e.g. sales contracts) or category (e.g. documents related to the application of law). In the example provided in the screen-shot above, for instance, the translator who wishes to compare how the parties of an agreement are introduced in a typical agreement in both the Spanish and English legal systems, would search for a specific clause that has the underlying legal notion (“Noción jurídica subyacente” in the screen-shot above) termed “Introduction of the parties” in English and “Presentación de las partes” in Spanish. On the right hand side of the screen, a sample text is provided (“Documento” in the screen-shot) which belongs to the genre “Contrato de compraventa” (Sales Contract) together with three sample texts (“Texto Ejemplo”). The first sample text is in Spanish (REUNIDOS...) and the second and third are in English (“This Agreement for the Sale of Goods” and “THIS AGREEMENT is made this 17th day”). The translator is thus provided with a quick reference as to how the parties are introduced in typical texts of Sales contracts in both legal systems, and also of the typical ULMs (USJ) used in Spanish in this part of the text (“reconociéndose mutuamente...” and “vecino de...”).

Descriptive fields for the <i>Sample clauses</i> category			
<i>Slot</i>	<i>Description</i>	<i>Inverse slot</i>	<i>Description</i>
FIGURE	Link with the figure appearing as the agent of the clause.	CLAUSE	Figures slot that links figures with a sample clause.
UNDERLYING LEGAL NOTION	Link with the corresponding underlying legal notion.	SAMPLE TEXT	Underlying legal notion slot that links the notion with a sample clause.
DOCUMENT	Link with the document type that usually contains the clause in question.	DOCUMENT CLAUSE	Documentation slot that links the document type with a sample clause.
ESSENTIAL DATUM	Link with the data category in the documentation class which makes it possible to indicate the data that must necessarily appear in the clause in question.	CLAUSE IN WHICH IT APPEARS	Data slot that links the data with a sample clause.
ULM	Link with the ULM that appears in the wording of the clause.	CLAUSES	ULM slot that links the ULM with a sample clause in which it is used.
HEADING, CLAUSES, END	Part of a contract in which the clause in question is usually included.	--	--

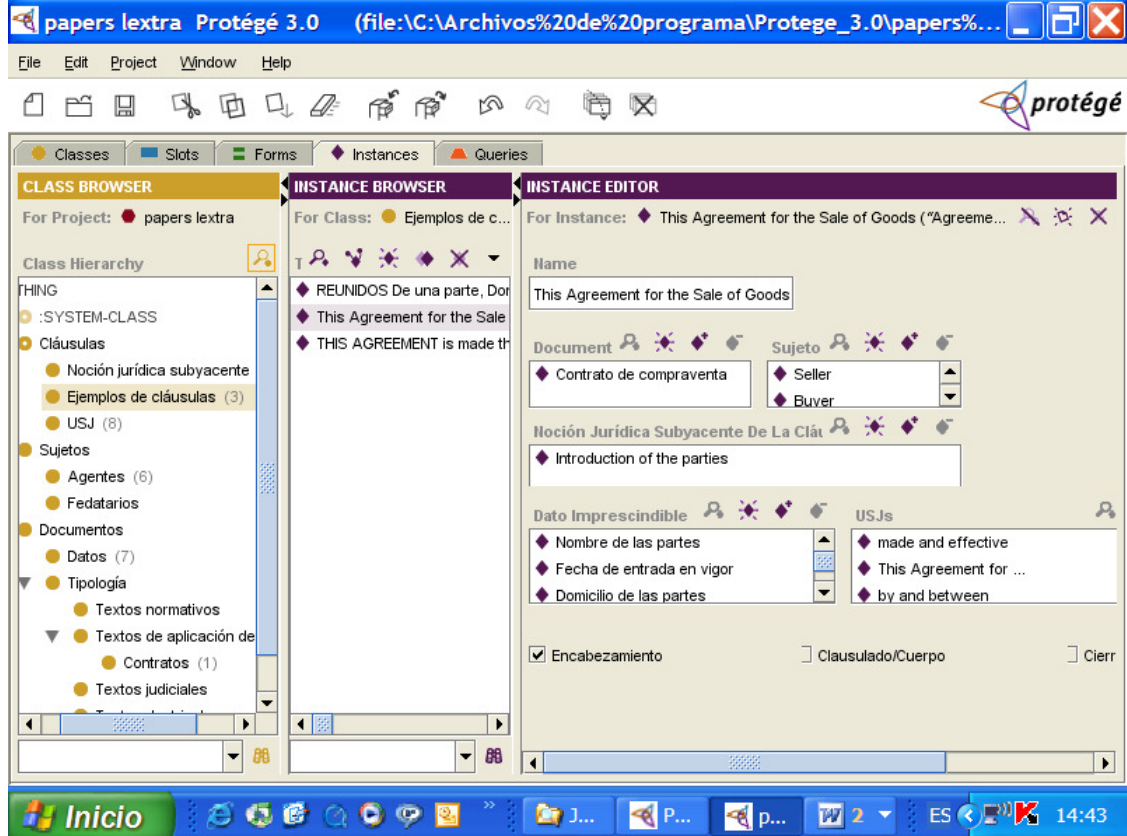


Figure 2: Screen-shot of the editor file for a sample clause.

The identification of ULMs within a clause should allow the legal translator to distinguish between free text and legally significant text that has both a referential function in the legal system and a conventional function within the textual genre. Furthermore, identifying the underlying legal notion makes it possible for the translator to understand the legal content of the clause and, through the notion itself, to associate the clause with others with the same object in the other language.

In this example, the translator may be searching for examples of provisions written originally in English to identify, for instance, collocations or ULMs. Thus, s/he would search for examples of clauses (“Ejemplos de cláusulas” in Spanish in the screen-shot above), and, in the second column on screen, would select the second option (“This Agreement for the Sale”...) On the right-hand side of the screen, the agents (“Sujeto” in the screenshot) usually associated with such clauses appear (“Seller” and “Buyer”) together with the underlying legal notion (Introduction of the parties) and the ULMs included (“made and effective”; “This agreement for”; “by and between”).

Descriptive fields for the <i>Units of legal meaning (ULM)</i> category			
<i>Slot</i>	<i>Description</i>	<i>Inverse slot</i>	<i>Description</i>
SYNTACTIC STRUCTURE CONTAINING THE ULM	Reproduction of the syntactic structure of a clause or a segment of a clause in which the ULM in question is used.	--	--
ESSENTIAL RELATED DATUM	Link with the data category in the documentation class which makes it possible to indicate the data that must necessarily appear when the ULM in question is used.	RELATED ULM	Data slot that links the data to the ULM usually used to identify them
CLAUSES	Link with a sample	ULMS	Sample clauses slot

	clause in which the ULM in question is used.		by which the clause is related to the ULM in which it appears.
CLAUSE NOTION	Link with the underlying notion of the clauses that usually contain the ULM in question.	ULM	Underlying legal notion slot by means of which a notion is related to the ULM habitually used for the purpose of expressing the former.
DOCUMENT ULM	Link with the ULM that appears in the wording of the clause.	CLAUSES	ULM slot that links the ULM with a sample clause in which it is used.

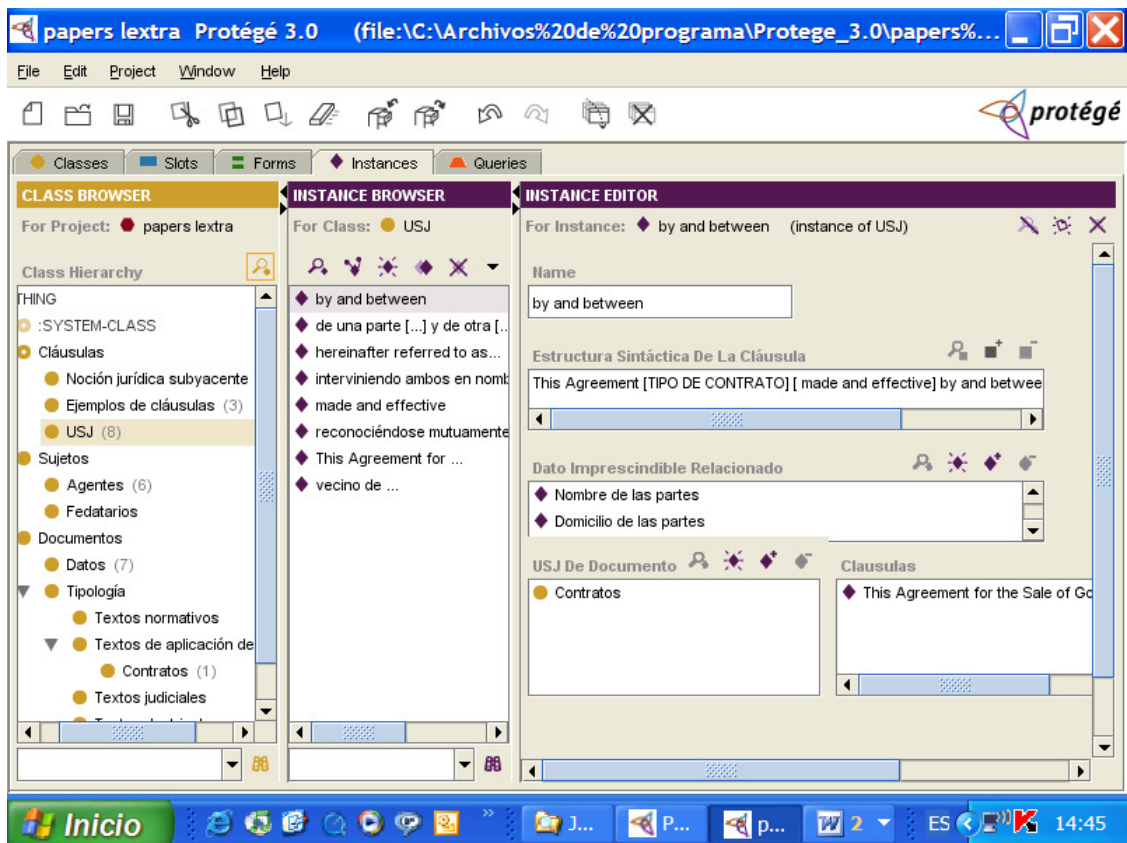


Figure 3: Screen-shot of the editor file for a unit of legal meaning.

In this example, the translator finds that “by and between” constitutes a possible unit of legal meaning (ULM) and wishes to know if a similar ULM exists in Spanish. After clicking on USJ (screen-shot above) s/he then selects “by and between” in the second column on screen. On the right-hand side of the screen, the whole sentence or syntactic structure where the ULM is found appears (“Estructura Sintáctica de la Cláusula” on screen), together with the data that is necessarily linked to the ULM (“Dato Imprescindible Relacionado”) i.e., the name and address of the parties (“Nombre de las Partes” and “Domicilio de las Partes”). In order to determine whether or not an equivalent ULM exists in Spanish, the translator consults the list in the second column, where s/he finds “de una parte [...] y de otra [...]”, which is the ULM used in Spanish to introduce the parties. On selecting this term, all the information about this Spanish ULM appears on the right-hand side of the screen.

Units of legal meaning are essential for maintaining internal coherence within a document. Recognising them helps the legal translator to understand the clause and relate the accompanying information to the rest of the document. However, approaching them from a purely linguistic point of view is a common mistake, as the translator considers their linguistic equivalent only. Using the ontology proposed, translators do not obtain direct information about equivalents, although they do obtain enough information to be able to identify and familiarise themselves with the contextual and conceptual behaviour of the ULM in question. Additionally, by means of an advanced search, the underlying legal notion makes it possible to locate provisions with similar legal contents in the other language and, in turn, determine whether equivalent units of legal meaning are used.

Conclusions

In the legal domain, a conceptual level of knowledge independent of language does not exist (nor is it possible). Reproducing a purely conceptual knowledge system is therefore out of the question. In fact, even if this were possible, for the purposes of translation and in the field of legal translation in particular, equivalence can not be established solely at a conceptual level as there are many other aspects of the translation setting that must be taken into account, such as textual characteristics, the communicative situation, the translation brief, etc. For this reason, a system offering solutions at a purely conceptual level would still cause legal translators to incur in error.

A holistic ontology system providing information concerning the terminology, underlying legal notions, types of documents, institutions, and agents pertaining to the legal systems involved in any translation setting could prove to be an essential resource for legal translators. It would enable them to understand essential aspect of the source text and provide them with the information necessary to produce a target text that fulfils the translation brief and is acceptable to target text readers within the legal context it is received. A resource such as the ontology proposed does not offer immediate, purely linguistic solutions to problems of legal translation, but it does identify the various options available depending on the characteristics of the target term to which the translator attributes most relevance, and based on a precise description of each entry.

The authors are aware of the limitations of the examples used to illustrate this proposal for terminology management. The greatest limitation of the ontology proposed lies in its development – in the need for the input of an interdisciplinary group of experts with the ability to distance themselves from the disciplines of law and translation studies in order to be able to recognise and describe terms in accordance with the parameters of the ontology. Nonetheless, we have no doubt that this resource would prove to be useful to the community of legal translators and, in particular, trainee legal translators.

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¹ See, for instance, Alcaraz (2000, 2001, 2002, 2004), Bestué (2008), Bocquet (1996), Borja (2000, 2005a, 2005b), Cao (2007), Dullion, (2000, 2007), Ferrán (2004, 2005) Gémar (1988, 2005, 2006), Godayol (2006), Gotti and Sarcevic (2006), Hickey (2004, 2005a, 2005b), Ioratti (2007), Lérat (1995) Mayoral (2000, 2002, 2003, 2005, 2006, 2007a, 2007b), Monzó (2003), Pommer (2008a, 2008b), Sandrini (1996, 2006), Terral (2002), Santamaria (2003, 2006) and Sarcevic (1997, 2000).

² It should be noted that a high degree of intertextuality is inherent to legal texts. Whilst this is also true of other fields, legal texts are unique in that intertextuality is usually tacit and determining. For example, a common feature of legal texts is that no reference is made to the statute law or jurisprudence relevant to a particular text, it being assumed that target text readers possess this knowledge.

³ The names of the translation techniques have been adapted from Santamaria, 2003.

⁴ An appeal court in England and Wales for civil and criminal cases, but which is not the highest court of appeal. The highest courts of appeal in England are the Court of Appeal or the House of Lords (although its role as such is currently under revision).

⁵ The Supreme Court of Judicature encompasses all the higher jurisdictional courts for England and Wales (Court of Appeal, High Court and Crown Court) and is thus not a specific court to which it is possible to appeal.

⁶ The highest court of appeal in Spain (outside the jurisdiction of the Tribunal Constitucional), for cases pertaining to civil, criminal, administrative and military law.

⁷ This is inevitable. Confusion between the different concepts of each legal system is at times such that legal translators are unable to identify the system to which a given concept belongs.

⁸ Another major resource that will soon be available is the result of research work currently being undertaken by A. Borja and E. Monzó at the Jaume I University, as part of the GENTT project (see García Izquierdo and Monzó 2003, 2005; Borja and Monzó 2000). This project is geared towards producing an encyclopaedia of legal textual genres covering Spanish, British and US law, and will undoubtedly prove to be extremely useful for legal translators.

⁹ Borja (2005) refers to such tools as “legal IT” and organises them into three categories: (i) documentary and managerial legal IT, i.e. programs for the automatic drafting of legal texts; (ii) legal IT for data and document recovery (databases such as the LEXIS, WESTLAW, SCALE or INFO1); and (iii) rule-based expert systems that use logical inference techniques to create models of legal reasoning for automatic decision making, in an attempt to formalise law and legal reasoning.

¹⁰ See Gruber (1993) for an in depth definition.

¹¹ Breuker is the co-creator of OCL.NL, an ontology focusing on the area of Dutch criminal law (as part of the European IST project known as “e-Court”, which was geared to the development of a tool that would allow for the semi-automatic management of procedural documents, such as transcripts of oral hearings), and has taken part in projects such as TRACS (see Den Haan, 1996; Den Haan and Breuker, 1996), ON-LINE (see Valente et al., 1999) and FOLaw (see Valente, 1995).

¹² I.e. whether it is an informative translation, a text to be adapted to the target legal system, a translation to be used as the basis upon which another document will be drafted.

¹³ Zalbert and Smith, 2005; Smith, 2001; Smith, 2004; Kraligen, 1997 focus on the more philosophical aspects of ontologies. While such reflections may be extremely helpful for computer scientists (who actually create these ontologies) or legal experts (who attempt to design practical ontologies that will solve problems of a legal nature), they do not provide information that is useful for translators.

¹⁴ Regardless of the will to enter into agreements, in some cases there are provisions that must necessarily be placed on record if a contract is to be valid. For example, it is necessary for this provision to feature in English sales contracts. In Spain, lease contracts are a type of contract for which the minimum clauses are stipulated by law.

¹⁵ Protégé 3.0, <http://protege.stanford.edu>, © 1998-2006, Stanford University.

¹⁶ Slots are the fields envisaged for describing a concept in a category. They may be open fields in which it is possible to include any relevant piece of data, or fields that associate an element or an instance with another from the ontology.

¹⁷ Some slots that encompass a relationship between one instance and another are also able to anticipate the inverse slot on the basis of the description of the instance, in such a way that the editor automatically reproduces that information. For example, with the HYPERNYM slot, it could be said that instance A is the hypernym of B (A>B). With the inverse slot HYPONYM, the editor would automatically create the relationship B is the hyponym of A (B<A).

¹⁸ From a conceptual point of view, it might have been more appropriate to work on the basis of the existence of a sole notion or underlying concept, and, therefore, of a single entry with one name in each language. However, given the structure of the editor and the application of this ontology, we felt it more useful to make distinctions from a linguistic point of view and to relate the notion in English with the English clauses and ULMs, and likewise with the Spanish notion. The notions are thus interrelated through the EQUIVALENT field, but each name is only related with information in the same language and, therefore, from the same legal system.