

**Learning activities to develop strategic and intercultural competence
in legal translation trainees: Macro-level textual consequences of
micro-level decisions when dealing with legal culture-bound terms.**

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Learning activities to develop strategic and intercultural competence in legal translation trainees: Macro-level textual consequences of micro-level decisions when dealing with legal culture-bound terms.

Translating legal culture-bound terms is one of the difficulties facing any legal translator due to asymmetries in national legal systems. To train trainees to deal with these terms, strategic and intercultural competences must be developed. This article focuses on how to pedagogically address the varying degrees of incongruity that may arise when translating legal culture-bound terms. The learning objectives set are for trainees to be able to apply the most appropriate translation technique for use in each instance, selecting it at a micro-unit level that is coherent with the macro-level approach determined by the communicative situation and translation purpose. A theoretical and pedagogical framework is presented, followed by the description of four didactic units, each of which incorporates task-based learning activities designed to develop trainees' strategic and intercultural competences. The didactic material presented includes an original dual axis chart showing the degree of difference between two legal cultures (English and Spanish) and the levels of translator intervention when translating legal culture-bound terms. The activities were piloted in the MA degree in Legal Translation at the Autonomous University of Barcelona. Trainee responses to a follow-up survey show that the activities were perceived to be useful and helpful when dealing with the difficulty of translating legal culture-bound terms.

Keywords: legal translation training; legal culture-bound terms; strategic competence development; intercultural competence development; translation techniques; macro-level and micro-level decisions.

Introduction

When teaching legal translation, one of the issues trainers must face at some point is the question of how to best translate legal culture-bound terms.

These terms constitute a real challenge for legal translators. This article presents learning activities designed to help trainees develop the competences necessary to successfully identify, solve, and assess solutions found to problems relating to the

translation of culture-bound legal terms. The competences required are strategic competence and cultural or intercultural competence, both of which are included in most of the generally accepted translation competence (TC) models (Kelly 2005, PACTE 2000 and 2018, EMT expert Group 2017 and 2022).

Strategic competence (SC) was included in PACTE's early TC model (2000, 101) and defined as 'all the individual procedures, conscious and unconscious, verbal and non-verbal, used to solve the problems found during the translation process'. In this model, which evidences the interrelation of competences, SC is considered to govern or manage all other competences. Kelly's TC model (2005) also includes SC as a governing competence over all other competences and is defined as 'encompassing all the procedures applied to carry out organizational and planning skills, problem identification and problem-solving, monitoring, self-assessment, and revision' (Kelly 2005, 85). Moreover, in Kelly's model, what is called 'transfer competence' in many other models such as PACTE's, is included in SC. This is based on Kaiser-Cooke's idea (1994, 137, quoted in Kelly 2002, 15) that from the perspective of an expert activity, translation is primarily a problem-solving activity, 'which involves problem recognition as well as decision-making, since recognition of the problem necessarily precedes decisions as to the various strategies which can be taken to solve it'. Problem solving and decision making are also mentioned in the TC model of the Tuning project and included among instrumental competences (González and Wagenaar 2003, 83-84). More recently, the EMT expert Group has also stressed the importance of SC when stating that TC should encompass 'not only the actual meaning transfer phase between two languages (...) but also all the strategic, methodological and thematic competences that come into play before, during and following the transfer phase per se' (EMT 2022,

7). Developing SC in translation trainees is, therefore, one of translation training's overall goals. This is also true for legal translation training, the focus of this article.

When looking at possible ways of effectively developing this competence in the classroom, however, one finds that the problems to be identified and solved must be based on, or involve, some of the other competences. This is coherent with both PACTE's and Kelly's models, which situate SC in direct relationship with some, or all, of the other competences. Of these other competences, in the field of legal translation, one that plays an essential role is intercultural competence (IC), because, as Biel points out: 'in contrast to other types of LSP translation, such as medicine, science or technology, legal translation tends to involve more culture-specific than universal components' (Biel 2008, 22). This is precisely the case of the translation of legal culture-bound terms because they are bound to a national legal system. The asymmetry in national legal systems and concepts is one of the main problems faced by legal translators. For this reason, comparative legal analysis, including the analysis of differences between equivalent, non-equivalent and partially equivalent legal notions, is a key step in the translation process and a subject of numerous publications in the field of legal translation (Alcaraz and Hughes 2002, Bestué and Orozco-Jutorán 2011, Biel 2009, Cao 2007, Enberg 2002, Gémar 2005, Harvey 2000, Jamieson 1996, Obenhaus 1995, Orozco-Jutorán 2014, Prieto-Ramos 2013, Šarčević 1989 and 1997, Way 2012, Weston 1991). These authors have also highlighted different factors influencing the choice of appropriate translation techniques and have proposed very different typologies. However, there is consensus that the specific technique chosen to translate culture-bound terms (micro-level) should fit in or be coherent with the translation method (macro-level approach) chosen for the text as a whole. In the words of Šarčević:

When determining whether a potential equivalent is acceptable in a given context, the translator should take account of the specific communication process, in particular the communicative situation of reception by the courts. Since the translator's task is to select terminology that will achieve the desired results, the success or failure of a legal translation may depend on his/her ability to predict how the courts will interpret and apply the terms of the particular text. For the purpose of legal translation, the acceptability of a potential equivalent is determined primarily by the results in practice, i.e. the legal effects (1997, 229).

From the pedagogical point of view, the relationship between SC and IC has been explored by authors such as Katan, who stresses 'the need to acquire competence in 'uncertainty management'' to develop IC' (Katan 2009, 295). Angelone (2010, 19) defines uncertainty management as 'the application of conscious, deliberate strategies for overcoming comprehension, transfer, or production indecision', and elaborates on it as including problem recognition, solution proposal and solution evaluation. Yarosh (2015, 163) also points to SC when considering that the essence of IC is 'the capacity to foresee the consequences of different translation strategies and choose the most appropriate one'.

However, regarding the definition and the concept of IC, Tomozeiu et al. (2016, 253), participants in the research project 'Promoting Intercultural Competence in Translators', point to the fact that, although this competence is present in most TC models, an 'overlap between cultural, cross-cultural and intercultural competence can be found in many theoretical contributions'. These authors quote Witte (2008, 143) who defines IC as: 'the ability to consciously assimilate notions about one's own culture and other's cultures' and stresses the need to relate and contrast cultures while aiming at producing appropriate behaviours according to the needs and circumstances of a communicative situation to make communication between two parties possible. Witte's (2008) approach highlights the significant cognitive experience that trainees undergo,

and which enables them to acquire awareness of the notions about one's own culture and other's cultures during the learning process. This awareness component is an element that Kelly (2005) also deems as crucial in the intercultural communication process. This process starts from cultural elements in the source-culture that can be represented in texts, but stress is also placed on the importance of trainees becoming more familiar with their own culture, an element often overlooked and implicit in translator training curricula. Regarding other terms used for this competence, Olalla-Soler (2015, 94) defines cultural competence as the translator's ability 'to effectively arrange his/her knowledge about a source culture and that of a target culture and to contrast them in relation to a cultural phenomenon perceived in a source text in order to achieve an acceptable solution'. Without embarking upon a theoretical discussion, which is not the aim of this article, we consider these definitions to be very close. Both agree with the purpose of the learning activities designed and presented in this article. We have therefore chosen the term IC as used by the EMT group, but we understand that it encompasses both definitions as given by Witte (2008) and Olalla-Soler (2015).

The following sections present task-based learning activities designed to develop SC and IC in legal translation trainees. They focus on how to address the varying degrees of incongruity that may arise when dealing with culture-bound terms in legal translation with a view to applying the most suitable translation technique in each instance, in accordance with the macro-level context.

1. Theoretical and pedagogical framework

1.1. Theoretical framework for the learning activities

The theoretical framework adopted for these learning activities is the integrative model for problem-solving in legal translation developed by Prieto-Ramos (2014). The

translation process defined in this model (Prieto-Ramos 2014, 122-124) begins with the definition of an adequacy strategy. This involves establishing (1) general elements of strategy: in accordance with the translation brief, the communicative situation, the legal effects of the target text (TT) and the quality standards required, a decision is made to produce either an instrumental or a documentary translation, and (2) specific elements of strategy: a contextualization of the macro-level, including the legal systems and branches of law involved and the text-type and genre, which leads to a decision on the translation process to be followed. Here, Nord's (1997) terms are being used for 'instrumental translation' (1997, 127) and 'documentary translation' (1997, 45-52).

Once the adequacy strategy has been established, a source text analysis follows, with particular attention to culture-bound legal concepts and other problems. Then, the reformulation phase follows, including the resolution of terminological and phraseological problems. This process of resolution involves the analysis of the receivers' needs and expectations, and the adoption of sub-strategies for formal/ conceptual/ functional correspondence at micro-textual level. It also involves an acceptability analysis of the type and degree of correspondence between ST and possible TT formulations identified through comparative legal and linguistic analysis, which leads to the application of the most adequate technique for the general strategy. Finally, the last step of the process is the revision, which means verifying the adequacy of the translation to the strategy defined in the first step.

Regarding the taxonomy of translation techniques used in the learning activities, from the translation training point of view, we understand that learning the different names of the techniques given by different authors, explaining which authors prefer which techniques, how the different taxonomies overlap and so on, belong to the translation theory domain. Given that there are many possible classifications that

coexist and overlap (Orozco-Jutorán 2014) and given that the purpose of these activities is not to train in translation theory, an effort has been made for pedagogical purposes to synthesize the possible translation techniques available. Since the focus of these learning activities is on the function of the techniques and they are process-oriented, the synthesis we are proposing highlights, using mainly verbal forms, what the techniques actually ‘do’: borrow, explain, reduce, generalise, substitute, create, compensate.

Finally, it is important to highlight that we are not suggesting a new theoretical or research approach to translation techniques, neither considering its use to assess the decisions made by a translator *a posteriori*. The synthesized classification used in the learning activities for translation techniques has been designed with two purposes: helping trainers to approach a difficult issue in the legal translation class in a few sessions, and helping trainees undergo the difficult decision-making process of translating legal culture-bound terms.

Having said this, if other legal translation trainers prefer to substitute the synthetic classification used in these learning activities with any of the other existing taxonomies, this adjustment is easy to make, as mentioned in the particular learning activity concerned (Section 4).

1.2. Pedagogical context for the learning activities

The learning activities proposed are organised in four didactic units. They account for a total of 11 classroom sessions and are designed to be embedded in a legal translation course at tertiary level, either in an undergraduate translation curriculum, such as a bachelor’s degree in Translation, or in a postgraduate specialisation course in legal translation. In either case, the trainees for whom these learning activities have been designed are advanced translation trainees who have already acquired a high level of general translation competence. The language pair chosen for the activities is English-

Spanish, and in particular US and British English and Spain's Spanish varieties.

Tomozeiu et al. (2016: 255) describe a three-step process for trainees to acquire IC, which can be briefly summarized as follows: firstly, developing their ability to identify differences and nuances between the cultures involved in the translation process; secondly, developing conscious strategies for handling such differences; and thirdly, learning to understand the consequences their choices might have in the process of transferring a source text to a target culture.

If the process described were to be applied to a course in legal translation, the learning activities proposed here would be introduced at second step level. This presupposes trainees have already developed the ability to identify differences and nuances between the legal cultures involved in the translation process – the subject of comparative legal analysis. The activities presented in this article cover steps two and three of the translation process. The second step - developing conscious strategies for handling cultural differences - involves learning about all possible translation techniques and how to address the problem of varying degrees of incongruity when dealing with legal culture-bound terms with a view to applying the most suitable translation technique in each instance. The third step, in this case, involves learning to understand the consequences that micro-level choices have at macro-level, that is, on the acceptability and adequacy of a legal translation.

However, in the progression of the learning activities the two steps described are intertwined, in the same way as they are in the real decision-making process, where a translator must move back and forth from the macro-level to the micro-level several times.

The learning outcomes pursued by these activities are that trainees are able to:

- Identify the most suitable macro-textual approach to translate legal texts.

- Identify translation problems caused by the incongruity between cultures of the legal culture-bound terms.
- Apply the most suitable translation techniques to solve these problems, in accordance with the macro-textual approach chosen.

Regarding the teaching methodology used, the learning activities follow the task-based approach (see Hurtado 2007; González Davies 2004; Washbourne 2012). This approach seeks to integrate theory and practice, engage trainees in hands-on-practice activities and is helpful to work with metacognitive problem-solving techniques in the classroom, which makes it appropriate for legal translation training, as pointed out by Rodríguez-Castro and Sullivan (2015).

The activities described in the following sections are explained for translation trainers, who are used to managing class dynamics and are thus familiar with different types of teaching and learning activities that are commonplace in translation classrooms (see Kelly 2005; Hurtado 2007; González-Davis 2004). Therefore, the activities and specific actions to be taken in each session are described, and a progression established, but no further pedagogical or didactic indications are given. These actions include fostering, supporting - and leading, if necessary- debates and discussions in large or small groups, brainstorming, presentations, small groups work, formative assessment (Galán-Mañas and Hurtado 2014, Orozco-Jutorán 2006) in the form of short debates to fix the main ideas discussed, and so on.

2. Didactic units

2.1. Unit 1 (2 sessions): Becoming aware of the relationship between micro-level and macro-level decisions in legal texts

Session 1

- (1) Trainees are asked to read a text which is a translation into English of a fragment of a criminal proceeding judgement issued in Spain (Figure 1).

[Figure 1 near here]

- (2) Class debate regarding this translation in terms of acceptability and adequacy, making the trainees reflect on and explain whether an English speaker would totally or partially understand it and why.

- (3) Trainees are asked to read another translation of the same text (Figure 2).

[Figure 2 near here]

- (4) Small groups discussion to find answers to the following questions: (a) Which of the two translation is more acceptable? Why? (b) Are there any translation problems that have been addressed more adequately in one of the translations? Which ones? (c) Which strategies have been applied to translate the culture-bound terms in the text? (d) Have the strategies chosen by the translators affected the translation in terms of adequacy or acceptability? How?
- (5) Small groups share their views with the class.
- (6) Conclusions are drawn. The objective is to see that the second version is more acceptable, because an English speaker would fully understand it, whilst the first version is not as easy to understand, unless the reader has had prior knowledge of the Spanish language and legal system.

Session 2

- (1) Brief reminder of the conclusions drawn in the previous session.

- (2) Small groups work to analyse both translations in detail and determine why the second version is more acceptable, finding specific examples of how micro-units have been translated.
- (3) Small groups share their findings with the class.
- (4) The trainer writes or highlights all the observations made by trainees on the board/screen where both translations (Figures 1 and 2) are being shown until a consensus is reached by the class. An example of a possible consensus reached by the class in their analysis can be seen in Figure 3.

[Figure 3 near here]

- (5) Formative assessment: quick class debate to draw conclusions. The objective is to see how decisions made at micro-unit level affect the translation at macro-textual level, that is, the acceptability and the adequacy of the translation.

2.2. Unit 2 (2 sessions): Establishing the level of translator intervention and the degree of difference between cultures

Session 1

- (1) Trainees are asked if they are familiar with the three main approaches to dealing with cultural differences and, if necessary, the trainer gives a brief explanation so that all trainees remember/mobilise this knowledge which they are supposed to have acquired in their previous general translation courses.
- (2) If necessary, a visual prompt such as the one shown in Figure 4 can be used as a reminder. It shows a culture-bound term of British culture (Christmas crackers). To translate it, using the preservation approach which stays close to the source culture and involves no translator intervention, a borrowing could be used (first image on the left, depicting the Christmas crackers). If the translator were to use the

generalisation approach, which involves some intervention, Christmas crackers could be translated as ‘gift’ (second image). If the approach chosen is to bring the text closer to the target culture, which involves a greater level of intervention of the translator, Christmas crackers could be substituted by a Spanish custom which is also related to gifts during the Christmas celebrations, such as ‘regalos de Reyes’ (presents given to all children on the night of 5th January, supposedly brought by the Three Wise Men who followed the North Star to greet baby Jesus), as shown in the third image, on the right.

[Figure 4 near here]

- (3) Brainstorming session to think of legal text types and realistic translation briefs for them. For example, an agreement that is translated to be signed. To be effective it must have legal effect in the target culture, and so would need to be adapted to the statutes and laws of the target culture. The trainer writes all the ideas generated on the board/screen.
- (4) All the different possible briefs displayed are divided into two main types: instrumental and documentary and they are described.
- (5) Trainees are asked to match the level of translator intervention required to translate legal culture-bound terms with the different legal text types written on the board/screen, linking this with the purpose of the translation. The discussion continues until a consensus is reached and the trainer takes notes and summarizes. A possible result of this discussion is a table like the one shown in Figure 5.

[Figure 5 near here]

- (6) The trainer suggests different legal text types and translation briefs and asks the class to see if the table would work with these. For instance, the example of the agreement signed to have legal effect would be an instrumental translation and

would need an important or even major intervention on the part of the translator since some parts of the agreement would need to be changed to agree with the statute laws and system.

- (7) The trainer shows a real text where this would happen, such as a US End-User License Agreement (EULA) to be translated into Spanish so that it can be signed by a person who is protected by the consumer laws that exist in Spain and the European Union. The trainer shows examples of the practical effects in legal terms. For instance, the translation of a clause in a EULA such as that shown in Figure 6. Taking the above-mentioned instrumental brief, references to California law and US federal laws should be substituted by references to the corresponding Spanish or European laws, after consultation with a lawyer. This would be considered an important translator intervention. However, the same clause with a documentary brief would keep the cultural reference to the US legal system, with no translator intervention.

[Figure 6 near here].

Session 2

- (1) The trainer explains the four possible degrees of difference between the two cultures involved in the language combination, using a table such as the one shown in Figure 7. For this explanation, we recommend using general language examples and only some simple legal terms. Figure 8 shows a list of possible examples for each category

[Figure 7 near here]

[Figure 8 near here]

- (2) The trainer shows a list of legal terms with different degrees of cultural differences. An example of a list of terms for this exercise is shown in Figure 9.

[Figure 9 near here]

- (3) Small groups work. Each group places two of the terms in the appropriate row of the table shown in Figure 7 and justify their decision.
- (4) Small groups share with the class.
- (5) On the basis of the results of the consensus reached by the class and reflected in the table drawn up in the previous didactic unit (see Figure 3), trainees are asked to reflect and discuss the following questions: (a) What was the degree of cultural difference in the legal terms that the text contained? (b) What was the level of translator intervention in each of the two translations? (c) How have the decisions made in the different translations A and B affected the acceptability of the translations? If necessary, other questions dealing with specific examples from the text can be introduced, such as ‘What possible approaches could the translator have taken with regard to the translation of ‘*conducción sin permiso*’ (driving without a license)?
- (6) Formative assessment: Conclusions on the analysis carried out are drawn. The objective is to see how considering the degree of difference between cultures when choosing the techniques to translate legal terms (micro-level) can help improve the acceptability of the target text (macro-level).

2.3. Unit 3 (5 sessions): Choosing the most suitable translation techniques to translate legal culture-bound terms

Session 1

- (1) The trainer presents a dual axis chart (Figure 10). One axis shows the different levels of translator intervention and the other the four degrees of difference between cultures. In this way, the different elements that influence and inform the

translator when making choices regarding the translation of legal culture-bound terms can be seen at a glance.

[Figure 10 near here]

- (2) Class activity: trainees are asked to place the same terms that were used in the previous didactic unit (Figure 9), in English, in the chart.
- (3) Small groups work to find all the possible translations into Spanish for these terms. One or two terms are assigned to each group. The translations suggested must be placed in the chart in accordance with the level of translator intervention involved. Dictionaries, terminological databases, or whatever means necessary may be used to carry out the terminological research.
- (4) Small groups share what they have found with the class. The trainer writes all the possibilities found on the chart.
- (5) If necessary, class discussion regarding the place to put each possible translation or to clarify the different translations suggested.
- (6) A possible result of this exercise for some of the terms is shown in Figure 11, where the source term in English is placed between brackets and all the possible translations into Spanish are situated in the appropriate squares of the chart.

[Figure 11 near here]

Session 2

- (1) Brief reminder of the results of the previous session (Figure 11).
- (2) Class discussion about what would make them choose one specific translation over the others. The objective is to see that the translation brief and the function of the target text -in particular the features and expectations of the target reader- play an essential role when choosing one possible translation over another.

- (3) Small groups work. Each group is given one of the four terms shown in the table (swap, lease agreement, cheque and High Court) and is asked to find and explain a realistic brief and communicative context for each of the solutions provided for that translation.
- (4) Small groups share their suggestions with the class. The trainer takes notes in the screen/board. If necessary, class debate until a consensus is reached. The objective is to see that the first two columns (no intervention and minor intervention) are linked to documentary briefs and the last two columns (important and major intervention) are linked to instrumental briefs, while the central column can be appropriate for both types of purposes, depending on the target readers' expectations. Figure 12 shows a possible result of this exercise for the term 'High Court'.

[Figure 12 near here]

Session 3

- (1) The trainer shows two charts, the one used in the first session (Figure 11) and another one filled with a list of actions: borrow, explain, generalise, substitute, create (Figure 13).

[Figure 13 near here]

- (2) Class discussion comparing the two charts and establishing the links between them.
- (3) Class discussion. Trainees are asked if they can think of any examples of a culture-bound term that could be translated with an action that is not present in the chart, or that could be placed in a square that is empty in Figure 13. To foster this discussion, the trainer can challenge the students to find a term that would belong in the upper row and could be translated by substituting with a culture-bound term in the target language. An alternative is to ask the trainees why they think that

specific square in the upper row in the chart is empty. The objective is to see that if there is a term that can substitute the source term, then the difference between the two cultures is not complete but major, and the term belongs in the third row.

- (4) Class discussion regarding the possibilities that are not included in the table, such as reduction, omission, compensation. The objective is to see that there are always other possibilities, but they are not as usual as the ones included in the table (Figure 13) and that they will only be adequate on very specific occasions, because of the communicative context.
- (5) Small groups work. Trainees receive a short (approx. 150 words) strongly culture-bound legal text in English, and they are asked to identify the culture-bound terms in the text.
- (6) Small groups share their results with the class. Class discussion until all the culture-bound terms have been found.

Should the trainer prefer to use a particular classification of translation techniques for legal culture-bound terms, the verbs appearing in the table (Figure 13) should be substituted by the names of the techniques of the classification chosen. The activities should work with any classification used.

Session 4

- (1) Class discussion. A realistic translation brief is decided for the legal text of the previous session and the communicative and legal contexts are commented.
- (2) Small groups work. The culture-bound terms identified in the text in the previous session are distributed between the groups, and each has to choose the most appropriate technique for those terms, taking into account the purpose of the

translation. They can use dictionaries, terminological databases, parallel texts or whatever means to do the terminological research.

- (3) The small groups share their decisions with the class and there is a class discussion until a consensus regarding the optimal translation of all the terms is reached.
- (4) The trainees are asked to translate the text for the following session.

Session 5

- (1) The translations and any problems or observations from the trainees are commented.
- (2) The trainer suggests a new brief for the same text they have just translated. If the previous brief was instrumental, the new one must be documentary, and vice versa.
- (3) Individual work. The trainees are asked to translate the same text again, but this time with the new brief.
- (4) Class discussions regarding the differences between the translations, and particularly if the translation of the culture-bound terms has changed, and how.
- (5) Formative assessment: drawing conclusions from all the exercises carried out in the units. Questions that can be raised to foster these conclusions can be ‘How useful are the translation techniques?’, ‘How would you describe the decision-making process when you find a culture-bound term in a legal text?’, ‘How important is to start the translation being aware of the brief? How does this relate to the techniques chosen?’

2.4. Unit 4 (2 sessions): Assessment tasks

Assignment

Trainees are given a strongly culture-bound legal text of medium length (500 words) and a translation brief. They are asked to (1) identify all the culture-bound terms; (2)

place them on an empty chart (Figure 10) according to the cultural differences and level of intervention they choose. The decisions made must be explained; (3) translate the text; (4) explain how the translation would change if the brief was different (documentary/instrumental); (5) reflect briefly about the translation process. The trainer provides trainees with a rubric explaining the elements and possibilities that will be used to mark the assignment. No class time is devoted to carrying out the assignment, the trainees do it on their own.

Session 1

Trainees are asked to translate a short, strongly culture-bound legal text (150-200 words) with a documentary brief.

Session 2

The trainer returns the trainees' translations which have been marked, and there is a class discussion to comment on the main errors and good practices observed in the translations and to solve questions that may be raised by trainees.

3. Survey results and conclusions

The four units described were piloted during the academic year 2021-22 with a group of 25 students of the MA degree in Legal Translation at the Autonomous University of Barcelona. Students were then invited to complete an anonymous online survey (Figure 14).

[Figure 14 near here]

The response rate for the survey was 90%, so it can be considered representative of the group, and the pie charts (Figure 15) show the answers to the questions asked. A 5-point Likert scale was used with values ranging from a minimum of 1 ('totally disagree') to a

maximum of 5 ('totally agree'), where 3 is a neutral response ('neither agree nor disagree').

[Figure 15 near here]

The answers to the first three questions suggest that most trainees (between 96% and 100%) either agreed or totally agreed that the learning activities were useful, would help them make adequate decisions to translate culture-bound terms in their future legal translations and would help them produce adequate legal translations in which the decisions regarding culture-bound texts are coherent with the purpose of the translation. This data, in particular the answers to question 2, suggest that the learning outcomes set were achieved, and that the activities helped develop the SC in trainees.

The answers to question 4 suggest that the level of difficulty of the learning activities is something that needs some adjusting, since it is the only question in which some trainees showed total disagreement (4%) or disagreement (8%). These answers, together with the neutral 'neither agree nor disagree' (12%) total some 24%. Although the majority of trainees considered the level of difficulty adequate (76% agreed or totally agreed), it would be desirable that the whole class agreed. A possible modification to improve trainees' evaluation of the level of difficulty of the units presented would be to increase the number of activities in units 2 and 3 to give trainees more time to familiarise themselves with the elements being learned. Another idea would be to provide the trainees with additional didactic materials that could be used by them on their own, so that they could do more exercises depending on their needs.

Although this is only one survey carried out in one MA course, the data collected from the piloting experience allows us to be optimistic and consider the approach taken helpful in developing trainees' strategic and intercultural competences. It helps trainees translate legal culture-bound terms in an acceptable way by clearly

linking the translation techniques they use with the communicative context and the translation purpose. This is a way of ensuring the coherence between the overall, macro-textual approach chosen for the translation and the micro-textual techniques chosen.

Although the learning activities and materials presented in this article focus on English and Spanish legal culture-bound terms, they can be easily adapted to any language combination. We believe the materials and activities presented may prove useful to the legal translation training community as a whole and may be used and tested by trainers so that the resulting research data can help make modifications to improve the activities and materials created.

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References

- Alcaraz, Enrique, and Brian Hughes. 2002. *Legal Translation Explained*. Manchester: St. Jerome.
- Angelone, E. 2010. Uncertainty, uncertainty management and metacognitive problem solving in the translation task. In *Translation and Cognition* edited by G. M. Shreve and E. Angelone, 17-40. Amsterdam: John Benjamins.
- Bestué, Carmen and Mariana Orozco-Jutorán. 2011. La necesidad de la naturalidad en la reformulación en la traducción jurídica en la ‘era de la automatización’ de las traducciones, *JosTrans. The Journal of Specialised Translation*, 15:180-199.
- Biel, Ł. 2008. Legal terminology in translation practice: dictionaries, googling or discussion forums? *SKASE Journal of Translation and Interpretation* 3(1):22-38.
- Biel, Łucja. 2009. Organization of background knowledge structures in legal language and related translation problems. *Comparative Legilinguistics* 1:176-89.
- Cao, Deborah. 2007. *Translating Law*. Clevedon: Multilingual Matters.
- EMT Expert Group. 2017. ‘European Master’s in Translation Competence Framework 2017.’ European Commission. Last accessed 25 July 2022.
https://ec.europa.eu/info/sites/info/files/emt_competence_fwk_2017_en_web.pdf

EMT Expert Group. 2022. 'European Master's in Translation Competence Framework 2022.' European Commission. Last accessed 4 November 2022.
https://ec.europa.eu/info/sites/default/files/about_the_european_commission/service_standards_and_principles/documents/emt_competence_fw_2022_en.pdf

Enberg, Jan. 2002. Legal meaning assumptions – what are the consequences for legal interpretation and legal translation? In *International Journal of the Semiotics of Law*, 15 (4): 375-388.

Galán-Mañas, Anabel and Amparo Hurtado. 2015. Competence assessment procedures in translator training, *The Interpreter and Translator Trainer*, 9(1): 63-82.
DOI:10.1080/1750399X.2015.1010358

Gémar, Jean-Claude. 2005. 'Interpréter le sens, produire l'équivalence: obligations de résultat du traducteur?'. In *La théorie interprétative de la traduction II*. edited by Israël Fortunato and Marianne Lederer, 229-247. Paris-Caen: Minard.

González Davies, M. 2004. *Multiple Voices in the Translation Classroom. Activities, Tasks and Projects*. Amsterdam: John Benjamins.

González, J., and R. Wagenaar. 2003. *Tuning Educational Structures in Europe. Final Report*. Bilbao: Universidad de Deusto.

Harvey, Malcolm. 2000. A Beginners Course in Legal Translation: The Case of Culture-Bound Terms. In *La traduction juridique: Histoire, théorie(s) et pratique / Legal Translation: History, Theory/ies, Practice*, 357-369. Berna: ASTTI and ETI.

Hurtado, Amparo. 2007. Competence-Based Curriculum Design for Training Translators. *The Interpreter and Translator Trainer* 1 (2):163–195.
doi:10.1080/1750399X.2007.10798757.

Jamieson, Nigel. 1996. Source and Target-Oriented Comparative Law. *The American Journal of Comparative Law*, 44:121-129.

Kaiser-Cooke, Michèle. 1994. Translational expertise - a cross-cultural phenomenon from an inter-disciplinary perspective'. In *Translation Studies. An Interdiscipline* edited by Mary Snell-Hornby et al., 135-139 Amsterdam: John Benjamins.

Katan, D. 2009. Translator Training and Intercultural Competence. In *La ricerca nella comunicazione interlinguistica. Modelli teorici e metodologici*, edited by S. Cavagnoli, E. D. Giovanni, and R. Merlini, 282–301. Milan: Franco Angeli.

Kelly, Dorothy. 2005. *A Handbook for Translator Trainers. A Guide to Reflective Practice*. Manchester: St Jerome.

Nord, Christiane. 1997. *Translating as a Purposeful Activity. Functionalist Approaches Explained*. Manchester: St. Jerome.

Obenaus, Gerhard. 1995. The legal translator as information broker, in *Translation and the Law*, edited by Marshall Morris, 247-262. Amsterdam: John Benjamins.

Olalla-Soler, C. 2015. An Experimental Study into the Acquisition of Cultural Competence in Translator Training. Research Design and Methodological Issues. *Translation & Interpreting* 7(1):86-110.

Orozco-Jutorán, Mariana. 2006. La evaluación diagnóstica, formativa y sumativa en la enseñanza de traducción. In *La evaluación en los estudios de traducción e interpretación*, edited by Varela, Maria José, 47-68. Seville: Bienza.

Orozco-Jutorán, Mariana. 2014. Propuesta de un catálogo de técnicas de traducción: la toma de decisiones informada ante la elección de equivalentes, *Hermeneus, Revista de Traducción e Interpretación*, 16:233-264.

PACTE. 2000. Acquiring Translation Competence: Hypotheses and Methodological Problems in a Research Project, in *Investigating Translation* edited by Beeby, Allison; Doris Ensinger and Marisa Presas, 99-106. Amsterdam: John Benjamins.

PACTE. 2018. Competence Levels in Translation: Working Towards a European Framework. *The Interpreter and Translator Trainer* 12(2):111–131. doi:10.1080/1750399X.2018.1466093.

Prieto-Ramos, Fernando. 2013. ¿Qué estrategias para qué traducción jurídica?: por una metodología integral para la práctica profesional. In *Translating the Law: Theoretical and Methodological Issues* / *Traducir el Derecho. Cuestiones teóricas y metodológicas*, edited by I. Alonso Araguás, J. Baigorri and H. Campbell, 87-106. Granada: Comares.

Prieto-Ramos, Fernando. 2014. Parameters for Problem-Solving in Legal Translation: Implications for Legal Lexicography and Institutional Terminology Management. In *The Ashgate Handbook of Legal Translation*, 121-134. London: Routledge.

Rodríguez-Castro, M. and C.E. Sullivan. 2015. Rethinking the legal translation classroom: a course for legal translation professionals, *The Interpreter and Translator Trainer*, 9(2):205-228. DOI: 10.1080/1750399X.2015.1051771

Šarčević, Susan. 1989. Conceptual Dictionaries for Translation in the Field of Law. *International Journal of Lexicography*, 2(4):277-293.

Šarčević, S. 1997. *New Approach to Legal Translation*. The Hague: Kluwer Law International.

Tomozeiu, Daniel; Kaisa Koskinen and Adele D’Arcangelo. 2016. Teaching intercultural competence in translator training. *The Interpreter and Translator Trainer*, 10(3): 251-267. DOI: 10.1080/1750399X.2016.1236557

Washbourne, K. 2012. Translation Style Guides in Translator Training: Considerations for Task Design. *JoSTrans: The Journal of Specialised Translation* 17:2–17.

Way, C. 2012. A Discourse Analysis Approach to Legal Translator Training: More than words. *International Journal of Law, Language and Discourse* 2(4):39–61.

Weston, M. 1991. *An English Reader's Guide to the French Legal System*. New York and Oxford: Berg Publishers.

Witte, H. 2008. *Traducción y percepción intercultural*. Granada: Comares.

Yarosh, M. 2015. Translator Intercultural Competence: A Model, Learning Objectives and Level Indicators' In *Handbook of Research on Teaching Methods in Language Translation and Interpretation*, edited by Y. Cui and W. Zhao, 160–178. Hershey, PA: IGI Global.

Figures

You, John Smith, adult, have been previously convicted for ‘*conducción sin permiso*’, by virtue of a final, non-appealable judgement issued on October 17th of 2014, dictated by the Investigating court number 2 of Gavà, Spain, to the penalty of 8 months of fine. (...)

In this act, the *in voce* sentence is declared final and non-appealable, notwithstanding its notification in written form.

Figure 1. First version of the translation of a fragment of a criminal proceeding judgement.

You, John Smith, of legal age, have been previously sentenced for an offense of driving without a licence, according to a final, non-appealable judgment, issued on October 17th of 2014, handed down by the Investigating court number 2 of Gavà, Spain, to pay a fine for 8 months. (...)

In this act, this judgement that has been handed down orally is declared final and non-appealable. The judgment will also be duly notified in written form.

Figure 2. Second version of the translation of a fragment of a criminal proceeding judgement.

First version (less acceptable):

You, John Smith, **adult**, have been previously **convicted for** *conducción sin permiso*, by virtue of a **final, non-appealable judgement** issued on October 17th of 2014, dictated by the **Investigating court number 2 of Gavà, Spain**, to the penalty of 8 months of fine. (...)
In this act, the ***in vocesentence*** is declared **final and non-appealable**, notwithstanding its **notification** in written form.

Second version (more acceptable):

You, John Smith, of legal age, have been previously sentenced for an offense of driving without a licence, according to a final, non-appealable judgment, issued on October 17th of 2014, handed down by the Investigating court number 2 of Gavà, Spain, to pay a fine for 8 months. (...)

In this act, this judgementthat has been handed down orally is declared final and non-appealable. The judgment will also be duly notified in written form.

Green: generalisations. **Blue:** borrowings. **Pink:** explanation. **Yellow:** substitutions and natural phraseology in target legal language. **Grey:** phraseology left too close to the source language, therefore not natural

Figure 3. Example of possible conclusions reached in the class debate.

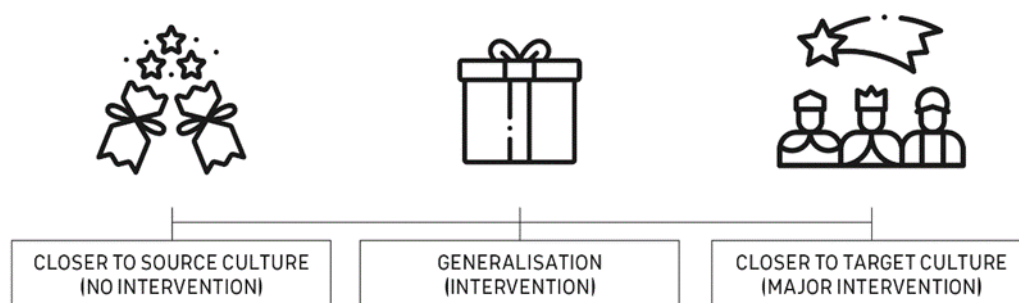


Figure 4. Three main possible approaches to translate cultural differences.

PURPOSE OF THE TRANSLATION	Documentary translation		Documentary or instrumental	Instrumental translation	
LEVEL OF TRANSLATOR INTERVENTION	No intervention	Minor intervention	Intervention	Important intervention	Major intervention

Figure 5. Example of a table completed after brainstorming and discussion in class.

GOVERNING LAW. Any action related to this Agreement will be governed by California law and controlling U.S. federal law. No choice of law rules of any jurisdiction will apply.

Figure 6. Example of a clause that would be translated with different levels of translator intervention depending on the brief/purpose of the translation.

Complete difference between the two cultures Concept ≠ Function ≠
Major difference between the two cultures Concept ≠ Function ≈
Minor difference between the two cultures Concept ≈ Function ≈
None or slight difference between the two cultures Concept =/≈ Function =/≈

Figure 7. Four possible degrees of difference between two cultures.

- 1. No difference in concept or function in the target culture (TC):** Chair, chicken, salt, judge.
- Slight difference in concept (same function) in the TC:** Roundabout, nurse, park, breakfast, lawyer.
- 2. Little difference in concept and/or function in the TC:** High school (different number of years included), ham (different types, flavours, and process to produce it), tsp/gallon (different measures used for cooking), cheque (only accepted for big amounts of money in Spain).
- 3. Major difference (concept does not exist as such, but there is something that has the same function in the TC):** Christmas pudding, 4th of July celebration, shortbread, Court of Appeal.
- 4. Complete difference (neither the concept nor the function exist in the TC):** bridesmaids, cheerleaders, mango chutney, midterm elections, caucus, water bailiff.

Figure 8. Examples of terms that could be included in the four categories of degrees of difference between the source and target cultures.

Court of Law, Grand Jury, swap, attorney, attorney general, power of attorney, Probation supervisor, joint venture, lease agreement, High Court, Queen's Counsel, bailiff, trust.

Figure 9. Legal terms to be placed in the appropriate position in the table shown in Figure 7, in accordance with the degree of difference between them in the two legal cultures.

Complete difference between the two cultures CONCEPT \neq FUNCTION \neq					
Major difference between the two cultures CONCEPT \neq FUNCTION \approx					
Minor difference between the two cultures CONCEPT \approx FUNCTION \approx					
No or slight difference between the two cultures CONCEPT \approx/\neq FUNCTION \approx/\neq					
DEGREE OF INTERVENTION BY THE TRANSLATOR	NO INTERVENTION	MINOR INTERVENTION	INTERVENTION	IMPORTANT INTERVENTION	MAJOR INTERVENTION

Figure 10. Dual axis chart, one axis showing different levels of translator intervention and the other showing the four degrees of difference between cultures.

Complete difference between the two cultures Concept \neq Function \neq	(Swap) <i>Swap</i>	<i>Acuerdo para intercambio de flujo monetario</i>	<i>Contrato</i>	<i>Permuta financiera</i>
Major difference between the two cultures Concept \neq Function \approx	(High Court) <i>High Court</i>	<i>Alto tribunal inglés</i>	<i>Un tribunal inglés</i>	<i>Tribunal Supremo</i>
Minor difference between the two cultures Concept \approx Function \approx	(Cheque) <i>cheque</i>		<i>Medio de pago</i>	<i>Cheque/talon conformado</i>
No or slight difference between the two cultures	(Lease agreement) <i>Contrato de arrendamiento</i>			

Concept =/≈ Function =/≈					
LEVEL OF TRANSLATOR INTERVENTION:	No intervention	Minor intervention	Intervention	Important intervention	Major intervention

Figure 11. Example of all the possible translations for four terms, reflecting the level of translator intervention.

Possible translations for High Court into Spanish:

- It could be left in English if the brief is to translate a judgement issued by the High Court for a Spanish judge.
- It could be translated as '*alto tribunal inglés*' (high-instance English court), second column, for a piece of news on a newspaper. In this case, this translation could follow the term in English: the sentence 'the case will be heard at the High Court next Wednesday' could be translated as '*el caso será juzgado el próximo miércoles en el alto tribunal inglés High Court*' (the case will be heard at the English high-instance court High Court next Wednesday). If instead of a newspaper the translation was for a lawyers' association journal, a note or a whole explanatory sentence could be added, such as: '*el caso será juzgado el próximo miércoles en el High Court, el alto tribunal inglés equivalente al Tribunal Supremo español que, en su caso, no es la última instancia para recurrir*' (the case will be heard next Wednesday at the High Court, the high-instance court of England and Wales equivalent to the Tribunal Supremo in Spain that, in its case, is not the last instance where an appeal can be made).
- It could be translated as '*un tribunal inglés*' (an English court), third column, in a detective novel, where the same sentence could be translated as '*el caso será juzgado el próximo miércoles en un tribunal inglés*' (the case will be heard at an English court next Wednesday).
- It could be translated as '*Tribunal Supremo*', fourth column, in a TV series where some law trainees dream of their future and say: 'I can see myself as a judge of the High Court'.

Figure 12. Different translation briefs and communicative contexts in which several translations of the term 'High Court' into Spanish would be acceptable.

Complete difference between the two cultures Concept ≠ Function≠	BORROW	EXPLAIN	GENERALISE		CREATE
Major difference between the two cultures Concept ≠	BORROW	EXPLAIN	GENERALISE	SUBSTITUTE	

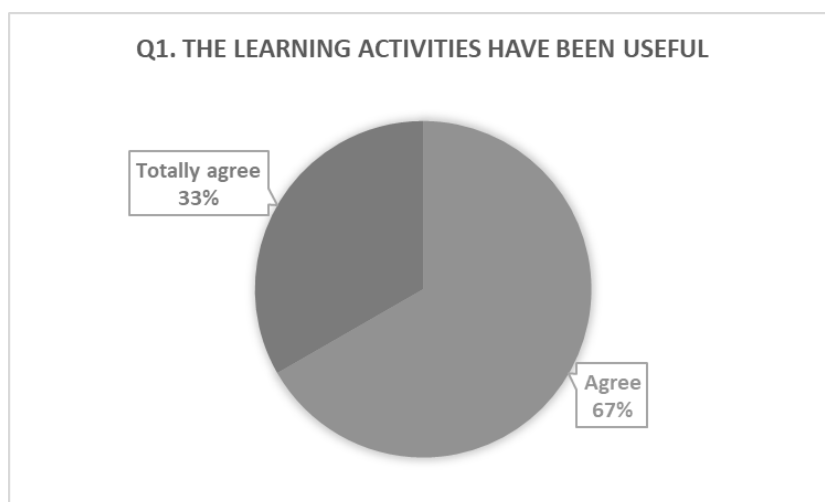
Function \approx					
Minor difference between the two cultures Concept \approx Function \approx	PARTIAL EQUIVALENT	EXPLAIN	GENERALISE	SUBSTITUTE	
No or slight difference between the two cultures Concept $=/\approx$ Function $=/\approx$	TOTAL EQUIVALENT				
LEVEL OF TRANSLATOR INTERVENTION:	No intervention	Minor intervention	Intervention	Important intervention	Major intervention

Figure 13. Possible techniques (actions) to translate legal culture-bound terms.

The learning activities related to micro- and macro-level decisions to translate legal texts that we have carried out in this course....

1. Have been useful.
2. Will help me to make adequate decisions to translate culture-bound terms in my future legal translations.
3. Will help me to produce adequate legal translations in which the decisions regarding culture-bound texts are coherent with the purpose of the translation.
4. I feel the level of difficulty of these activities has been adequate.

Figure 14. Survey.



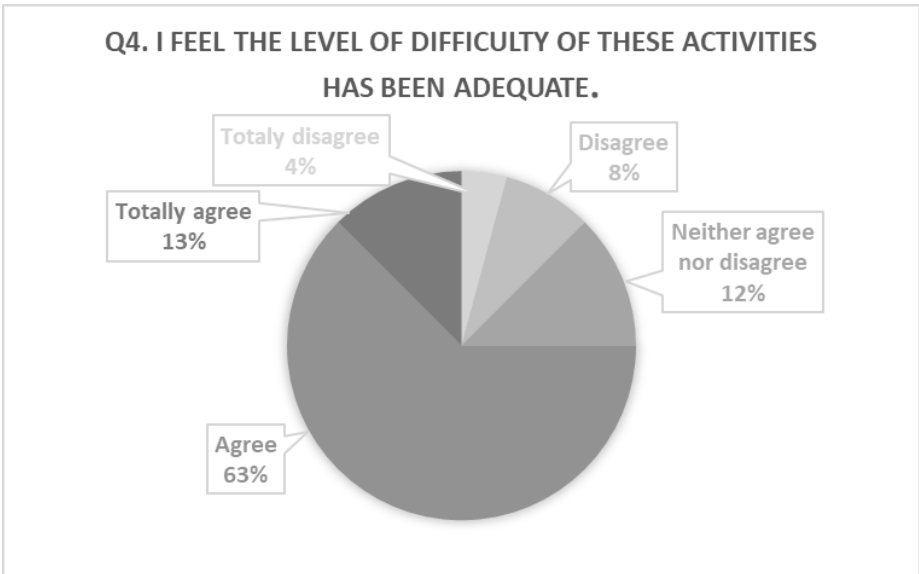
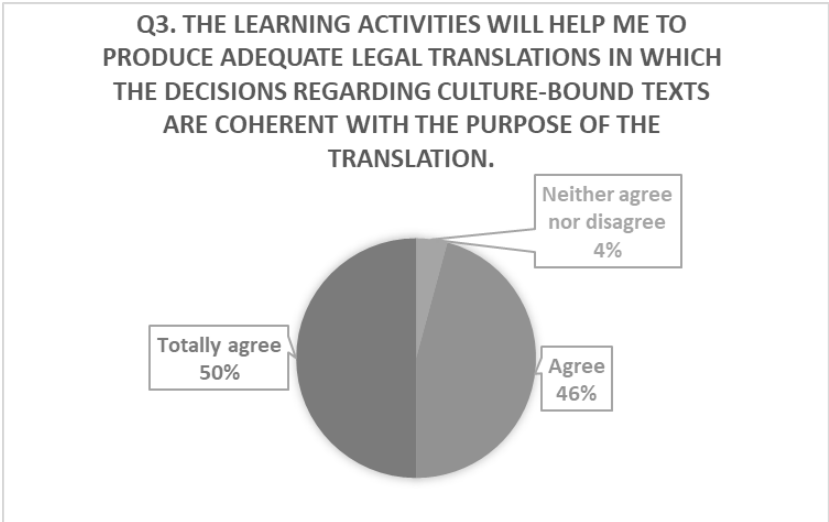
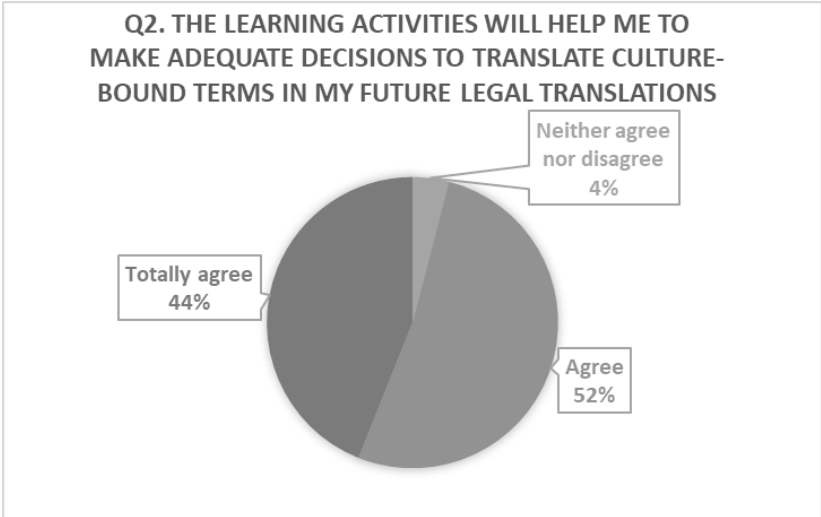


Figure 15. Pie charts with the results of the survey.

