

## SECTION VI. Problems of Text Linguistics, Discourse Studies, and Discourse Analysis

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*Статтю присвячено виділенню базових текстово-дискурсивних категорій українського медіа-дискурсу Інтернет-ЗМІ. Виокремлено шість основних текстово-дискурсивних категорій медіа-дискурсу онлайн-ЗМІ, схарактеризовано визначальні риси постмодернізму як соціально-культурної парадигми та мистецької течії, проаналізовано співвіднесеність текстово-дискурсивних категорій українського мережевого медіа-дискурсу з провідними рисами постмодернізму.*

*Ключові слова: гіпертекстуальність, дискурсивна інтерференція, інтерактивність, Інтернет-ЗМІ, інтертекстуальність, медіа-дискурс, медіа-текст, мультимедійність, постмодернізм, текстово-дискурсивна категорія.*

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### PROBLEM OF ADEQUATE TRANSLATION OF CONTRACTS

*The article deals with one of the most complex and complicated professional translation types – business and legal translation; here contracts are under consideration. It summarizes functional features of an official style of language, investigates peculiarities of translation of contracts, their functional, structural, semantic, grammatical and syntactic aspects.*

*Keywords: legal documentation, contract, legal terms, qualitative and competent translation, lexical perception, foreign text conventions.*

Nowadays the translation of business papers is becoming an integral part of the modern business world due to the expansion and integration of international relations, development of international business partnership. As a result of it, business people in our country need specialists can handle with the English language as a language of international cooperation used for written documents. To succeed in the world business market businessmen and international companies especially often face the problem of translating the most required business documentation like contracts (agreements), treaties, correspondence (letters), enquiries, offers, claims (complaints), telexes, etc., which have become of great legal importance for the last decade. The peculiarities of the official style, organizing and writing business documents are researched in comprehensive monographs by I.R. Galperin [Galperin1982] and other well-known specialists: I.V. Arnold [Арнольд 1991], V.A. Kukhareno [Kukhareno 1986], E.E. Izrailevich [Израилевич 1964], and others. Most linguists rely on the analysis conducted by I.R. Galperin, which is considered the most detailed and profound.

Legal translation is one of the most complex and complicated professional translation types. A translation service is responsible for understanding both politico-legal and socio-cultural contexts behind a legal text and translating it in such a way that a target audience with a different cultural /

political / societal background could readily understand [Комиссаров 2000]. Only a highly-qualified translator who knows both source and target cultures could pull a decent legal translation job off. Nevertheless, even specialists like those tend to use professional legal assistance as well, because singular simple mistake or mistranslation of a contract's passage can lead to disastrous consequences. "In legal English", writes H. Whitehall, – «...a significant judgement may depend on the exact relations between words. ...The language of the law is written not so much to be understood as not to be misunderstood" [Whitehall1956].

**The purpose** of the present analysis is to establish the main peculiarities of the language of business documents, i. e. contracts and the ways of their rendering from source language into English.

The current purpose raises the following **tasks**: 1) determination of characteristic features of functional business style; 2) investigation of peculiarities of contracts as the type of business legal documentation; 3) analysis of lexical, grammatical and syntactical distinguishing marks of contracts; 4) establishment of methods, techniques of qualitative, adequate and competent translation.

**The novelty** of the investigation is defined with synthesis of theoretical and applied studies of the language of official business documents, i. e. contracts, the ways of providing qualitative, adequate and competent translation.

**The practical significance** of the research is to underline the main aspects of writing business correspondence for those who are concerned about drawing up the official documents. It also can be informative for those who study problems of functional usage of formal and informal styles in English. The results of this work can be taken into consideration by those who are involved in studying English and English stylistics. It can be used for special courses of business English for students of Linguistics, Business and Economics as well.

The official business language differs from other styles of any language, mostly because of the specific character of its functional usage that can be illustrated in classical terms of style, its predestination and main features. The style of official documents is the most conservative one. It preserves the structural forms and the use of syntactical constructions. Archaic words are not observed anywhere else but here. Addressing documents and official letters, signing them, expressing the reasons and considerations leading to the subject of any document are regulated both lexically and syntactically. Any emotiveness and subjective modality are completely excluded out of this style. It is represented by the following sub-styles or variants: the language of business documents, legal documents, diplomacy and military documents. Like other styles of language, this style has a definite communicative aim and, thereafter, has its own system of interrelated language and stylistic means. The main aim of this type of communication is to state the conditions and proper way of understanding binding of two parties in an undertaking and to reach agreement between two contracting parties. The subdivision of this style has its own peculiar terms, phrases and expressions, which differ from the terms of correspondence, phrases and expressions of other variants of this style. Peculiar features common for all stylistic varieties of official documents are the following:

- exactness – all statements mentioned in the original must be translated exactly and accurately in a target document;
- conciseness – all statements mentioned in the original must be presented concisely and laconically;
- clarity – conciseness and succinctness must not prevent from clear understanding of the context content;
- literary style – a target text must meet all the rules and norms of the generally accepted standards of literary language avoiding the use of syntactical constructions of source language [Ожегов1993].

Due to these postulates of legal translation the probability of free translation / interpretation of the essence of the subject under the discussion is almost impossible. As a result of it, one scarcely

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finds in business style texts the stylistic devices like metonymy, metaphor, hyperbole and other stylistic figures and emotional components which are widely used in a literary style and are regarded as vivid signs of texts belonging to this genre [Костомаров1971].

One of the most common and most complex types of translation is the translation of contracts. Contract is a formal writing which contains the agreement of parties with the terms and conditions and serves as a proof of the obligation [Dictionary of Contemporary English 2009]. The particularity of this type of translation is that one must take into account not only legal terminology, but also the compliance of the translated text with the judicial system of the country in which the contract was written. To achieve this, the translator must have an adequate experience in the translation of legal terminology, as well as knowledge of the legislative system of the country in which the contract was written. When translating a contract, the translator faces not only linguistic challenges, but also the particularities of the judicial systems of both countries. The translation of contracts, especially those that are full of technical expressions, often requires broader knowledge on the part of the translator, and sometimes the contract cannot be translated by one translator alone. For larger texts, multiple translators are required who assign each one a portion that is closest to his / her specialization.

Any skilled professional translator should be able to deliver fast and high quality translation of the following contract types: sales and purchase agreements; supply contracts; power supply contracts; real-estate property contracts; real property contracts; service agreements; rental and lease agreements, patent and know-how license agreements; deeds of gift; articles of association and others.

Contract (lat. *contractus*) is known to be a business document presenting an agreement approved and signed by two or more parts [Чудинов1910]. Legal contracts are made in writing. When striking a deal, standard contracts are widely used. Standard contracts are not a must. Some articles can be altered and supplemented. There exists a proper set of items which are of the greatest importance in any contract: number of a contract; place and date of signing; names of the Sides signing the contract; subject of the contract; quality of goods; price; destination; delivery time; requirements for packing and marking; payment terms; conditions of submission and acceptance of goods; transport conditions; warranty conditions and sanctions; arbitration conditions; force majeure; judicial addresses of the Sides; signatures of the Seller and the Buyer. All appendices form an integral part of the contract.

The language of contracts is agreed upon by both sides. It goes without saying that information and style are kept the same not depending on the language of textual varieties of contracts. Contracts are divided into administrative-managerial, financial-economical, advertising, scientific-technical, and artistic-publication contracts. Functional spheres of their circulation can be easily guessed from names of contract types in this classification, and are the subject of economic, rather than linguistic study.

In the linguistic point of view contract is a type of document due to any agreement and a completed document fixing some information. As a type of text, contract has its own specific characteristics. The stylistic peculiarities of all document texts are:

- concreteness, conciseness, clearness of the stated idea;
- high capacity of information;
- strict logic;
- clear rhythm of sentences;
- accenting on the main idea with the help of word repetitions;
- absence of emotiveness;
- absence of connotational information;
- a special system of clichés and stamps;
- usage of abbreviations, conventional symbols and marks;
- usage of terms in their direct semantic logical dictionary meaning;
- preferential usage of monosemantic words;

- division of a text into chapters, paragraphs, points, often numbered (clear compositional structure of a document);
- usage of definite syntactical models;
- graphic decoration of a document: quality of paper, quantity and quality of illustrations, size and kind of print.

The main features of the style of contract as a type of business official document are:

- steady system of linguistic means in the text of contract;
- lack of emotional colouring;
- decoding character of language;
- usage of a special conventional symbolic system;
- abbreviations;
- contractions;
- definite syntactical structure. It also should be noted that the syntactical construction of this style is as important as the vocabulary [Швейцер1973].

In the lexicological point of view business papers are of great interest. Their lexicon is rather stable. As a rule, words have their exact meaning. There are no words which are emotionally coloured. As a result of it, we can point out the words, which are present practically in every contract. For example, the adverbs *here / there* and their compounds: *hereby / thereby, herewith / therewith, hereto / thereto*, etc.: *Continental Equipment Plc, Brighton, England, hereinafter referred to as «the Seller», on the one part...; If shipment of the whole or part is thereby rendered impossible...*

*Whereas* is frequently used in order to start a contract. It means that the sides have been engaged in a series of transactions resulting in a dispute over accounting between them and its compound word *whereby*, which means *by which* and refers to the present contract, e. g., *Whereas, changes in one or more of the above-listed positions have occurred; On May 12, 2008, BNSF, the Port and the County entered into a Purchase and Sale agreement whereby the Port agreed to acquire portions BNSF's property...*

An array of the presence of prepositional phrases in contract texts is another peculiarity. Among them we can distinguish the most popular such as *subject to, solely on condition that, on the understanding, on conditions that*, etc.: *The prices are firm for the duration of the Contract and shall not be subject to any revision... I will buy 1000 barrels solely on condition that Baker delivers them.*

In the lexicon of contracts there are a lot of foreign words, first of all, Latin ones, such as *pro rata, pari passu, extra, inferior / superior* which are very often used when speaking about payments, terms of delivery, the quality of goods, e. g. *Fractions to be considered pari passu; The quality of Model S-20 is inferior to that of Model S-40.* Such Latin words as *ultima, proxima* are now archaic and rarely used, e. g., *If the excess is discovered only on arrival of the goods at their ultima destination in the U.K....*

Few but rather regularly used words are of French origin. The most wide-spread among them is *force majeure* which is a significant point practically in every contract and serves for defining unpredictable or urgent situations, e. g., *The parties are relieved of responsibility for partial or complete non fulfillment of their obligations under the present contract due to force-majeure circumstances...*

So, when translating contracts it is necessary to take into account the particularity of the vocabulary of contracts, a definite set of words and word-combinations which constitute lexical peculiarities of contract texts. They are all rather bookish and belong to formal style of written English, not being used in informal English and rarely used in spoken formal English.

Grammar of any contract may be generally characterized as rather formal and simple. The lack of diversity of grammatical forms and poor and reduced usage of tense forms, dominating role of modal verbs and non-finite forms are typical traits of any contract.

The most wide-spread tense forms used in the texts of contracts are Simple and Perfect Tenses

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of both Active and Passive Voices, e. g., *Our firm informed the Suppliers that the general conditions were not contained in the order; After the contract has been signed ...* The specific character of any contract provides a rare usage of past tenses, analytical forms of the verb, such as Continuous and Perfect Continuous Tenses, are absolutely banned out.

Prevailing usage of modal verbs and modal words / word-combinations is another specific feature of contracts. This peculiarity can be explained by the fact that these words constitute the field of modality, extralingual reality required to establish new business contacts and partnership. Thus the verb *shall* though not used in Modern English, in business correspondence and documents keeps being greatly used, e. g., *The Seller upon written consent of the Buyer shall be permitted to substitute equipment of comparable quality.* The verb *be to* proves the necessity to fulfill the duties according to the contract, e. g., *The Seller is to take care of and cover expenses for insurance of the equipment under the Contract...* The combination of the verb *should* and the infinitive shows a future action, but with a less degree of probability. This construction usually occurs in subordinate clauses, e. g., *... if a delay in the delivery should exceed 3 months.*

One of the most striking features of Business English is a wide use of verbals. They are subdivided into three forms: infinitives, *-ing*-forms and participles. The most frequent non-finite form used in contracts is infinitive and its predicative constructions. It may be used as an adjunct to verbs, nouns and adjectives [Арнольд1991], e. g., *The Parties have failed to deliver the equipment; The goods are considered to be in conformity with the certificate.*

The two parties of a contract defined as *Buyers* and *Sellers*' can be used both with the definite article and without it but in any case should be written in capital letters.

Perhaps the most noticeable of all syntactical features are the compositional pattern. In the realm of the syntactical structure of contract two tendencies can be observed: a) numerous paragraph divisions which facilitate more exact and clear understanding of the essence of the subject of contract; b) complicated syntax when in the measures of one sentence the most significant information is rendered.

Contracting parties should not experience any difficulties in obtaining and understanding information. Misunderstanding may be caused by a lack of thought and care. It may happen in case of numerous use of abbreviations, figures, prepositions. They are very useful, because they are very quick to write and easy to read. But both parties are expected to know what the abbreviations stand for. The most common abbreviations are *Gvt* (government), *C&F* (Cost and Freight), *C&I* (Cost and Insurance). Conjunction *But* is marked as # in contract texts. The symbol № is used instead of the word number. Latin abbreviations are often used in contracts, for example: *e. g.* (for example), *et al.* (and others), *etc.* (and so on), *v. v.* (quite the opposite), *i. e.* (that means); English abbreviations *ltd.* (limited), *Bros.* (brothers), *encl.* (enclosed), *dols.* (dollars), etc.

It is preferable to write sums in both figures and words to avoid any probability of misunderstanding and confusion. A special attention should be also paid to titles, names, addresses, references, prices, specifications, enclosures, etc., which are also of a great importance in texts of contracts.

While translating the text a translator first of all must distinguish neutral, bookish and colloquial words and word combinations, translating them by relevant units of the target language. It is sometimes hard to determine the correct stylistic variety of a translation equivalent, final decision is taken on the basis of context, situation and background information. The language of documents is rather strict and standardized. The main peculiarities can be brought to the following: concreteness, conciseness, clearness of the idea, high capacity of information, strict logic, clear rhythm of sentences, word repetitions which accent the main idea, no connotations, clichés and stamps, usage of monosemantic words and words in their direct logical meaning, division of text into chapters, paragraphs, points, presence of the definite syntactic structure.

There is no need to mention that any qualified translator performing translation of contracts uses special dictionaries, encyclopedias and various data books. However, it is clear that it is not enough knowledge of only book data: in communication and information sharing all sources are

important. The professional should be informed on all circumstances of the situation, deeply understand an event essence that will help him / her perform qualitative, adequate and competent translation.

Translation of contracts often means also legalization process. Usually the situation assumes that all papers at first will be translated, and then will be legalized together with the copies in other language.

Performing aforementioned translation, the expert faces a number of serious problems. The translation from one language into another frequently becomes complicated for law terms and concepts which are present in the original and are impossible to translate into a target language. Many law texts contain such formulations which simply are not characteristic of legal system of another country. In this connection, translation of contracts can present rather serious difficulty. In this case the expert-translator performing translation of contracts is aware of the necessity of conveying the right meaning of the concept whose exact translation does not exist of. Besides he should constantly keep in his mind the peculiarities of lexical perception of foreign notions, conventions and concepts which also cannot correspond to foreign conventions. The professional translator should try to perform the most exact translation, after all not only the material income of the customer-company is set on stake, but also its authority and prestige in the market.

So, in conclusion it's necessary to emphasize the fact that the theory of functional stylistics including studies of the peculiarities of the translation of business documentation is generally replenished with new methods, techniques and research methods. The study and analysis of language features of business documentation proves the necessity of acute current investigation of this aspect in the modern world.

The problem of the adequate translation of business documentation, its theoretical understanding and practical realization requires the coverage of different aspects of functional stylistics and establishing its differential traits with its active and passive discover which determine the future research.

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*У статті розглянуто один з найскладніших типів професійного перекладу – бізнесової документації, особлива увага приділена фаховому перекладу контрактної документації. У статті виявлено та ґрунтовно проаналізовано стильові, функційні, граматичні, лексико-семантичні та синтаксичні особливості текстів контрактів.*

*Ключові слова: бізнесова документація, юридична термінологія, квалітаивний та компетентний переклад, лексичне сприйняття, конвенції іноземних текстів.*

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### ЛІНГВОКРЕАТИВНИЙ ПОТЕНЦІАЛ ПЕРИФЕРІЙНИХ КОМПОНЕНТІВ ФУНКЦІОНАЛЬНО-СЕМАНТИЧНОГО ПОЛЯ ІРРЕАЛЬНОЇ МОДАЛЬНОСТІ

*In the article the frame concerning the linguistic creativity as a new object of linguistic research has been viewed. The specific of the phenomenon and some regularities of realization of communicants' linguistic creative potential have been reflected. It is very important to investigate linguistic creativity in keeping with theory of actualization. The reason of such approach is necessary correlation of modern theoretic grammatical achievements with active processes which are in evidence in language.*

*Keywords: functional-semantic field of irreality, linguistic creativity, modality, hypothetic mood, imperative mood, optative mood, quasi-indicative mood.*

Досі не існує повного опису лінгвокреативного потенціалу мовних одиниць, хоча досліджено багато різноманітних аспектів вербальної та паравербальної лінгвокреативності: актуалізація естетичного потенціалу лексичних одиниць [Алабужев 2008]; паравербальні засоби як прийом увиразнення висловлення [Васьків 2004; Киселюк 2009]; нові явища в синтаксисі [Загнітко 1996 а; Загнітко 1996 б]; семантика пунктуаційних знаків [Зализняк 2007]; експресія власних назв [Ільченко 2003; Петрова 2006]; актуалізація мовних одиниць у заголовках [Кузнєцова 2007] тощо. Поза увагою науковців залишаються такі питання, як просодична реалізація лінгвокреативності, зв'язок між лінгвокреативністю та мультимедійністю комунікативного середовища (особливо актуальним це питання постає в дослідженні мовлення в межах інтернет-дискурсу); специфіка функціонування модалем як лексичних і граматичних одиниць, що реалізують свій лінгвокреативний потенціал на рівні тексту. Важливим постає питання про реалізацію лінгвокреативного потенціалу різними типами модалем і співвіднесення досягнень сучасної теоретичної граматики з активними процесами сучасної мови, адже мовні одиниці відбивають пізнання суб'єктом навколишнього світу. Простеження особливостей вияву модальностей дозволить чіткіше окреслити межі таких філософських понять, як *істина й реальність*. Усе висловлене зумовлює **актуальність** теми дослідження.

**Об'єкт** дослідження – ірреальна модальність як реалізатор лінгвокреативності. **Предмет** – периферійні компоненти функціонально-семантичного поля (ФСП) ірреальної модальності. **Мета** статті – схарактеризувати лінгвокреативний потенціал периферійних компонентів ФСП ірреальної модальності. **Мета** зумовила розв'язання таких **завдань**: 1) встановити, які компоненти ФСП ірреальності слід відносити до периферії розглядуваного поля; 2) дослідити семантичну та формальну специфіку ФСП ірреальності; 3) проаналізувати