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Dissertation Submission

LEARNER NUMBER	51691825
NAME	JONATHAN HERVERT HERVERT
COURSE	MA. IN DISPUTE RESOLUTION
DISSERTATION TOPIC	THE CONFLICT IN COMMERCIAL AND CONTRACTUAL RELATIONSHIPS BETWEEN FOREIGN PARTIES THE FOREIGN LANGUAGE AND LEGAL FRAMEWORK AS PRIMARY SOURCES OF CONFLICT NEGOTIATION AS THE MOST SUITABLE APPROACH
SUPERVISOR	MATTHEW HOLMES
WORD COUNT	20,794
DUE DATE	02nd November 2020

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“THE CONFLICT IN COMMERCIAL AND CONTRACTUAL RELATIONSHIPS BETWEEN FOREIGN PARTIES”

THE FOREIGN LANGUAGE AND LEGAL FRAMEWORK AS PRIMARY SOURCES OF CONFLICT;

NEGOTIATION AS THE MOST SUITABLE APPROACH.

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THE FOREIGN LANGUAGE AND LEGAL FRAMEWORK AS PRIMARY SOURCES OF CONFLICT;

NEGOTIATION AS THE MOST SUITABLE APPROACH.

by

JONATHAN HERVERT HERVERT

A dissertation presented to the

FACULTY OF LAW

INDEPENDENT COLLEGE DUBLIN

Master in Arts in Dispute Resolution QQI Level 9

November 2020

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ACKNOWLEDGEMENTS

I dedicate this work, especially to my fiancé, Ian Connick, without his support, I could not have reached this stage. Thank Ian for all your love and kindness.

I want to acknowledge my family, even with the distance they are always in mind and heart close to me. They have helped me to be the person that I am, and all my achievements are partly theirs.

I want to thank the Connick family. They have been my family in Ireland and show me the support and interest that motived me.

I want to thank my supervisor Matthew Holmes, for his guidelines and advice through the dissertation process. Moreover, to my lecturers at Independent College, John Dunne and Sharon Morrissey, who taught me valuable knowledge and gave me helpful advice to develop my professional career. Finally, thanks to Anastasia Ward, the master program leader and lecturer.

ABSTRACT

This investigation aims to show how foreign language and legal framework as the primary sources of conflict can impact commercial and contractual relationships between cross-international parties; in addition to analysing how those primary sources of conflict have an enormous negative effect on international commercial relationships during the negotiation stage and the commercial activity. Moreover, this work points to find methods that can create awareness in participants of foreign and commercial relationships to prevent conflicts. Furthermore, find the best approach to avoid and manage foreign language and legal framework agents that create conflicts in these particular relationships.

The scope of the research is only the parties connected by a commercial and contractual relationship with the foreign element as characteristic. A survey of thirty questions is used as the method to obtain the data that is analysed by a mixed methodology that looks mainly for qualitative data, and in less proportion for quantitative. The results show that the foreign language has a negative impact during commercial and contractual negotiations triggering issues that could eventually turn into conflicts. Besides, the other element studied, the foreign legal framework does not show be a source of the conflict itself. However, it is the lack of conflict management that does not provide enough assessment of the business project in order to find the adequate approach to disable the risk.

In conclusion, conflict management and negotiation as avoiding conflict resources and alternative dispute resolution (ADR) are the appropriate approaches to the sources of conflict studied.

INTRODUCTION

In a modern world, international trade has become indispensable, that means that every minute thousand of business transactions are being made between foreign parties. It was noticed that particular conflicts arise in such relationships caused by peculiar elements of the dynamic of the relationship. In that sense, the language and legal framework are considered the two elements more common. Several authors have explored the foreign language in cross-cultural relationships from different perspectives such as the cultural element and the linguistic study of the language as a system of communication. Negotiations are basically sessions of communication where parties are bargaining regarding an object, so how much attention is paid to such vital element? Being the communication seen as a natural aspect sometimes people lose track of the importance of such primary element in life and more in business. In that sense, is the language a primary source of conflict between commercial and contractual foreign parties?

The legal framework is another peculiar element that characterised such relationships; being parties in the relationship from different countries that mean that different legal systems and legislation apply to them. Differences tend naturally to cause conflicts and seen in such way it applies as well in business. Also, it is well known that several international legal disputes regarding this issue are all the time being managed in courts or other ADRs procedures. It is why the second research question was made, is the foreign legal framework a primary source of conflict between international relationships?

According to those two main research questions, two more questions come to complement the research, how parties in international commercial relationships can avoid conflicts caused by

foreign languages and legal framework? Moreover, how parties in international commercial relationships can manage and approach the conflicts caused by languages and legal framework?

The dissertation is designed in a traditional way, with some didactic features looking for a good understanding of the readers, giving them the flow to facilitate the lecture. Chapter one will present the literature review; the dissertation is based on eight previous main works that are considered the foundation of the research because they give a valuable vision of the topic, titles such as *"The Global Negotiator, The Role of Language in Conflict and Conflict Resolution, Language Conflict Research: Analysis of Complex Negotiations in International Business: The RBC Perspective, Commercial Conflict Management and Dispute Resolution, The ABA Guide to International Business Negotiations: A Comparison of Cross-Cultural Issues Successful Approach., Getting to Yes (Negotiation an agreement without giving in, The Harvard Negotiation Project and the Principles Of International Commercial Contracts 2019)."*

The second chapter will present and discuss the research methodology and methods used to collect and analyse the data. The chapter will provide a reasonable justification of why the mixed methodology was chosen for this research also an explanation of how the quantitative and qualitative data will be suitable for the work. Finally, a detailed description and justification of the questionnaire used in the surveys are done beside of the ethical considerations that were contemplated.

The third chapter will present the data collected in a very didactic style using graphic tools such as pay, bar, and point charts. The data will be shown in the same order that the participants had the questionnaire, divided into three sections. It is attempted that readers could appreciate the way that the questionnaire was made and the flow aimed with the order and division. Also, the objective and

justification of each question will be presented to understand more profound the sense of each question.

Moreover, in the fourth chapter, the analysis of the data collected will be made by a specific approach. It is looking for some precise information, but at the same time open the mind to obtain new information that it may not be expected. The analysis will be made conjoining some of the questions that are interconnected that together can give vital findings to discuss. It will be made objectively, always having into consideration common bias that at this stage are present. Besides, the fifth chapter will discuss the findings in the data collected. It will be divided in order to present a discussion with better organisation of ideas and topics. The findings will be mixed and approached though the diverse authors' theories seeking for a perfect understanding of the whole dissertation. This chapter will be the peak of the study, where the researcher will focus on all ideas and thoughts taken from the literature review and the data collected.

Finally, the sixth chapter will brief assemble all the pieces of information of the chapters in order to give the reader an overview of the work done. The aims and objectives will be mention again and connected them with the discussion to show the achieved. In the end, the conclusion will present the researcher's discernment of the relevance of the study.

This dissertation will be only focused on elements regarding the foreign and legal framework language as sources of conflict, specifically in international and commercial relationships. It is not aimed to look at different kind of relationships or sources of conflict because it will be a too broad scope to be managed with the time limitation and required length of the work. However, if some significant new features are fund during the study, those will be mentioned and noticed, but without a more in-depth discussion. The aim of this study is contributed to commercial entities that do

business with foreign counterparts but first at all to create awareness in participants of international and commercial negotiations to avoid conflict. Besides, the expected results attempt to develop a handbook procedure that conflict management departments can understand and take into consideration when a new project with a foreign and business partner is planning.

CHAPTER I

LITERATURE REVIEW

This chapter presents reviews and critiques the academic material regarding the conflict between international parties in a commercial and contractual relationship. This research merges between two paths, on the one hand, the cultural and linguistic aspects that language involves. It provides an enormous influence in any the relationship, even more, when parties are from different countries and have a different mother tongue. On the other hand, the legal aspect that is brought by the country's jurisdictions of the parties plays an essential role; being the ground rules in which parties have to behave, and it dictates how parties are going to solve a conflict that could arise and to which entity they can occur to demand and enforce the agreement.

The integrative review style is used to develop new perspectives in the research field. This chapter contains mainly three kinds of literature; one is related to cultural and language field. Although language conflict has begun studied before the second half of the twentieth century, it took until the 1960s before it started to be well explored (Darquennes, 2015). However, language is in constant change, and it has to be studied and looking at the actual situations that drive to new features that contribute to create conflict or to solve it. New means of communication change every day, and that modify the way that language and communication can influence relationships and also create conflict. The second literature area is focused on analyse the legal factor that plays the role of a creator of conflict by the discrepancies that legal jurisdictions can impose to the commercial activities. The International Institute for the Unification of Private Law helps with guidelines and principles to approach this particular agent. Besides, some other authors explore the legal issue between different negotiation approaches or models. Finally, the third area to explore is precisely some of the negotiation models created. They addressed multiples agents that may influence

negotiation processes, but the focus will be only in the research field. It is essential not to miss the point that this dissertation considers the negotiation as a primary alternative to deal with conflict, through negotiations people can avoid, manage and solve a conflict.

1.1 Language Conflict Research: A State of The Art in International Journal of the Sociology of Language.

This study explores features such as the perceptibility, the signs, and the discursive focal points; and it presents the management and the outcomes of societal language conflict with a sketch of methodological approaches in language conflict research (Darquennes, 2015). It looks at the linguistic phenomena from the social-cultural point of view. The author discusses other authors' concepts of language and how it is being considered a system in constant change. Darquennes says that language conflict arises just from the contact between people with controversial statements. He presents the language conflict as an unable aspect to detect by the participants. In that sense, according to this author, participants cannot be aware of how conflict can be arising at the moment of the communication. It looks that an effort beforehand has to be made in order to be prepared to avoid such controversial statements. Also, another person just observing communications can be a reliable way to discover when a conflict is coming.

Moreover, Darquennes' research establishes that language conflict is a severe issue hiding in the consciousness' individuals. In that sense, conflicts causes by language are not noticeable by a simple assessment; otherwise, it needs a complex evaluation. Those affirmations bring the discussion on how difficult it is detecting a conflict when the language cause it. It looks like the language conflict is not a tangible aspect to be measured because it is merely in people minds. Thus it is complicated to be avoided and manage. The second point to discuss is the individual per se; the

interpersonal interaction between the actors in a conversation. Then aspects as ethnicity and national identity are the main points in studies about societal conflict. An interesting fact that Darquennes states is that those studies have been made from a European perspective. That means that the studies might have a limitation of the spectrum of study.

Furthermore, the causes of language conflict are explained as situations of societal language contact characterised by asymmetrical multilingualism. Situations as power, hierarchy, beliefs, ethics and moral values play a role in the creation of conflict caused by this contact language. A fundamental factor is the visibility of those situations, because, it is not the fact itself that those situations exist that creates conflict; it is when the individuals are aware of those distinct factors such as beliefs, values, hierarchy. So it is interesting how people are affected and take different positions when they know that counterparties are different from them, or have a lower hierarchy position.

1.2 The Role of Language in Conflict and Conflict Resolution

The study explores language role in conflicts from a psychological perspective. That brings to this research another view regarding the language element apart of the cultural aspect. It categorises the functions of language in conflict; then it explores the signs and features of the motivation's speakers. The work considers that there is interaction at two levels, the micro, that studies the effect and reaction during the communication process in a conflict; and the macro level which explore the cyles or sequence that the language cause toward increase o solves a conflict. From a psychological perspective, Tylor analyses competitive and cooperative language through an actor's behaviours. The competitive language has justifications, inappropriate arguments, treats, demands and personal criticism. On the other hand, the cooperative brings to the table, a large number of proposals,

humour, counterproposals, and confidence in the counterpart's skills. Furthermore, according to Tylor, the motivation of the speakers comes to be the cornerstone of communication.

Moreover, the study demonstrates how the link between thought and talk affect negotiations. It shows that basic language choices have a profound effect on the other party's perceptions and the cooperation that ensues, with changes in perceptions and goals going hand-in-hand with language changes. The cooperative language is related to looking for the best option to both parties and having and fair agreement for everyone while the competitive is conjoint to individualism and kind of selfishness that create a sense of it has to be only one winner. Then Taylor's work finalises, giving an understanding of how to use language better to resolve conflicts. It is indeed one of the aims of this research, for that reason, it is necessary to consider not only the cultural aspect of the language; otherwise, the psychological side that the language has in relationships.

1.3 UNIDROIT

Principles of International Commercial Contracts 2019 by International Institute for the Unification of Private Law

The institute has many studies that can be used as a point of reference in the research; however, Principles of International Commercial Contracts 2019 is one of the most important, and it is taken into consideration. It is because those principles are like ground rules to international, commercial and contractual relationships. Even it can be helpful in the negotiation stage and used as reliable information data to the bargaining process and conflict management.

Firstly, the institute establishes that the international element appears in a contract or commercial relationship when the parties involved agreed to adopt a range of national and international legislation. Also, parties' residences create significant connections with more than one state,

"involving a choice between the laws of different States", or *"affecting the interests of international trade"* (UNIDROIT, 2019) in that order relationships are becoming an international matter. Also, the concept of commercial is another essential aspect that the institute brings in. The principles limit the concept to the transaction between merchants. It is to avoid confusion about the field in which the principles can be applied. It is well known that legislation countries give a commercial name to consumer relationships. In that order, the document tries to exclude the called consumer transactions because many countries have special rules to deal with this kind of relationships, which are aimed at protecting the consumer. Whereas, the commercial aspect tends to have an equal sense of balance in the relationship. However, real circumstances are the opposite when a big and powerful transnational company make a deal with a local and small company.

Secondly, the principles present the form requirements agreed by the parties. Such as "*the principle pacta sunt servanda"* that is one of the oldest principles of international law still used nowadays. This principle states to give a contractual agreement a binding character because it presupposes that the parties have concluded an agreement and that the agreement reached is not affected by any ground of invalidity. Moreover, It says that parties may agree on a particular way to finish the relationship or modification or of the agreement. Contract formation is another phase that is explored as a crucial matter in the document. Good faith and fair dealing are two of the crucial aspects of the principles. Several provisions throughout the different chapters constitute a direct or indirect application of those aspects. It is doubtless that good faith is one of the fundamental factors that influence commercial and contractual negotiations and relationships.

On the other hand, the principles focus on arbitration as the preferred alternative of dispute resolution. Besides, other general provisions such as the freedom of contract, no form required, usages and practices, matters not covered in the agreement, relevant mistake, damages, unilateral

declarations, interpretation, the intention of the parties, linguistic discrepancies and performance are mentioned.

This dissertation aims to look at the language as cause conflict. In that sense, being the linguistic discrepancy a vital matter for this research; It is essential to look at the part where the principles took into consideration that aspect. The document establishes that when a contract was drawn in two or more languages, and all the versions have the same interpretation's authority, the interpretation authority will be given to the version that was first drawn. Besides, the UNIDROIT document have considerations regarding clauses or agreements that broke mandatory rules at a specific country; when parties are not always completely aware of the counterpart's local legislation is another common cause of international conflict. Even sometimes, parties do not know well their jurisdictional law. It means that a lack of legal advice in negotiations or drafting contract can generate law infractions.

Overall the UNIDROIT's principles of the intents to be a guide for international and commercial relationships. It considers broad circumstances and factors that can be present in these particular relationships, fo that it can be helpful to prevent and manage conflict, moreover, to resolve disputes. The agreement negotiation is a critical moment where these principles should be taken into consideration, even more during the preparation of parties before entry to the bargaining. Looking for reliable and valuable data can be a huge help during this process.

1.4 The Global Negotiator

The literature brings a whole perspective across international negotiations. It makes an in-depth analysis of what are the challenges that negotiators can have in a negotiation where international

parties and different languages are involved. It affirms that the significant part of behaviour in negotiations is merely intuitive, and it can be successful when the cultural context is similar. It affirms that dealing with international parties requires taking a "*conscious style"*. Being aware of the differences and understanding them is essential to the success of any negotiation o relationship between foreign parties.

The language is defined as the main denominator in communications, and when a foreign language is present, the negotiation process is the essential stage to prevent and solve a conflict. The literature says that is required a *"relationship orientation"* to have a successful negotiation rather than a *"deal orientation".* It describes two main problems regarding deal orientation; the first is the issues regarding the interpretation and the enforcement of an agreement when different legal jurisdictions are taking part in the relationship. As a second problem, *J. Griffin and W. Russell* explain the factor of the world dynamic. A deal cannot be static; it has to have the instruments and processes to modify it.

The work explores an extensive list of examples of negotiation, focused on one side the typical American style that US companies tend to use, on the other side explores different cultural scenarios like the Japanese, Korean, Russian, Chinese, and Latin American. Through these examples, the authors try to create awareness in the readers in how the cultural condition matters. One of the chapters discusses the global skills that are needed to deal with an international party in a negotiation. It explores the importance of taking care of the relationship has and how it brings value. According to the authors, building relationships has to be the aim of any international relationship, do not do deals is a statement that has to be the prime approach when people deal with a foreign. One of the premises of the book is that people tend to be the same, in characteristics such as temper, personality, ethics, etcetera but cultures are not. It says that international relationships

and negotiations are unique because the culture and language create barriers to agree and opportunities for conflicts that would not exist between national parties.

Moreover, the book explains how the variances between international parties can be extreme. Variances such as assumptions, biases, myths, experiences, and cultural learning can create misunderstandings with dangerous consequences for relationships and negotiations. Effective communication is considered as the first step to build a profitable and robust international relationship. Focusing on the language, the authors recommend that when a negotiation involves a person speaking English as a second language, English native speakers should to use a simple and straightforward language to avoid misunderstandings; and assessing problems about intercultural communication occurred in interpretation and translation in this context.

In conclusion, *The Global Negotiator* brings to this research a valuable insight into international negotiations and where parties with different languages are implicated. This work aims to establish that negotiation is the best way to prevent and manage conflict in a commercial and contractual relationship between international parties. In that sense, the book is helpful and applicable to this research, although in the ’90s when it was writing.

1.5 Analysis of Complex Negotiations in International Business: The RBC Perspective.

The work explores how international negotiations are between organisations, business- business and business-government. This research is focused on the commercial and contractual relationships, so the analysis of business- government is not taking into consideration. From the author’s point of view, this topic has been few researched and that how the issue’s complexity makes a challenge. It explains the elements and dynamics challenges, especially those researchers and practitioners who

seek a comprehensive yet essential understanding of these negotiations. Also, it develops a new analytic perspective that focuses on "*three critical facets of negotiation-parties' relationships, parties' behaviours, and influencing Conditions (RBC) and their essential interaction"* (Weiss, 1993).

The RBC perspective is an inclusive and analytic tool to understand complex negotiations. The perspective's objective is to improve the process and the outcomes of international negotiations. Traditionally aspects, as relationships, behaviour and conditions are critical angles, analysed in bargaining. However, the RBC focuses on parties' relationships as the cornerstone of international negotiations. When relationships are assessed, conditions and behaviours can be visualised as a consequence of the relationship.

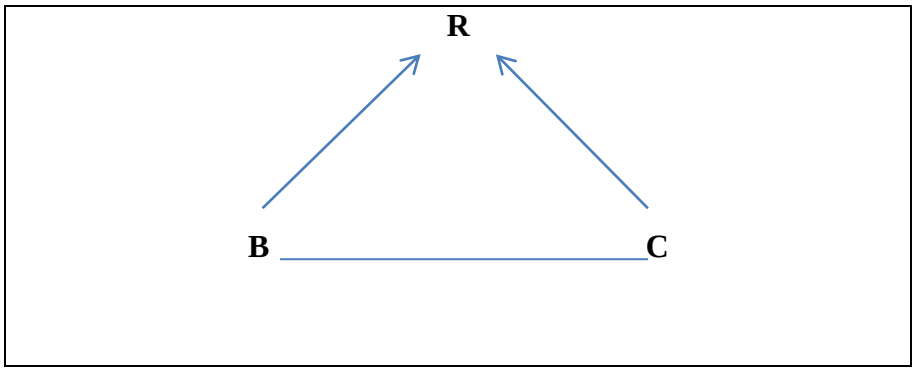

Figure 1. The RBC Perspective

Relationships between primary parties	*Behaviour of the primary parties*	*Conditions*
Inter-organisational	*Organisation*	*Capabilities*
Intergroup	Groups	*Cultures*
Interpersonal	Individuals	*Environment*
Cross Level		

"Relationships between primary parties" (Weiss, 1993) is the base of the perspective. The author affirms that the nature and the origin of the parties should be analyses separately. The definition of a relationship could be the connection or space between parties. That means that everything that is between the parties and can affect them are part of the relationship. Also, It is presented the "*relationship as a focus"*, which is explained as interdependence in the consequences of behaviour.

In general, the RBC perspective makes a complex and dynamic scheme, conceptual maps and flowcharts, which are filled with all the factors that are present in negotiation between international parties. Even the author says that his work will be helpful to future researches in the field. Here, Weiss affirms that international business negotiations are complex, and many factors affect the whole perspective. In consequence, it is why all the elements have to be analyses at the beginning as sole elements. Once the independent analysis has been made, the interconnected factor analysis has to be done. Even when the relationship is considered as the main factor in the negotiations between international parties, more components play a crucial role, and they have to be taken into consideration. In the "*relationships between primary parties"*, elements as inter-organisational, intergroup, interpersonal, and cross-level are considered as crucial influencers. "*The behaviour of the primary parties considered aspects as an organisation"*, groups, and individuals. Finally, "*circumstances, capabilities, cultures, and environment are the elements that integrate the conditions as the third element of the perspective"*.

1.6 Commercial Conflict Management and Dispute Resolution

Peter Fenn summarises the most important techniques designed to resolve commercial conflicts and disputes. His work mark explanations of the principles and methods for conflict management, such as

negotiation, risk management, mediation and conciliation. Besides, it goes deep to cultural issues and is illustrated with case studies from examples as diverse as Mumbai's Dabba Walla, The First World War and Terminal 5 at London Heathrow.

This literature starts trying to explain the differences between conflict and dispute. Looking for a good understanding help the reader to visualise that conflict cannot be avoided while good conflict management can avoid dispute. A debated if a conflict can be avoided happen very often when the topic is on the table. On the one hand, there are people that thing that all conflict can be avoided if it can be predicted and enough measures can be taken. On the other hand, supporters of the traditional thought, think that conflict is unavoidable, and in that order only can be managed (Fenn, 2012).

Dispute avoidance is a fundamental concept that the study uses. It makes avoiding the dispute as to the main aim of conflict management. The whole purpose is to try to avoid that parties entry in a dispute because it is considered as unfavourable to the parties. In contrast, Fenn presents the conflict "*as inevitable an essential part of the dynamic capitalism"* (Fenn, 2012). Conflict as a positive element in a relationship is well supported for the majority of the authors. For this author, conflict management is the main alternative of dispute resolution; if a conflict is well managed, the dispute can be solved or avoided.

Moreover, the literature brings the economic aspect to the discussion. An element that in a commercial relationship is indubitable is in the top of the three priorities of parties. Also, a vital aspect to take in consideration is the difficulty of quantifying the cost of a commercial conflict or dispute where the cost something that should be avoided (Fenn, 2012). A noticeable discussion is how in the commercial and legal field, the effort and resources are invested in dispute resolution while dispute avoidance can solve

in a significant percentage the reason why parties get into a dispute. In consequence, it would reduce the tension and deterioration of the relationship significantly through traditional litigation or any ADR. Moreover, it could preserve relations and maintain value for money. This statement will be taken into consideration for the conclusions of this dissertation.

Fenn as well explores the contractual matter and discuss regarding the process of contract formation. He says that parties should be aware that sometimes the right thing to do is not always in the contract. Creativity is a fundamental element that has to be present in any negotiation because the parties have to have the ability to create alternatives that can make a win-win in the commercial relationship. Parties being just focused on the contractual clauses as unmovable narrow the vision to bring new positive gains to the parties.

The study considers the contract in commercial relationships as the crux of conflict avoidance (Fenn, 2012). It is essential to take enough time to draft a contract because it should reflect the intentions and strategies that parties want to use in the business. It has to describe the transaction correctly and contain clauses that explain how to do changes or vary the process at any stage. Also, it has to contain tools to assess the business or implement new ways to do it. Besides, Fenn presents "culture confusion" and "the reluctance to acknowledge risk" as to the two leading causes of failure in conflict management. In contrast, project culture, effectiveness, leadership, and supplier behaviour as the main elements to be successful in conflict management.

1.7 The ABA Guide to International Business Negotiations: A Comparison of Cross-cultural Issues Successful Approach.

The literature provides strategies to lawyers into e-commerce based international negotiations, including how to build trust in negotiations while using internet communications technologies, cultural background and overviews of legal systems for specific countries, substantive regulations which impact negotiations, and current issues in negotiating business agreements online. Indeed, it is an essential aspect in these days that technology is an easy way to make agreements and trade due to the global situation. Nevertheless, at the same time technology can bring valuable elements to solve conflicts (Jacqueline Klosek, 2009).

The authors explore the creation of a reputation as one way to build trust nowadays. Using the internet and by customer's feedback is a widespread tool that companies are using to built reputation to attract more customers. Although it is true, this research is focused on commercial relationships and not in consumer relationships. However, actors must look at their reputation as a relevant matter for on-going and future negotiations. The ways to build trust in the internet and real space are different, but both have the same impact in counterparties. Besides, business ethics in negotiations are explored as a positive way to transform business. It will help to rethink the nature of business and redefine the practice (Jacqueline Klosek, 2009). In this regard, the principles of business ethics aim to change hostile bargaining for a cooperative atmosphere that helps to strengthen the relationship between parties, transforming them to liable and sensible social/economic actors.

Moreover, according to the ABC, foreign customs, language, and culture are additional agents making more problematic the negotiation process that can affect the negotiator's criteria turning it less certain

(Jacqueline Klosek, 2009). Besides, focused on technology and the new way to do business in the cyberspace, the cost of doing business, the privacy, and communication barriers are more agents to considerate in this new way to negotiate. The use of internet has been increased the global contact in that sense the international business has been exponentially growing.

Regarding the law, the literature enlists a series of issues to considerate in international business: The validity of the agreement, the enforceability, the government law, export-related issues, jurisdiction, structures and taxation, capacity and language, and unconscionability (Jacqueline Klosek, 2009). Besides, a reference to "*The Tescant Model"* is made; this model represents seven spheres in which cultural conflicts arise and deal with international business communication. The acronym is set for *"Language, Environment, Social Organization, Context, Authority, Non-Verbal"* (Victor, 1992).

1.8 Getting to Yes (Negotiation an agreement without giving in)

This dissertation affirms that negotiation is the most suitable approach to conflicts in commercial and contractual relationships between foreign parties. In that sense, this literature comes to be a particular part of the study and discussion. *The Harvard Negotiation Project* was created in the late 70s to develop ideas and practices that practitioners can use to negotiate. Furthermore, they were able to elaborate and develop a theory that is now known as *"The Theory of Principled Negotiation"*. That theory came to revolutionise the way to negotiate; it encourages changing the harmful causes of the conflict to the possible positive outcomes, and it goes from people being enemies to people being facilitators and looking for the trust between parties. Besides, focus on common interests instead of to focus on the parties' position in another critical element made (Staff, 2018).

> Four are the introductory statements of the principled approach. *"1. Separate the people from the problem. 2. Focus on interests, not positions. 3. Invent options for mutual gain. And, 4. Insist on using objective criteria"* (Fisher, 2012).

Separate the people from the problem, looking at counterparties like adversaries or enemies instead of a possible partner or collaborator in the process to reach an agreement or solve a dispute is a significant problem. Taking negotiation as a personal matter brings many risks, including the possible breakdown of relationships in an early stage as the negotiation. That sounds like a piece of good advice, whereas in certain kinds of conflict, people are not able to separate them. However, in a commercial and contractual negotiation between international parties, it is not common to negotiate personal issues; it can happen between family businesses where the goals or the controversy sometimes involved people.

Nevertheless, feelings may become part of the conflict in international and commercial relationships because it is not very easy to maintain personal emotions and personalities out of the negotiation table. The Harvard approach takes the human being as a factor that can ruin or save a negotiation. It is essential to be aware that negotiators are humans and have feelings. In that sense, in a negotiation, negotiators need to be conscious that hurt feelings or susceptibilities of counterparties would build a barrier between them. Treating people as we would like to be treated is a good starting point, but maybe that is not enough. Negotiators need to be aware of particular circumstances and differences and be more careful and thoughtful in order to prevent or avoid, at a minimum, impairment in the relationship; there is where emotional intelligence has to be used.

The authors describe as one of the principal problems that actors negotiate on positions instead of on interests. That essential point can bring a vast number of possible solutions. It is expected that when

people have a conflict, they cannot see further away than their positions and they sometimes forget their primary interest. In that sense, they are not able to see that perhaps they have a similar interest with their counterparties or even the same interest, which would significantly increase the possibility of a successful outcome for each of the parties (Fisher, 2012).

In many negotiations, parties are focused only on their positions and interest and proposals are almost only just beneficial to the presenter. They usually work and try to find a solution without taking into consideration the other party´s interests. Empathy and collaboration with the counterparties are essential elements that negotiators forget when they are drafting proposals or looking for a solution. If there is a good understanding of the other party's interest, it will be less challenging to reach a deal that gives satisfaction to all parties and strengthen the relationships between parties. A traditional way to negotiate focused on their interests, instead of having a look at counterparties' interests. It could beneficiate the atmosphere and create trust between parties helping each other to find a possible and joint solution. It will make sense of willingness and gives satisfaction to all the parties.

The third statement of *"invent options for mutual gain"* (Fisher, 2012), it is essential for negotiators to try to be open-minded in order to find a wide range of possible solutions. Being creative can be beneficial to all parties and could strengthen the relationship to reduce potential future conflicts. Contrary to this statement, there is an enormous possibility that an agreement that does not satisfy all the parties involved would come back with the same or other conflicts in the future, then the relationship would be in risk and starts deteriorating.

Having objective criteria in a negotiation can build trust along with the parties (Fisher, 2012). Nevertheless, that may not be enough if there is a lack of fairness and rationality. Objective criteria can

be used just to attack or show weaknesses' counterparties. Therefore, in that sense, negotiators need to be objective and looking for fair criteria that can be useful to support their proposals. It needs a hardworking process of preparation in order to get the principled approach. *"Insist on using objective criteria"* is called by William Ury and co-author (Fisher, 2012). It is a good negotiator job to know that his proposal or positions are fair enough supported with reliable data. The objective data can be obtained from government reports, ONGs, public financial information, etcetera. The fairness given to the position will help to two crucial points in the negotiation the offensive and the defensive. They two elements are necessary and essential in order to convince counterparties that your proposal is fair. Offensive and defensive perhaps have implicit a sense of competition o fight (Fisher, 2012).

Nevertheless, it is not, having a good offensive does not mind that the negotiator has to attack the counterparties. It has to be related to the proposals and positions, not versus people. They need to have strong arguments that can be clear and fair enough. The arguments given from the objective criteria and data will bring the opportunity to overcome, in most cases, counterparties´ positions and proposals. On the other hand, about the defensive, fairness will give strength to the position and proposal presented to face any attack or bout made for the counterparties.

To summarise, the aim firstly is to make a constructive process instead of trying to destroy the counterparties to win. This approach has to start with a good preparation where one has to look for objective criteria data to build an agreement proposal. Also, find for information about the parties that can be used to build a good relationship between parties involved not to destroy them if not to understand their interests. It is vital that in all the stages of negotiation, parties can separate people from the conflict. It is challenged, but it is an essential task to use the principled approach properly. Interests, most of the time, are underappreciated, parties tend to focus on position forgetting that

position is just one way to reflect the interest behind it. Knowing interests allow people to be able to find other options that satisficed counterparties. That fact will bring an opportunity to get an agreement where all parties have something to gain. It will be the best way to prevent possible future disputes about the same issue. Even, it gives the benefit of a more substantial relationship that, without doubt, creates mutual beneficial outcomes.

CHAPTER II

RESEARCH METHODOLOGY AND METHODS

2.1 Methodology

The topic of this research explores a mix of fields. Firstly, the social behaviour of people through conflict with foreign agents as language and culture, the business nature of the commercial relationships, and the legal element of having a contract that governs the relationship between foreign parties. In that order, a mixed methodology has been chosen for being more suitable to the aims and objectives wished, and because of the particular aspects involved. This decision is based on experts in the field of research. The quantitative data is looking in order to prove the hypothesis that foreign language and legal frameworks are a primary source of conflict in international and commercial relationships and qualitative data is looking more in-depth and detailed information related to the topic such as causes or consequences. Also, the mixed methodology is the standard in the business and social research field.

Research methodology can be simple defined as the way and process that data is collected in the research. Some authors, like O'Leary, says that the research methodology is *"macro-level frameworks that offer principles of reasoning associated with particular paradigms assumptions"* (O'Leary 2017, p 378). Furthermore, the inductive methodology is chosen to be used for this work because the study pretends to research and observe experiences and thoughts from participants. At the same time, it will be able to obtain information from previous researches and case studies to find the best way to approach these specific kinds of conflicts, besides, to the legal framework and guidelines that will be incorporated to try to complete all the fields involved in the topic (Saunders, et al., 2009).

Moreover, this research aims to develop techniques and procedures to solve a practical problem, beginning with the explanation of the causes and consequences of a well-defined problem (Saunders, et al., 2009) (conflicts in commercial and contractual relationships caused by foreign languages and legal frameworks). In consequence, the inductive methodology is suitable for the research as it shares the aim to develop a theory seeking precise conclusions about an established issue, resolution and prevention of commercial conflicts in contractual relationships between international parties caused by different languages and legal frameworks.

2.2 Methods

The present dissertation is using mixed methods; quantitative and qualitative are considered ad hoc and suitable for the aims and objectives of the research. Surveys and secondary data from past studies and international legal guidelines are the methods chosen.

1.- Surveys, through a thirty questions questionnaire, using twenty-five closed questions with multiple choice answers and five open-ended questions. The survey was seeking for professional people who have been involved in business or contractual negotiations with foreign parties and where a foreign language is used. Also, It is looking for people who have been in a professional or commercial relationship with a foreign party (Appendix I). The questionnaire was structured into three sections to keep the participants focused on the context that each question is asked. The order of the questions was chosen carefully to avoid inducing the answer of the participants. Besides, it is aiming to create awareness in the participant and avoid any misunderstanding. Even, the questions were mixed, so the open questions are not consecutive, the participant has not to answer two open questions in a raw. It

facilitates to the participant do not get bored or apathetic through the survey. The three sections are the general information, negotiation and relationship after an agreement is signed.

The general section aims to obtain general data about the survey participants the first ten questions are asking for information regarding the nationality, the language, range of age, professional background, gender, how the participant copes with conflict in the personal life, what means of communication are the prefered to use when a foreign language is talked. These factors play an essential role in the data that it is pretended to obtain because they can show the contrast in how the generational age influences the approach toward conflict. Asking the mother tongue will show how language can affect conflict and the way that it is seen from different nationalities. Even, It has design the survey in two different languages, English and Spanish. It aims to find in more agents attached to these two languages. Besides, gender is brought into consideration, and I believe It could bring an exciting sight about this factor and how it affects in conflict management. Therefore, questions eight and ten are specifically to obtain information regarding how the participants perceive and reaction at conflict.

The second section is named contractual or business negotiation process. At this section, that the participant can be conscious in more grade about the aim of the survey; the questions are getting more deeply in order to make it more accessible to the participant and less challenging to answer the questions. The section is looking for data that help to build the research and demonstrate how the bargaining process is executed in distinct countries. It will show which feelings are associated where the negotiation has agents such as foreign parties, different legal frameworks, and a different language. Also, which parties are usually at contractual negotiation sessions, and if professionals as lawyers and interpreters are considered to be present. It can give data to visualise the importance that people usually pay to these aspects in a business.

The last section covers the commercial and contractual relationship. Here the participants will have the opportunity to share thoughts regarding the conflict after a contract is signed or when the businesses are running. Trying to obtain valuable information about why people tend to pass from conflict to dispute and which are the alternatives of resolution that participants use. Looking at how people deal with emotions, and the actor's behaviours at this stage will be essential to the aim of the research. Also, it is noted at the importance that the two main factors language and legal framework have at this stage. It will be interesting if there is a difference in comparison with the negotiation state when the relationship just starts. It will be exciting to try to find what causes the differences. The tool used for the survey is the google forms platform that is an online motor that helps to build surveys and creates a link easy to share with people by e-mail or any other online application, It will facilitate communication to people in other countries. Finally, looking for more thoughts or feedback of the participants, at the end of the questionnaire is an open question to share it.

2.-. Previous studies, this work has considered as previous central studies those related to language conflict, negotiation process where the factor of international parties is explored. Besides, It is analysed objective data as the UNIDROIT (International Institute for the Unification of Private Law) that offer a guide of how a commercial contract can be built and which aspects have to be considered.

2.3 Justification

This research used qualitative and quantitative methods. On the one hand, the qualitative research method is a straightforward way to approach this research. It will be necessary to understand behaviours, feelings, thoughts, and experiences. This work will enable us to gather in-depth insights on

topics that are not well understood, and it can be used to establish generalisable facts about a topic. The methods used will be interviews, case studies, and discourse analysis. On the other hand, the quantitative methods as the survey will be used to confirm the hypothesis if the language and legal frameworks are the primary cause of commercial conflicts in contractual relationships between international parties. One of the aims of this research is to produce broad and generalisable knowledge about the causes of the conflict with these particular characteristics.

This methodology was chosen because it provides accuracy, contribute to the evaluation of the topic from different perspectives, is practical and can help to compensate for the weaknesses and strengths of each method (Denscombe, 2014). However, it imposes some challenges as noted by Denscombe it can increase time and costs, it is needed the development of skill to use several methods, and sometimes the *"the findings of different methods do not corroborate one another"* (Dudovskiy, 2019).

It is known that quantitative surveys and qualitative interviews entrust on participants' ability to precisely and sincerely remind details about their experiences, circumstances, feelings, thoughts, perceptions or behaviours that are being asked (Kong, 2020), as Esterberg says :

> *"If you want to know about what people actually do, rather than what they say they do, you should probably use observation [instead of interviews]."*(Esterberg, 2002)

In that order observation, it is no possible way to obtain data for this research due to the implications of such activity.

2.4 Ethical considerations

Ethics, as in all the disciplines and aspects of personal o professional life, are powerfully relevant. Research without ethical considerations will be not allowed any circumstances for any organisation. In

that matter, this work and I will always follow ethical guidelines. The work will consider the rights, prestige, and the good name of the participants above all. Any moment that these aspects could affect, there will take enough measures to ensure protection and safeguard.

Moreover, regarding data privacy, it will be relevant to take the legal considerations as to individuals and organisations based on the Principles of the Data Protection regulation Act 1988 as the followings:

Table 1. Article 5 GDPR

Article 5 GDPR
Lawfulness, fairness and transparency at the process it.
Purpose limitation with explicitly stated purposes.
Data minimisations, relevant and not excessive.
Use the information accurately.
Storage limitation.
Keep the information on file no longer than necessary.
Integrity and confidentiality
Accountability.
Comprobate that the principled of data protection is followed.
Never transfer the information outside the EEC without adequate protection

.

The ethical considerations in the collection of data are the privacy and confidentiality of the participants is the reason why the survey is anonymous, and it could not relate the answers with the name of the person. The exception was those people that showed interest in being interviewed in the future, and they leave their contact details like name, number phone and e-mail. Participants were informed of the treatment of their data and the confidentiality of the information (Appendix II).

The survey specifically was sent to people related to the topic. It was attempted that all the participants had experience in international negotiation or commercial relationships; in that regard, the open statement of the survey gave a full description to the participants.

CHAPTER III

PRESENTATION OF THE DATA

The topic of this research is related to the area of dispute resolution being this work part of the master in arts on that field, and it is essential to have this link. Firstly, the conflict is the central aspect, and one of the aims is to show the agents that create that kind of conflict. However, conflict is broad, so it is narrowed to the commercial and contractual relationship with one additional agent, the internationally of the parties involved in those relationships. Furthermore, it is narrow even more when it is focused only on foreign language and legal frameworks as a cause of conflict. Being negotiation as one of the alternatives to dispute resolution is evident that this work meets that requirement. It is looking at the conflict phenomena caused by foreign agents as different language and legal frameworks. Then review and take into consideration past studies on that field to build ideas and hypothesis in that regard. It is seeking for methods that can create awareness between the actors in negotiations and parties in an international commercial relationship to prevent the conflict as another aim of this research. Besides, looking for the best approaches to solve and manage conflicts caused by language and legal framework in commercial and contractual relationships. It is noticeable that this topic is related to the dispute resolution field. Management conflict, avoiding disputes, solving disputes and conflict through the negotiation approach is the primary aim of this research. Finally, this dissertation aims to create a specific approach to deal and avoid this particular problem (Conflict and disputes created by foreign language and different legal frameworks in international relationships).

3.1 Sources

Primary sources contain first-hand information, meaning that it comes from the author's account on a particular experience that s/he participated in (All Answers, 2003). In comparison, the secondary

source is understood as *"narrative-based or evaluative information sources collected from other actors"* (Wisker, 2019, p XV11). This research tried to obtain a significant percentage of primary data from the survey, trying to use in a minimum percentage the secondary from previous studies.

It is essential the considerations about interview and surveys. An interview can be defined as *"a method of data collection that involves researchers seeking open-ended answers related to several questions, topic areas or themes"* (O'Leary, 2017). Interviews have advantages, according to (Dudovskiy, 2019) they can provide adequate details and in-depth information, and give the researcher insights, and the equipment used is simple. It can be a *"rewarding experience"* (Dudovskiy, 2019). However, the interviews have a weakness, there is a level of bias involved in interviews and cultural differences, the information can not be reliable, and it can be a time-consuming process (Denscombe, 2014).

The reports from government agencies provide a good source of data however as noted by Denscornbe; it should be analysed with caution, as *"it would be naive in research terms to simply accept information from such sources as self-evidently true and beyond the need of scrutiny*" (Denscombe, 2014). The data will be analysed correlating the findings and different arguments to conclude, a mix of a deductive and systematic approach to interpreting it. Deductive logic can be understood as the use of *"an overarching principle to conclude a specific individual"*.

Overall, it is pretended that the primary data collected and the theories of previous studies in areas such as psychology, sociology, law, and others can bring to the research the expected outcomes. Outcomes such as find the best approach in the negotiations by this specific context (cultural and legal) conflicts in contractual relationships between international parties with different legal frameworks and

languages. Finally, this work will able to show how parties can prevent conflicts in contractual negotiations and relations based on the theory of the conflict and management of conflict and in the data obtained.

3.2 The Data Collected

Eighty participants with the following results answered the survey. The objective and justification of each question are presented in this section. It will allow the readers to have a flow in reading and helping to a better understanding of what is intended from each question. The data is shown in different ways; some questions are focused on quantitative features, and others the data collected is merely qualitative. For that reason, the measurable data, numbers of respondents and the percentage are the only illustrated by tables and charts. Whereas the more profound and open questions answers are classified in groups of similar answers where it can be possible; it is attempted that the readers can see similarities and contrasts without any researcher's opinion.

3.3 The Survey Questionnaire

3.3.1 Section I. General Information

Question number 1

The native language

Objective

This question is seeking to obtain a general picture of the participants' language. It helps to see what are the differences and contrasts within respondents' positions and thoughts among the same language and another one.

Results:

Table 2. The native language of participants

Chinese/ Mandarin	2
English	3
Korean	1
French	3
Japanese	4
Italian	2
Spanish	50
Portuguese	13
Filipino	2

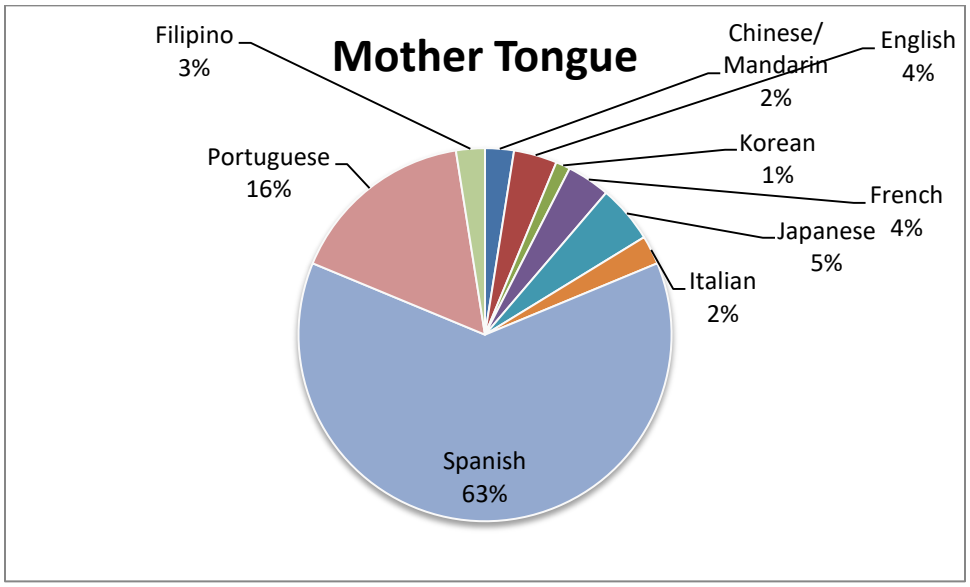

Figure 2. Percentage of the native language

Question number 2

Nationality

Objective

Knowing the nationality of the participants helps to start building an idea about how the countries' culture can play a role in dispute resolutions. Also, it seeks for similar features in those countries towards conflict management and how individuals tend to solve commercial and contractual issues. This data can provide an essential value to this research.

Results:

Table 3. Nationality of participants

Country	**Number of respondents**
Mexico	40
Brazil	13
Japan	4
Spain	4
Argentina	3
Chile	2
China	2
France	2
Ireland	2
Philippines	2
Colombia	1
Italian	1
Nicaragua	1
South Korea	1
Taiwan	1
USA	1

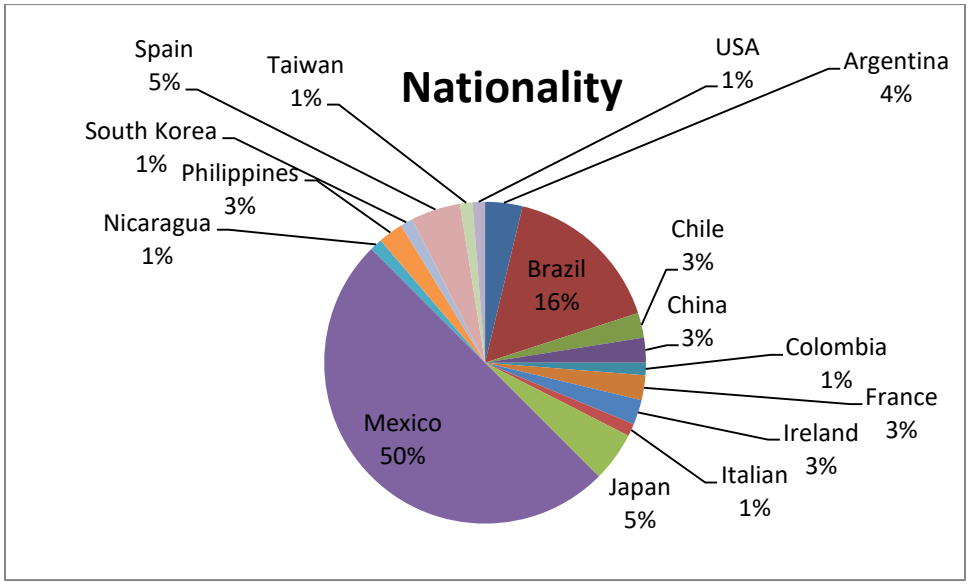

Figure 3 Nationality of the participants

Question number 3

The range of age of the participants

Objective

Age is an agent that influences decision-makers; Also, It can bring aspects such as customs, values, among other features that affect directly conflict dynamics. Tha is the reason why age is asking in the survey trying to obtain how this aspect influences conflict and resolutions. Besides, the different generational perspective is observed how new generations are now dealing with conflict.

Results:

Table 4. Range of age of participants

Range	Number of participants
20-30 years	33

31-40 years	33
41-50 years	9
51-60 years	3
<60 years	2

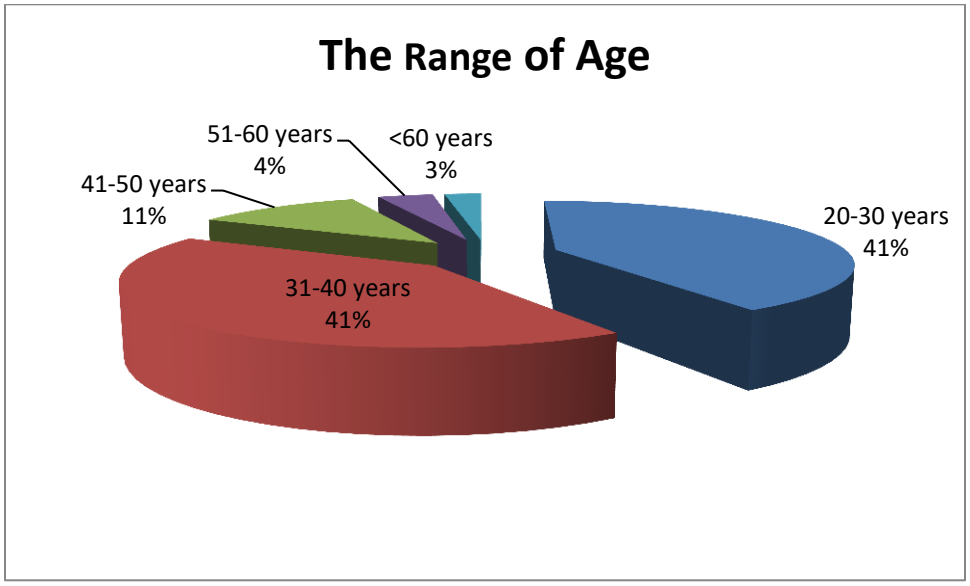

Figure 4 Percentage of the range of age of participants

Question 4

The gender of the participants

Objective

Differences between genders always have been a polemic and exciting topic. On the one hand, the difference in how gender can manifest itself influence conflicts by gender approaches. On the other hand, how gender plays as an agent that influence conflict management and resolution.

Results:

Table 5. Participants' gender

Identified Gender	Number of participants
Female	29
Male	51

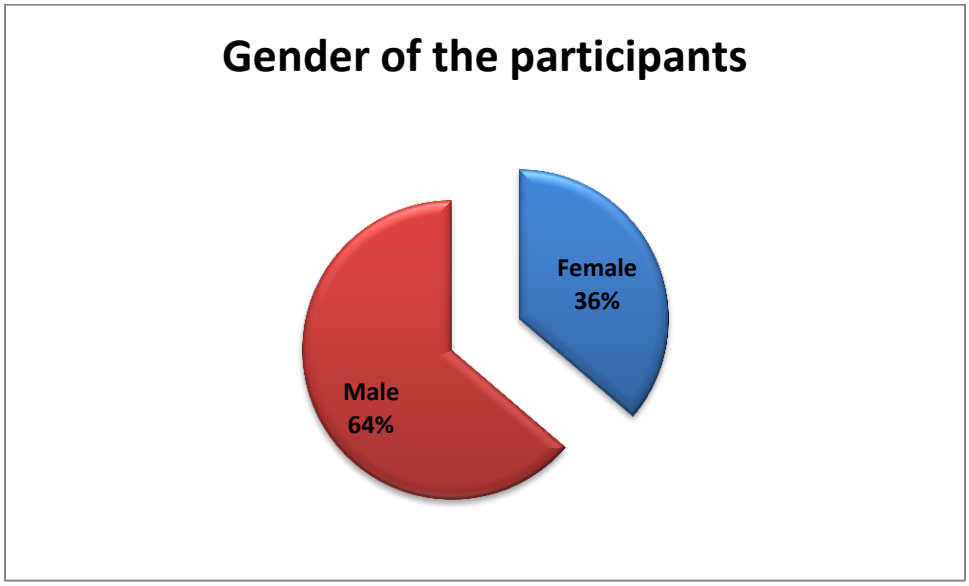

Figure 5 Percentage of the gender of the participants

Question 5

Years of experience in their fields

Objective

The experience is another factor that plays a role in general life. The way to see and cope with conflict is no the same when people are beginners even more in commercial and contractual negotiations and relationships. People tend to learn from their mistakes and situations that they have been involved in. That is why this question was chosen, obtain this data can give to the research a general view of the

time of experience of the participants. Besides, a contrast between the answers to those range of time could be explored.

Results:

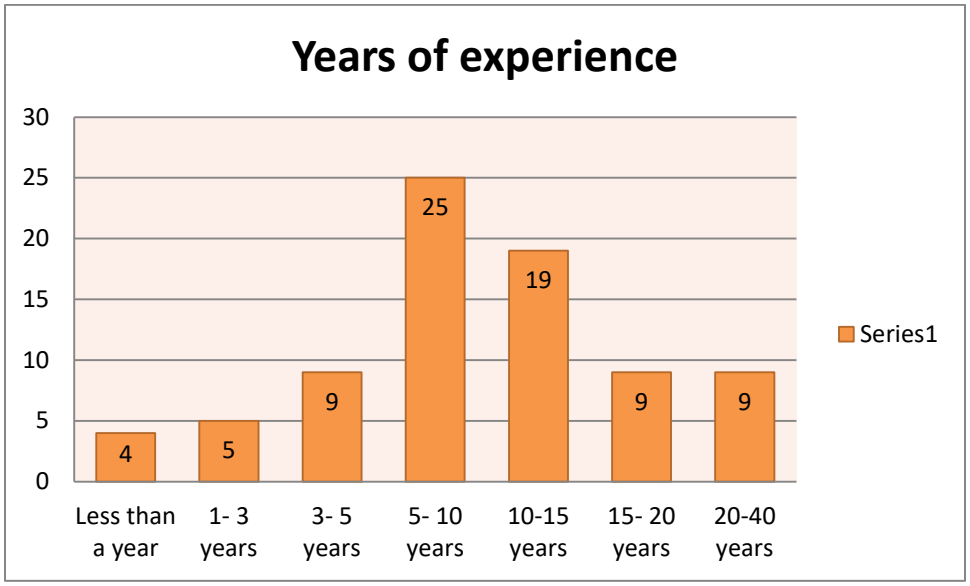

Figure 6 Years of experience of the participants

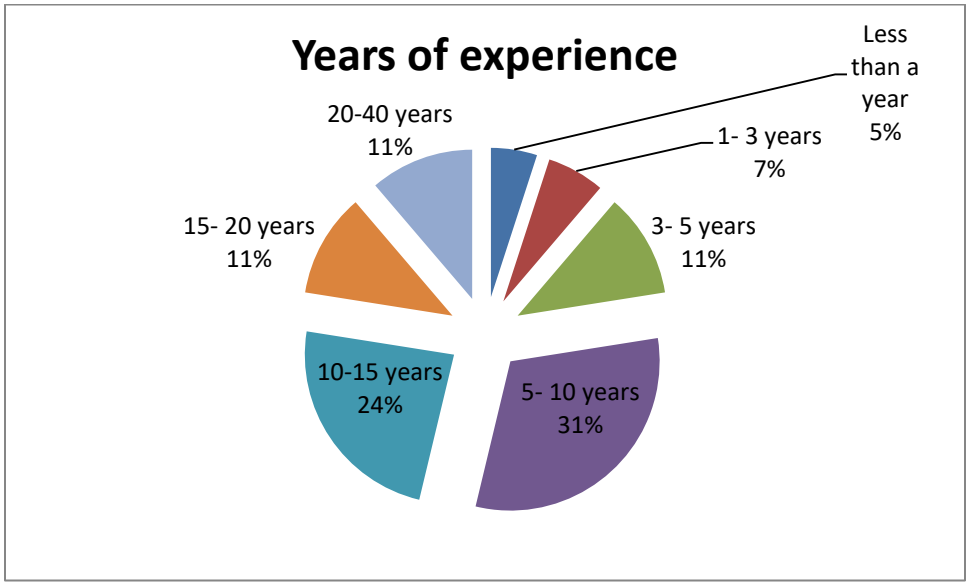

Figure 7 Percentage of the years of experience of the participants

Question 6

Industry sector of the participants

Objective

Differences between sectors of the economy are common in the world. Particular customs in those industrial sectors can give to this work valuable insights, and it can show if there are pieces of evidence of different approaches regarding the sector in which people perform. Moreover, look at if those can cause conflict or contrary help to solve a conflict in a better way.

Results:

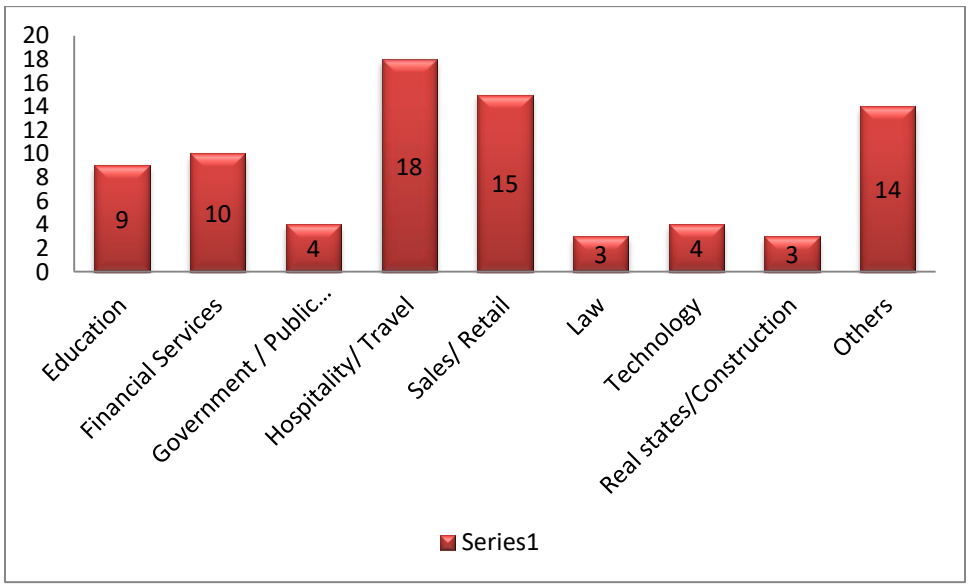

Figure 8. The industrial sector of the participants

Question 7

The participants were asked if they are lawyers

Objective

One of the research questions of this work is if different legal frameworks are a primary cause of conflict in commercial and contractual relationships between foreign parties. In that sense, it is vital to make a differentiation between law professionals and people without a legal formation. Seeking how much importance negotiators give to the legal aspect of contracting and commercial relationships. Moreover, looking at the knowledge that they can have regard to alternative dispute resolution is part of the objective.

Results:

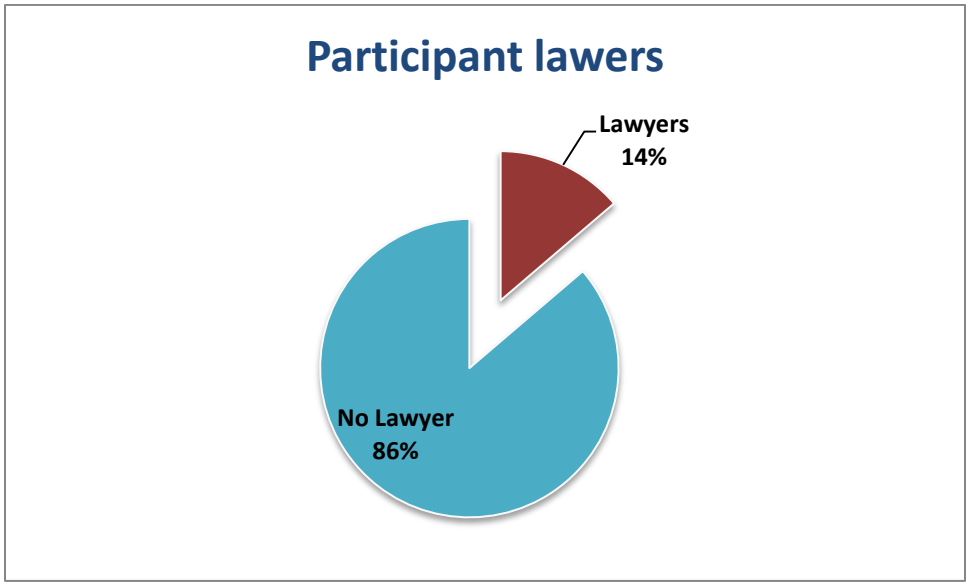

Figure 9. Percentage of participants lawyers

Question 8

When you are in communication with a foreigner who does not speak your native language, What do you consider is the most complicated aspect, or what worries you the most?

Open question

Objective

Question 8 aims to see how participants feel regarding communications with a foreigner counterpart. It will be interesting how people worried at those situations, moreover, look at how those emotions created beforehand can affect the interaction. Furthermore, looking at how English speakers react to this question when it is known that English is the most used language in international commercial transactions.

Justification

The number 8 is an open question because it is intended to do not influence the participant's answers. At this stage will be useful to have first and honest thoughts from the participants.

Results:

Table 6. Complicated aspects or worries in foreign communications

Complicated aspects or worries	Number of times answered
A well understanding and avoid miscommunication	53
Grammatical aspects	11
Cultural differences	6

The accuracy of the translation and interpretation	3
Nothing	2
Related with feelings	1
Legal issues regarding legislation	1
That the other person speaks English	1

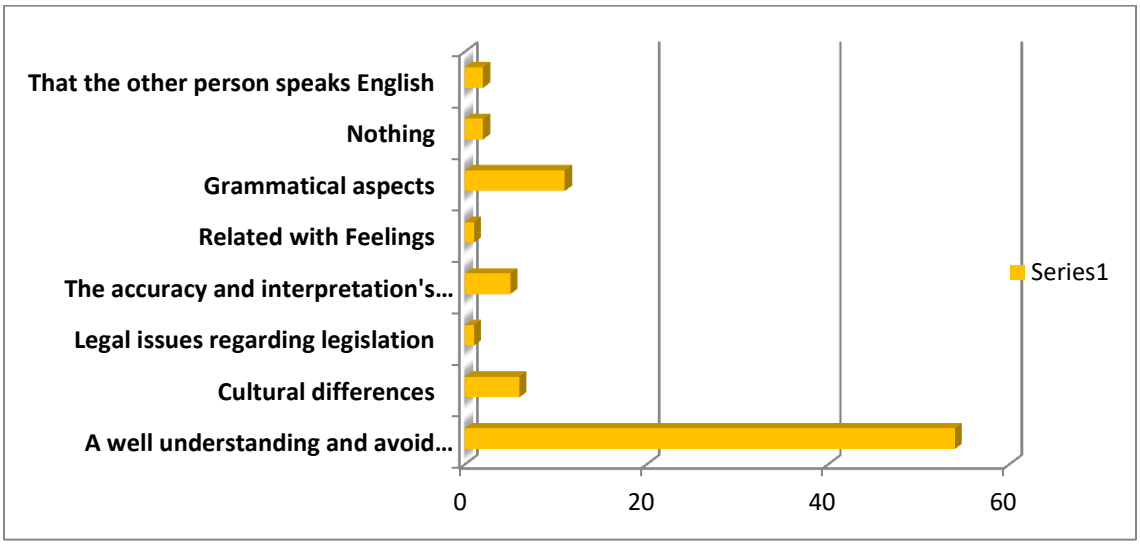

Figure 10 Complicated aspects or worries in foreign communications

Question 9

In a communication in a different language than your native language, which means of communication would you choose?

Objective

This question has two aims; one of them is to know in which means of communication negotiators feel comfortable. Having that data, the researcher can explore them looking for valuable information. The

second one aims to look at the most unconformable means of communication for negotiators, then as well explores more profoundly.

The options were:

i. Written (Text message or e-mail)

ii. Spoken and face-to-face

iii. Spoken on the phone

iv. Virtual (Video conference)

Results:

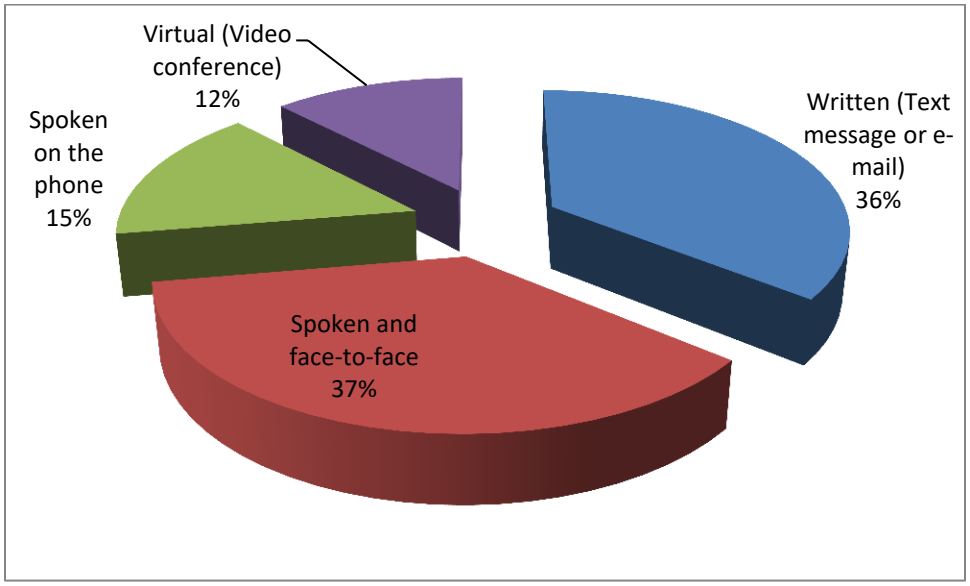

Figure 11 Means of communication prefered

Question 10

Which feelings do you relate when you are facing a personal (family, friends) conflict?

Open question

Objective

This question aims to know how participants cope with personal conflicts and looking for differentiation or similarities between professional and personal situations. Besides, it tries to obtain essential data about the common reaction towards conflict. This question is closely related to number 12 and 23.

Justification

As all the open questions of the survey, the open style was chosen to try to do not induce the participant's responses, giving them multiples options.

Results:

Table 7. Feeling related to personal conflicts

Feelings	**Number of answers**
Anger	27
Anxiousness	23
Frustration	15
Sadness	12
Fear	7
Confusion	6

Stress	5
Embarrassing	3
Dislike	2
Powerless	1
Tiredness	1
Depression	1
Deception	1

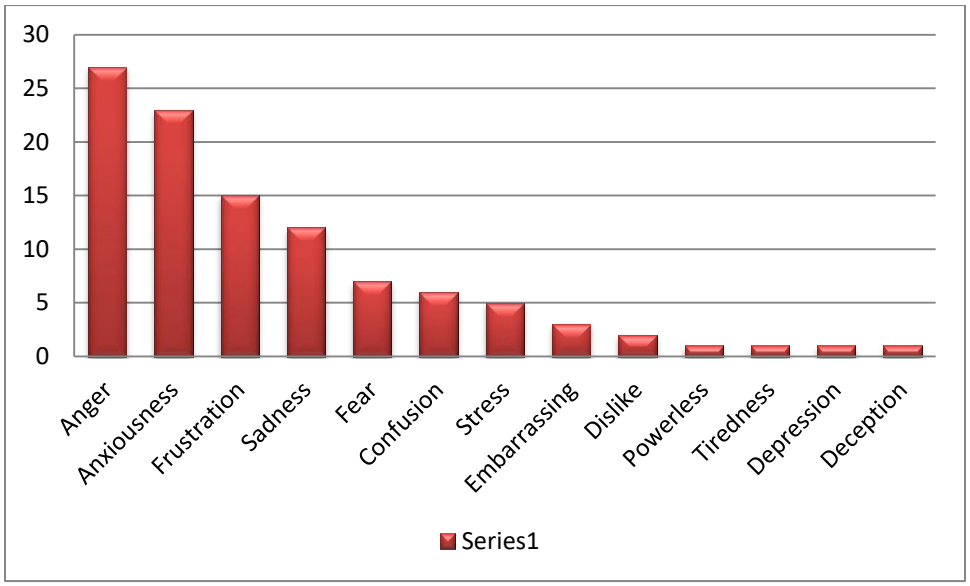

Figure 12 Feelings involved in personal conflicts

3.3.2 Section II. The Negotiation

Question 11

In your experience, who usually chooses the language in which negotiations take place?

Objective

The language is one of the primary elements in this research, and it will be absorbing to know, who usually decides the language that will be used in a commercial negotiation. It can show some features of power in the relationship that obviously agents that might influence conflict dynamics.

Results

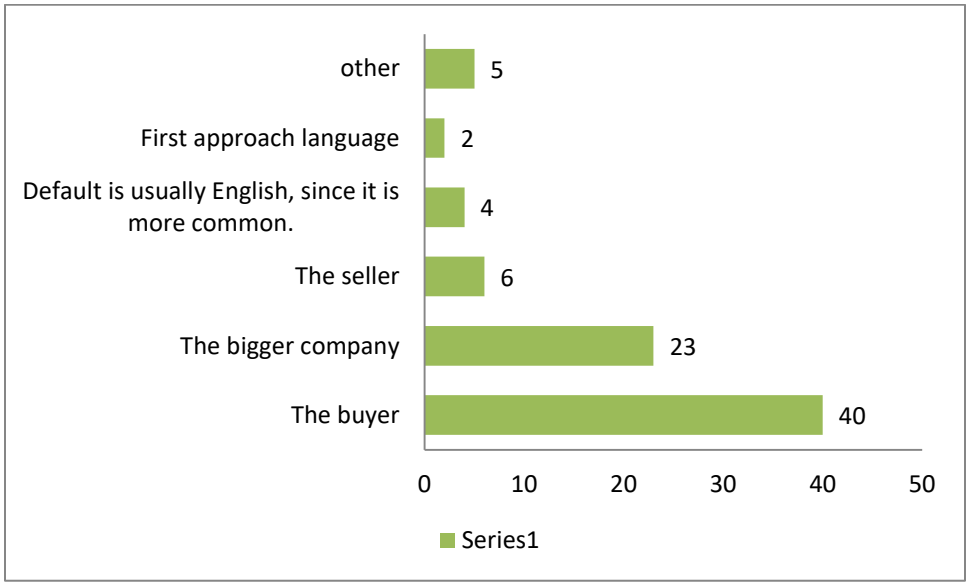

Figure 13. who usually chooses the language of negotiations

Question 12

In a negotiation with a foreign counterpart where another language is used to communicate, usually what feeling does it cause you?

Open question

Objective

Question-related to number 10 and 23. It seeks which feelings can be involved at this stage. Further, that data can show differences or similarities dealing with conflict in personal life and business relationships.

Justification

The open style was chosen to try to do not lead the participant's replies and obtain more objective data.

Results:

Table 8. Feeling related to foreign communication

Feelings described	Number of answers
Anxiousness	21
Concentration and awareness	9
Lack of confidence	8
Stress	8
Uncertainty	6
Excited	5
	4

Confusion	
Nothing	4
Challenge	2
Uncomfortable	2
Fear	2
Annoyance to talk another language being in my country	2
Satisfaction	1
Self-confidence	1

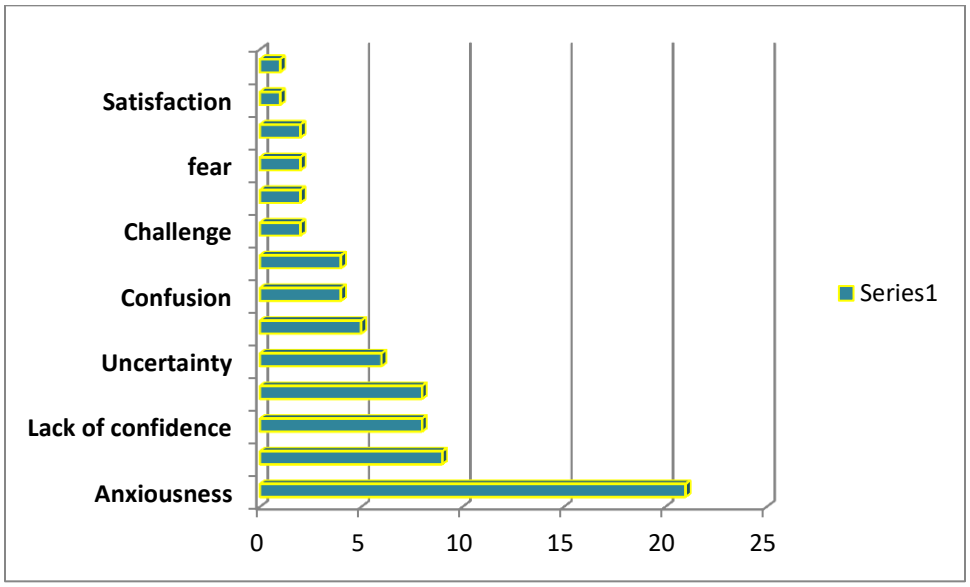

Figure 14. Feelings related to foreign communication

Question 13

When are you in the negotiation of a contract or business with a foreign counterparty, which is commonly the people present in it?

Objective

The question's objective is to obtain data regarding what positions in an organisation are usually part of a negotiation. It tries to discover if there is a joint agent between different countries. The following answer options were given

i. CEO
ii. CFO
iii. Logistic or operational directors
iv. Lawyers
v. Finance department
vi. Sales
vii. Purchases
viii. I have never been in a contract or business negotiation
ix. Other

Results:

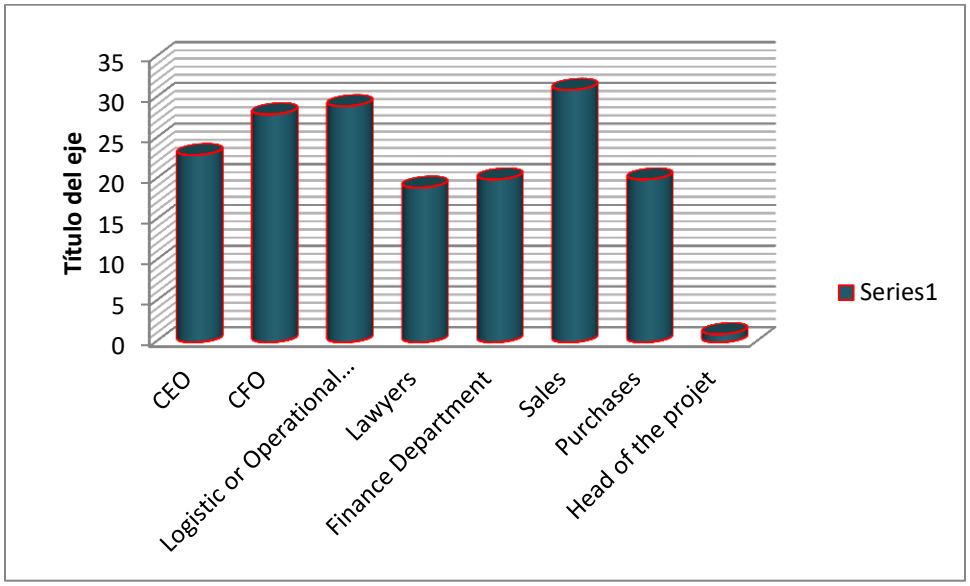

Figure 15. People present in negotiations

Question 14

When you are in a negotiation with a foreign counterpart, who speaks a different language than yours, what are the aspects that usually cause you more difficulties in the process?

Objective

At this stage, the questions are looking for more details about what participant believe create conflict or difficulty a negotiation. This question tries to obtain data to prove the research hypothesis. It was given to the participants the following options:

i. The personality or behaviour of your counterpart
ii. Language
iii. The position or the approach of negotiating
iv. The law that should apply
v. A different manner of doing business
vi. All of the above
vii. Other

Results:

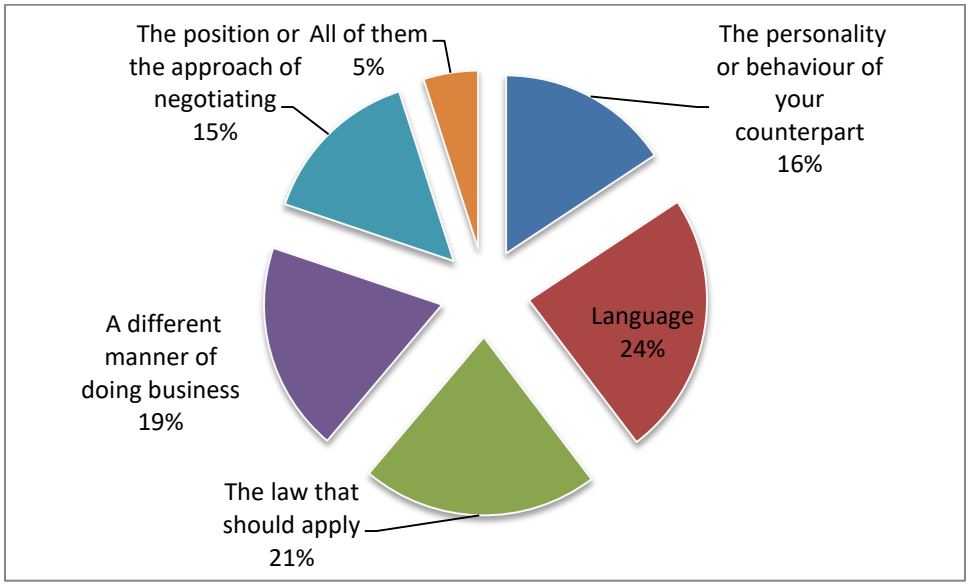

Figure 16. The aspects that make difficult negotiations with foreign parties by percentage

Question 15

What aspect do you consider most important when you are negotiating a contract or a business?

Objective

This question is looking for information regarding the interest that commercial negotiators usually have. Those interest can lead to interesting conclusions regarding the conflicts in business. The participants had the following options, besides an option to write differently answer if they disagree:

i. The economic aspect
ii. The business relationship with your counterpart
iii. Being in control of the business relationship
iv. El product or service
v. The legal aspect
vi. Other

Results

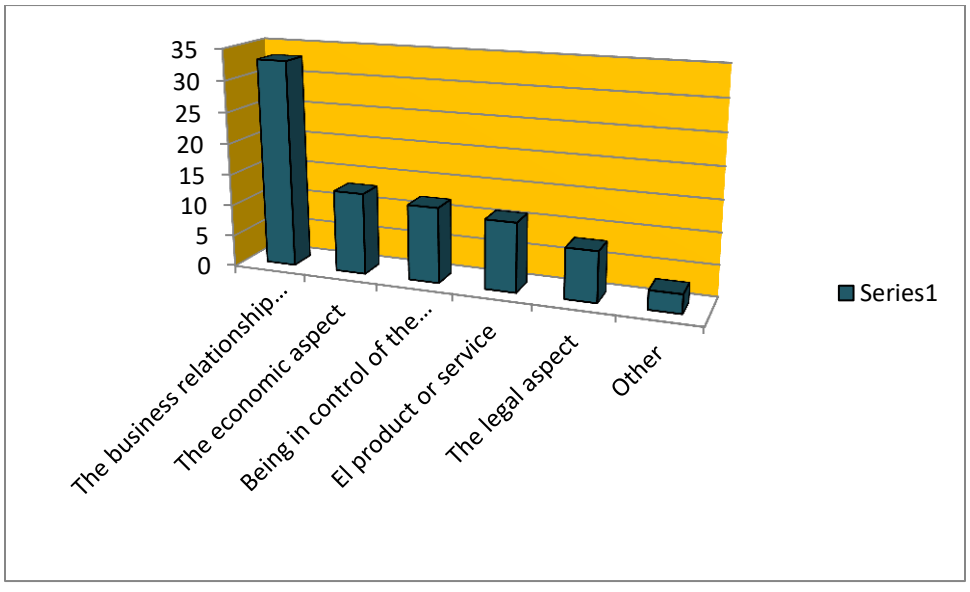

Figure 17. The most important aspect of negotiations

Question 16

In a contractual or commercial NEGOTIATION process where one or more of the parties do not speak your native language, do you usually hire the services of a translator or interpreter?

Objective

The importance that negotiators give to the translation is observed at this question. Also, It seeks for differences among the commercial customs in countries. Participants could answer, yes, no & sometimes.

Results

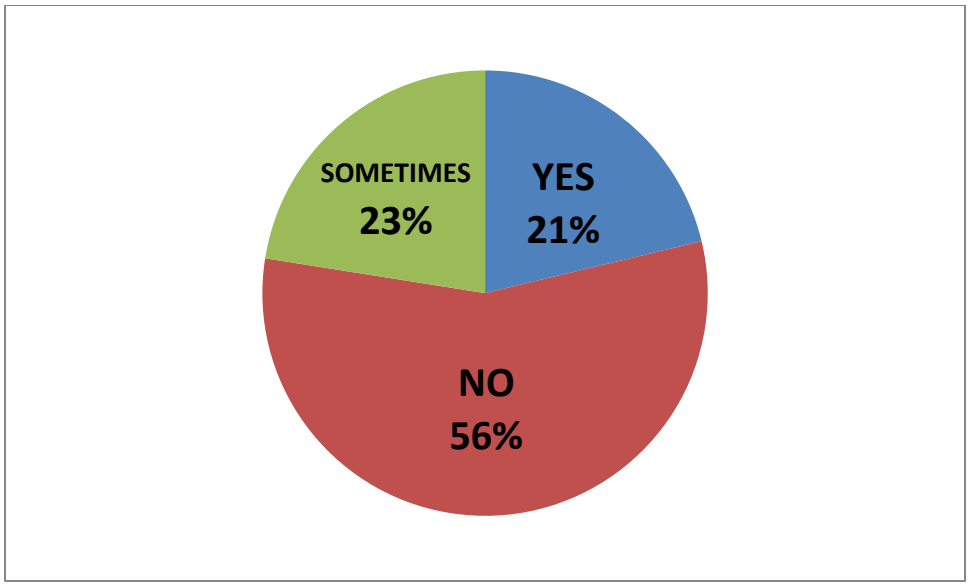

Figure 18. Participants who hire a translator

Question 17

In a contractual or commercial negotiation process where one or more are foreign, do you usually have the services of a lawyer or legal advisor?

Objective

Here the relevance of the legal aspect in commercial and contractual relationships is the data wanted. A comparison with other participants answers is a valuable feature, moreover, if the nationalities are a factor to consider. Participants could answer, yes, no & sometimes.

Results:

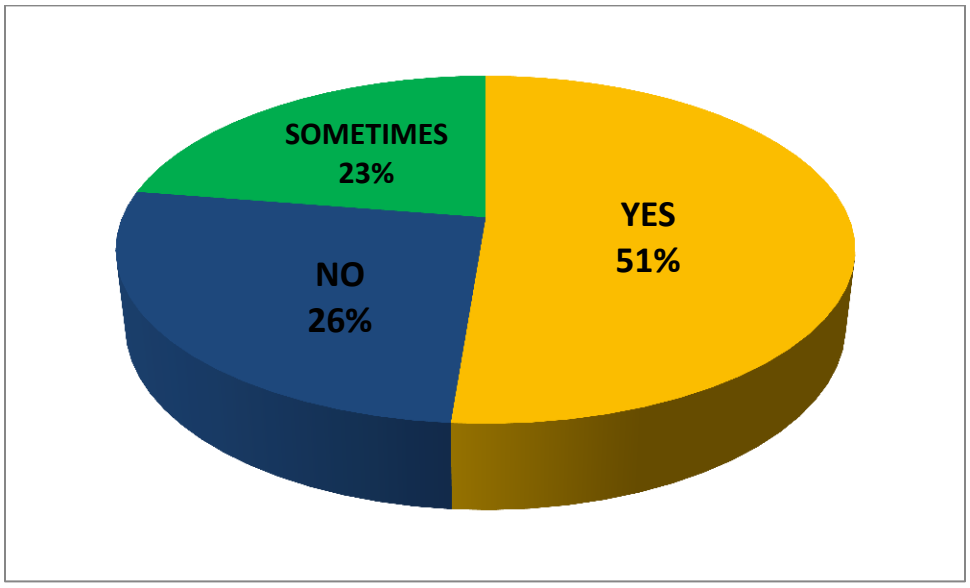

Figure 19. Participants who hire legal services.

Question 18

From 1 to 10, where one is not important, and ten is very important, for you, how important are the legal framework and applicable legislation within a contractual negotiation?

Objective

This question is related to the number 17. It looks for data that help to build the conclusion of the legal element (foreign legislations) as a primary cause of conflict in commercial and contractual relationships.

Results:

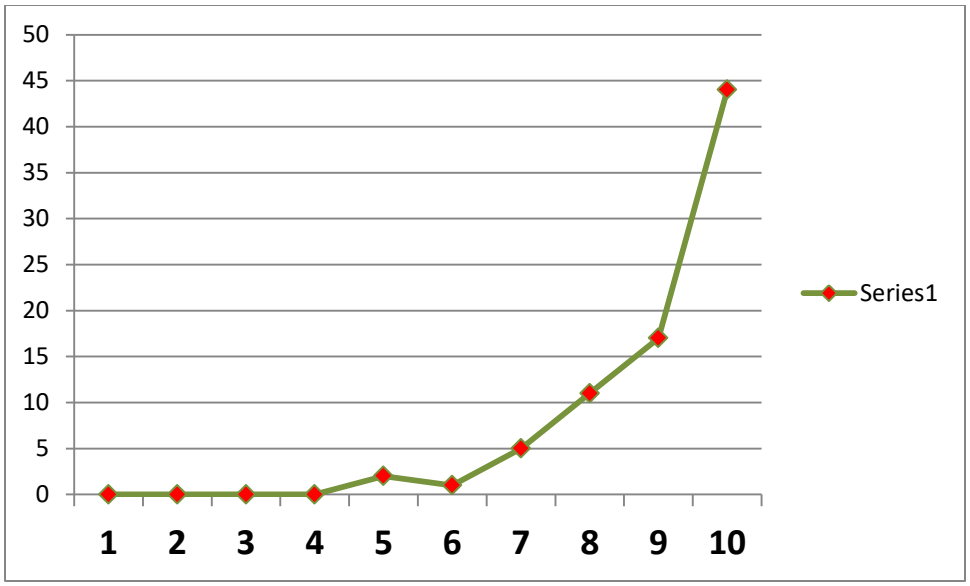

Figure 20. How important is the legal framework of the contract

Question 19

In the negotiation of a contract or business, Which of the following aspects would be your priority?

Objective

This question tries to narrow the priorities and interests that are usually involved in commercial negotiations. It is given the following options based on the common factors obtained from the literature review at this stage of business.

i. The economic agreement (The profit)
ii. The logistic of business (The product or service)
iii. The legal framework applicable
iv. Other

Results:

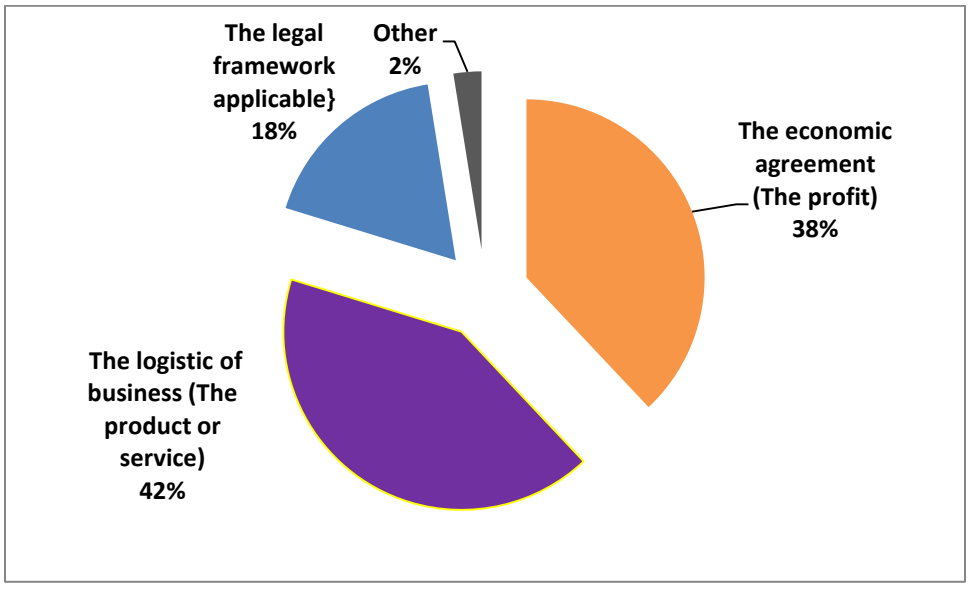

Figure 21 Priority in a contract negotiation

Question 20

In your experience, who usually makes the decisions in a contractual negotiation?

Objective

At this part of the survey, questions try to be closer. This question aims to see the organisation hierarchy of business companies. Moreover, looking for insights of power between co-negotiators and who is usually is the decision-maker in the participant´s countries—looking for a tendency or discrepancies. The following options were given:

i. CEO
ii. Director or Manager
iii. Finance Department
iv. Legal Department
v. Other

Results

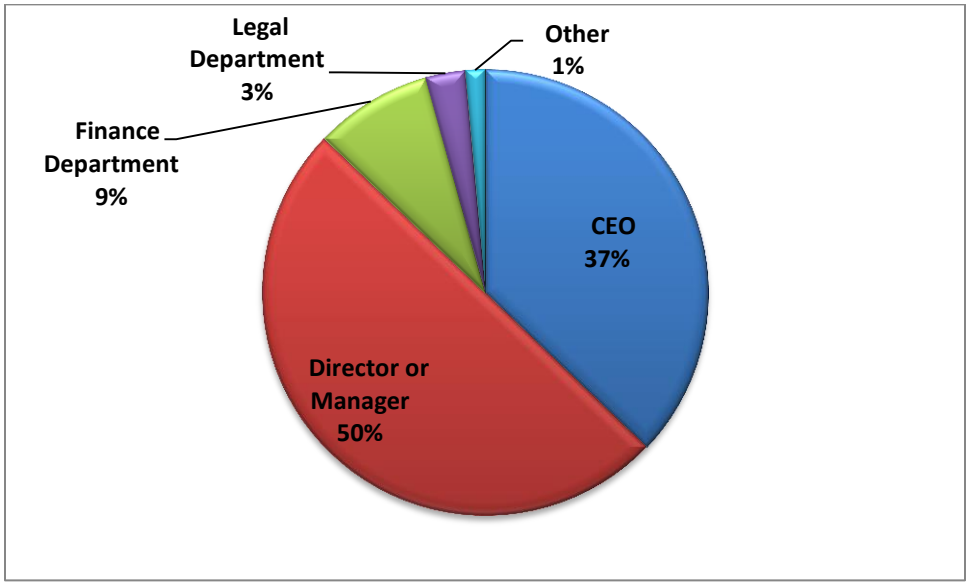

Figure 22. Decision-makers in negotiations

3.3.3 Section III. Commercial Relationships

Question 21

In your experience, what particular elements commonly cause conflict within a business or a contractual relationship with a foreign counterpart?

Objective

The first question of this section tries to get the primary thoughts of the respondents. The flow of the questions seeks to bring the participants in chronological order of business.

Justification

An open question style is used to allow the respondent to express freely without any limitations.

Results:

Table 9. Causes of conflict in commercial relationships

Causes of conflict	Number of respondents
Breach of conditions of the agreement	23
Lack of understanding of the applicable foreign law	11
A different interpretation of the contract	9
Culture behaviour	6

Economic issues	6
Misunderstandings and lack of good communication	5
Language	3
A crash between the internal organisation. (staff, procedures, internal policies)	3
Lack of terms and conditions in the contract	3
Hard positions	3
Change of external factors, global economy, markets,	2
Ethical issues or different values	2
The personality of people	1
Issues regarding deadlines	1

Question 22

Do you think that language can cause conflicts in a business relationship?

Objective

The objective of this question is to get enough data that proofs the research hypothesis, language as a primary cause of conflict in commercial and contractual relationships between international parties.

Results:

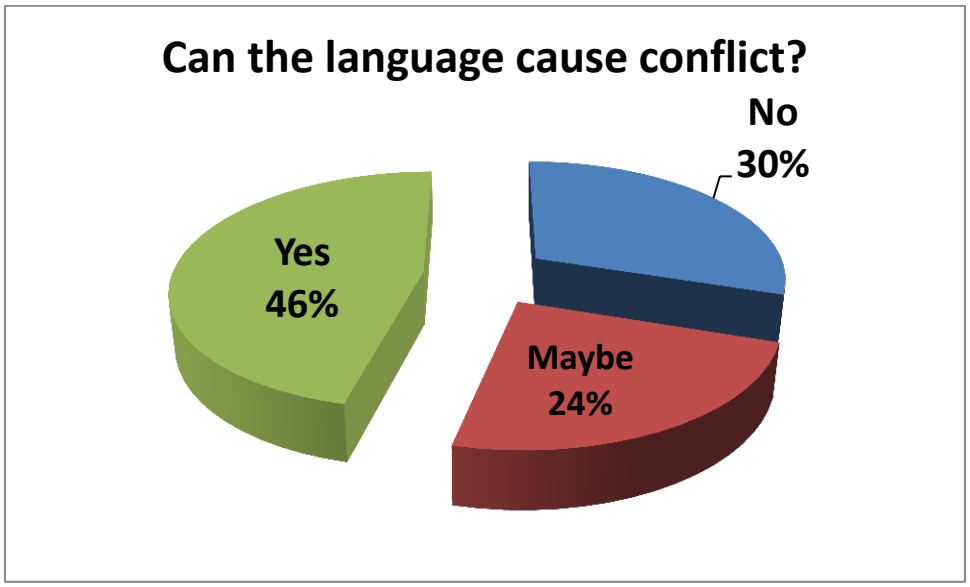

Figure 23. Participants who believe the language cause conflict in business

Question 23

What kind of feelings do you have when you are facing a business or contractual conflict?

Open question

Objective

This question is related to number 10 and 12. Here the researcher is looking for emotions involved when businesses are running. Valuable data can be obtained when a comparison with the 10 and 12 questions will be made regarding differences of conflict's approaches that feeling can lead.

Justification

It is giving the respondent the freedom to respond. It is not intended to give multiple answer options, with that it is aimed to avoid any kind of bias on the data collected.

Results

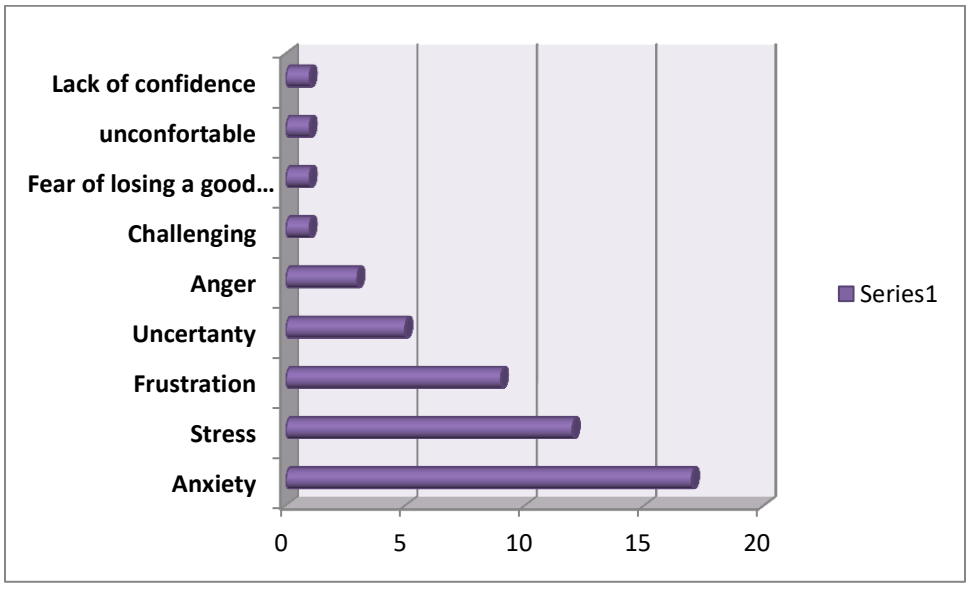

Figure 24. Emotions related to conflicts in business.

Question 24

In your experience, what are the two most common causes of conflict in a business or contractual relationship?

Objective

The question is looking to obtain the answers to the research questions of this work. This research aimed to find the leading causes of conflict in commercial and contractual relationships, and this question can help to prove the research hypothesis. At this question, options were given to the respondents. The suggested options were the following:

i. Interpretation of the contract or errors in the wording
ii. Breach of agreements
iii. Changes in business conditions
iv. Discovery of bad faith or fraud of the other party
v. Other

Results:

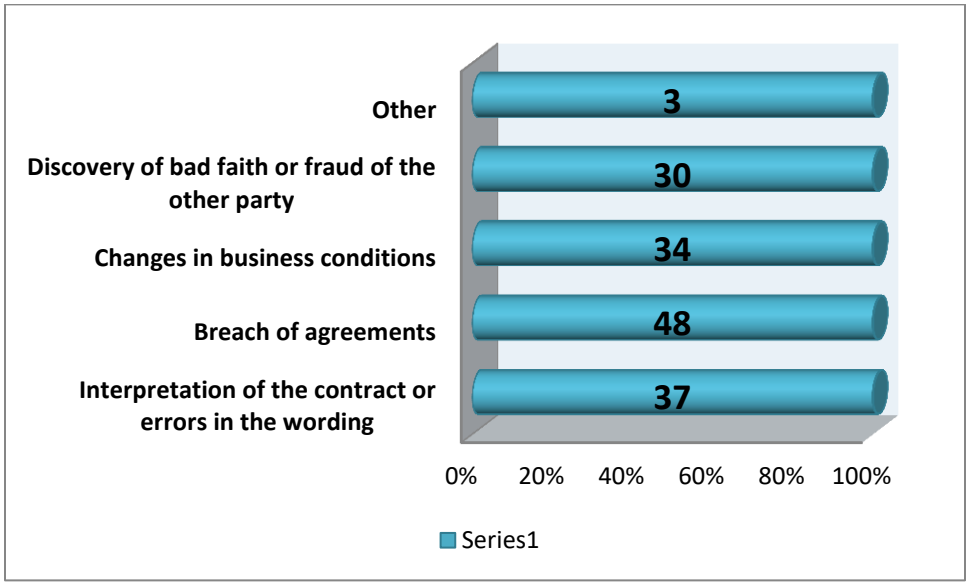

Figure 25. Most common causes of commercial conflicts

Question 25

From 1 to 10, where one is not important, and ten is very important, how important is that the contract that you will sign is in a foreign language

Objective

Being contractual relationships explored in this research is vital to look for the importance that agreements have in business. An interesting data can be obtained when answers from the general information section come across.

Results

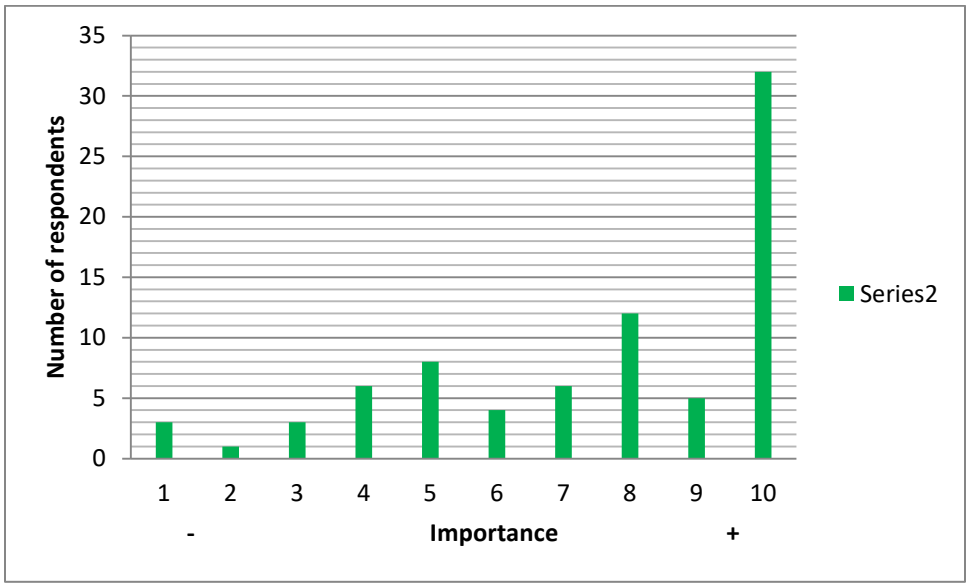

Figure 26. How important is that the contract is written in a foreign language

Question 26

What is the first option that you use to resolve a conflict in a business relationship?

Objective

At this stage, the survey focuses on conflict management features. The question is looking for the first approach to resolve conflict. That data can help to prove the thesis contained in the literature reviewed.

The options given to the participants were:

i. Direct negotiation between you and the other party

ii. You send someone from your team to solve it.

iii. Mediation through a third party

iv. Through Lawyers Management

v. Other

Results:

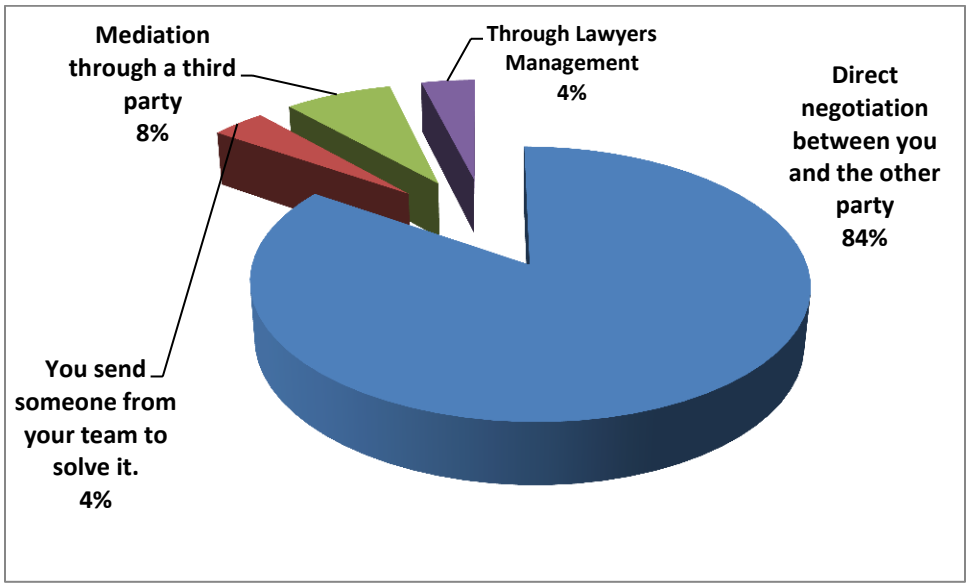

Figure 27. The first option to solve a contractual conflict

Question 27

If it were your decision, which of the following option will you choose as a Dispute Resolution alternative?

Objective

The question is related to the dispute resolution field, and it aims to see which are the prefered alternatives to solve a conflict of the respondents. Besides, the data can give the research a common approach to dispute resolution. The answer options were:

i. Mediation
ii. Arbitration
iii. Negotiation
iv. Conciliation
v. None of them, I would prefer to Litigate

Results:

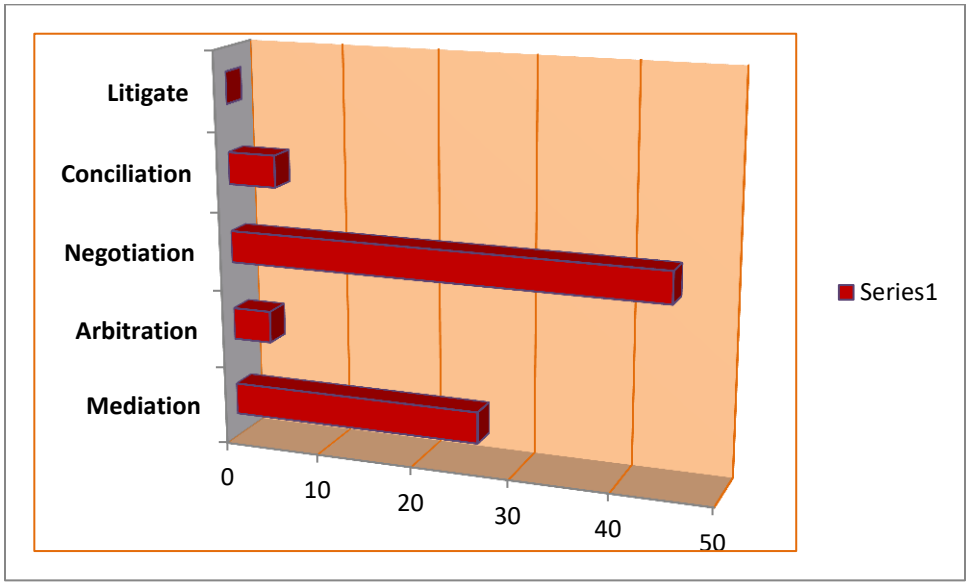

Figure 28. ADR that participants would choose

Question 28

Do you know about the alternatives of dispute resolution above?

Objective

This question has the only aim to know how informed are negotiator regarding the options to solve a dispute.

Results:

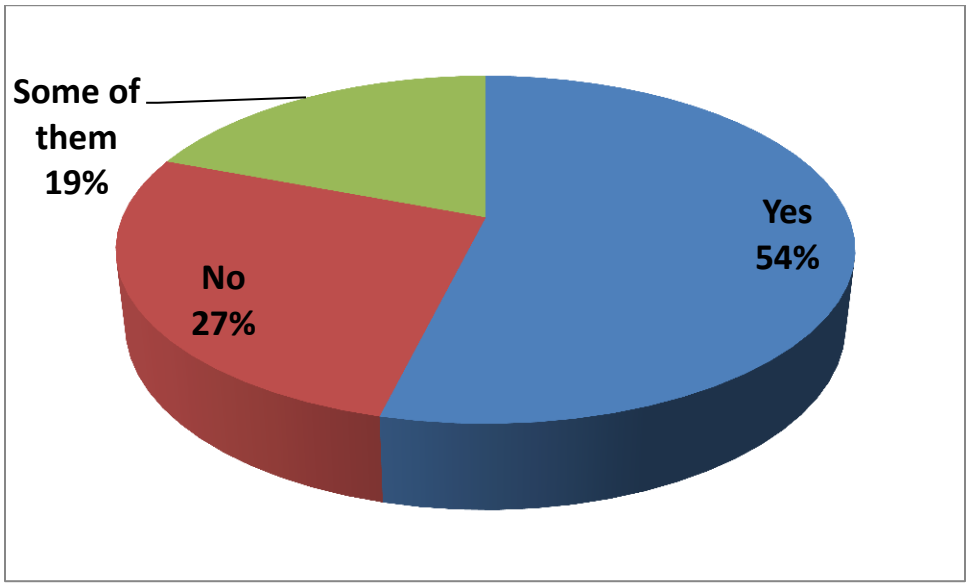

Figure 29. Are participants familiar with ADRs?

Question 29

For which reason would you decide to bring one specific conflict, to the courts (litigate)?

Objective

The data obtained through this question helps to measure how the traditional approach of dispute resolution is still ingrained and get how new generations of negotiators are influenced. The answer options were:

i. Because you are right
ii. You have a high chance of winning
iii. You cannot find another option
iv. The relationship is very worn
v. Make your counterpart pay in some way for the conflict
vi. Legal recommendation
vii. Other

Results:

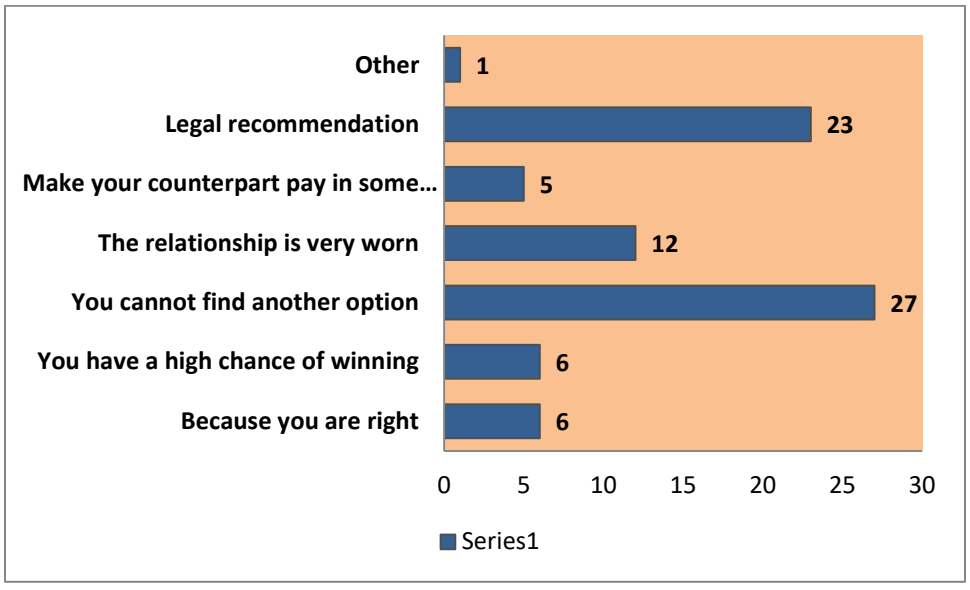

Figure 30. Reasons to litigate

Question 30

If you want to complement any answer or if you have any comment or thoughts that you want to share with the researcher, please feel free to write down here.

Objective

The main point of this question is to allow the respondents to share thoughts with the researcher freely. Also, to give the chance to give feedback that can help the researcher to understand aspects that might be not considered when the survey was built. Furthermore, information to be considered as limitations of the research.

Results:

Table 10. Participant comments

1. *"From experience, it is best to compromise a middle ground to reach a mutually beneficial end."*	*2.* *"First, I would try direct negotiation, always speaking directly with the company can save time and money for both of you, if it does not work, seek judicial action if I know that I am right."*
3. *"As the legal industry migrates to legal tech, in addition to traditional ADR, we will see it as ODR (either as part of ADR or as a different branch)*	*4.* *"Raising a conflict to trial depends a lot on the situation, the possible solution, the use of economic, physical and human resources."*
5. *"In my opinion, once a conflict is brought to courts, regardless of the cause and the outcome, the relationship is damaged. There is no possibility of continuing a cordial relationship."*	*6.* *"When both parties negotiate in good faith, in a foreseeable economic and social context, success; is almost guaranteed."*
7. *"I would hardly decide the conflict in court."*	

CHAPTER IV

ANALYSIS OF THE DATA

4.1 The Findings

This chapter will analyse the data collected through the survey answered by 80 participants. The information obtained by the general information section will play a vital role in this analysis. That data allows discovering if there exist differences between the participants base on the range of age, gender, nationality, language, professional background, among other significant factors to considerate. Besides, all the information obtained will be merged to show the essential points of this work regarding commercial and contractual conflicts with the foreign element playing a part.

The analysis will be made using the researcher´s interpretation and the elements obtained from the literature review. It will be made by an analytical and logical style trying to show them in a didactic and transparent way. Looking for patterns and differences, the researcher will try to keep enough balance and objectiveness in this analysis. This findings chapter will contain both kinds of analysis (quantitative and qualitative) On the one hand, the quantitative data analysis on a minor scale will be used to show findings related with the numbers and percentages of the participants. On the other hand, the qualitative data analysis will review the deep thoughts of the respondents and an interpretation of the answers.

According to Dudovskiy, qualitative researches using interviews or questionaries is looking to identify patterns in the participants' answers and critically evaluate them seeking to reach the aims and

objectives of the research. Besides, when the study involves quantitative data, it needs to analysis and interprets the numbers in order to find the rationale underneath them (Dudovskiy, 2016).

4.2 Mixed Data Analysis: Quantitative and Qualitative

In order to achieve the research aims and objectives, mixed data analysis is carried in the present chapter. A conjugation of qualitative and quantitative analysis is done in order to show how the collected data can prove the research hypothesis.

4.2.1 The Language

It is an aim of this research show how language as one of the primary causes of conflict can impact commercial and contractual relationships between multicultural parties. It can be shown with the answers of questions numbers 8 and 9. The main concern of the participants regarding communication in a foreign language is to have a well understanding and avoid miscommunication. It can show how even with an adequate level of a foreign language, people tend to have misunderstandings. This concern is had by 53 of 80 participants. It means that 66% of the questioned people aware of such issue in the communication between foreign actors. The results of question 9 show an exciting finding. It was thought that people worried regarding misunderstood could prefer as means of communication by the writing, however, the face to face communication leads the preference with 37%, followed by a 36 % of preference by written.

Another figure related to language is the mother tongue of the participants. Sixty-three per cent of the respondents have Spanish as a native language; it means that the answers are coming from people who

have to use English in most of their commercial trades. Half of the participants are from Mexico, that means they are under an enormous influence of commercial trading with the USA. That circumstance gives a particular value to this information collected because the geographical characteristics of those respondents are essential to the topic researched.

According to question 12, around 25 per cent of the respondents feel anxious in a commercial negotiation where a foreign language is used. These results show that the language used is causing negative feelings to actors in commercial bargaining. In the next chapter, this multi mentioned feeling would be discussed more in-depth as part of the discussion. In question 14, the language is heading the list following answers, 24 % of respondents think that language is the factor that usually causes more difficulties during the negotiation process under this particular situation.

Moreover, the section III of the questionnaire approach how the respondents tend to deal with the conflict in a commercial or contractual relationship; specifically, replies from question 21 can demonstrate that people's perception can see three aspects related to the language as a common cause of conflict in a business and international relationship. Interpretation of the agreement is one of the aspects mentioned related to language with nine answers. Besides, misunderstandings and lack of good communication had five replies, and finally, the language itself was mentioned three times. That data shows that around 20 per cent surveyed think that language is a cause of conflicts in commercial relationships. Therefore, in question 22, the researcher did the direct question regarding this statement; Do you think that language can cause conflicts in a business relationship? Under this direct query, only 30 % of the participants said not, 36 responded affirmatively, and a maybe was given by 24 percentage. That showed intriguing numbers why more people replied affirmative to a direct question where the language was mentioned.

In contrast, question 21 was in an open style where people were free to share their first thoughts they do not consider at the language at the same level as a cause of conflict. This intention was since the questionnaire was made, seeking the most honest and in-depth thinking of the respondents. Perhaps, participants are not aware that something like the language that is a natural tool of negotiations (most of the time, the English language) can cause several disputes and issues in a relationship of business. Besides, a similar question was formulate asking for the two most common causes of conflict in a business or contractual relationship. At this stage, almost 50 per cent of the participants said that one of the causes was related to language (drafting contract/interpretation of the contract).

Finally, the last question germanes to the language asked, using a scale of 1 to 10, how important is an agreement is drafting in a foreign language. Surprisingly, just above 25 % of the participants said that it was very important. Interesting would know if professionals of law can answer in the same proportion. However, the above results show how language is perceived as a generator of conflict and negative feelings in parties involved in a commercial or contractual negotiation. The charts from question 15 illustrate more than half of the participants say that they do not hire a translator or interpreted in these situations. It would be interesting to know why people do not hire professional services in order to keep the language under control. Perhaps the expenses of the translator fees could be a causative factor, or even a cultural issue could be having the help of an interpreter could be seen as a weakness in front counterparties. Those aspects were not researched as part of the aims, but that could be an interesting issue to look at. Nevertheless, it appears that language was not taken into consideration as a vital way to communicate effectively with business partners.

4.2.2 The foreign legal framework

Show how a different legal framework is a primary cause of conflicts between international and contractual relationships is another of the aims of this research. In that sense, a series of questions in the survey where seeking achieve this causative agent of conflict. Question 18 asked how important are the legal frameworks and applicable legislations in contractual bargaining. Unexpectedly, just around 50 per cent of the surveyed said that this aspect is very important. It is known that commercial negotiators are not usually lawyers. It can have a significant effect on the answers because people usually is concern regarding their expertise or fields. For that reason, in the general information section was asked if participants were lawyers. That question showed that only 13 % of the respondents were law professionals. It means that if one compares the 14% of lawyers versus the 50 % of people then considered the legal framework a vital aspect in commercial negotiations, so there is around 36% of negotiator that are not lawyers that have an awareness of this relevant element in contracting.

Besides, question 19 continues seeking data related to foreign legal frameworks. It among other answer options was given to the participants to choose the priority during a commercial negotiation. The truth is that only 18 % of the participants choose a legal framework as a priority again if we use the number of lawers that means that only 3% of not lawyers believe that applicable legislation is a priority in contractual negotiations. In addition, looking for two kinds of features question 20 asks who usually makes the decisions in contractual bargaining, numbers say that only 3 % of them chose the legal department. That means that lawyers are not decision-makers in contractual negotiations. Two more questions number 21 and 24 are seeking participants answers show how applicable foreign legislations constitute a significant cause of conflict in commercial relationships. The first one is an open question,

again looking for first thoughts about what particular elements commonly cause conflict in international business. The results showed that more than 23 of 80 participants believe that breaching conditions of the contract is the usual cause of conflict. They were followed by approximate 12 % that said that lack of understanding of the applicable foreign law was a joint agent of conflict at these particular relationships. Also, two more answers related to legislation were mentioned, the lack of terms and conditions in the contract and the interpretation of the contract, that means that 47 participants in total means the 60% of them think that in somehow conflicts at commercial and contractual relationships area caused by agents related with the applicable law. One more question was related to this factor, trying to obtain data to prove which are the two most common causes of conflict in a business or contractual relationship. Results showed that more than half of the respondents named issues related to the legal framework and contracting.

In conclusion, this chapter is focused only on the two main factors than cause conflict in international business. The language and the foreign legal frameworks in international trade, both were analysed by the data obtained in order to try to achieve the research aims. However, other exciting findings were discovered through this collection of data. The anxiousness was highly mentioned as a feeling related to using a foreign language to communicate in a commercial negotiation; exciting insights can emerge from these found features. Unfortunately, this dissertation will not be able to discuss and analyse it.

CHAPTER V

DISCUSSION

5.1 Introduction

This chapter will gather all the material presented in the early stages. Here the researcher will discuss all the items found, literature, theories, data collected, and the analysis made, in order to do an integral correlation between each element. This section will be divided to discuss each of the essential elements researched. That will provide the readers with a didactic approach to give them the whole picture of the present dissertation.

Firstly, it starts discussing the element of the language in commercial and international negotiations and relationships. Using the research questions, i) Are foreign languages and legal frameworks of the parties, the primary causes of conflict in international commercial relationships? ii) How can parties in international commercial relationships avoid conflicts caused by foreign languages and legal framework? iii) How can parties in international commercial relationships manage and approach the conflicts caused by languages and legal framework?

Secondly, the foreign legal frameworks element comes into the discussion with the same question approach. Besides, on the two sections, the aims and objectives of the research come to merge with the literature reviewed, attempting to achieve them. i) Show how language as a primary cause of conflict can impact commercial and contractual relationships between international parties. ii) Demonstrate how non-face to face communication can affect commercial relationships. iii) Show how different legal frameworks are a significant cause of conflicts between international contractual relationships. iv)

Explore how the foreign language and legal frameworks have a significant effect on international commercial relationships during negotiations and business relationships. v) Finding methods that can create awareness between the actors in negotiations and parties in international commercial relationships to prevent conflict. vi) Finding the best approaches to solve and manage conflicts caused by language and legal framework in commercial and contractual relationships.

5.2 The language

It has to start with the query, is the foreign language a primary cause of conflict in international commercial and contractual relationships? Well, It is hoped this work can contribute to answering that question. Foremost, language has few meanings; it can be described as the way tha humans communicate with each other by different means, spoken, written or signals. Also, it is used to refer to a particular form of communication in some area, ethnicity or country, like English, Spanish, German, Mandarin, etcetera. The Cambridge dictionary defined language as *"a system of communication consisting of sounds, words, and grammar, or the system of communication used by people in a particular country or type of work"* (Cambridge University Press, 2020). This research is focused on foreign language as the form of communication between international parties, understanding for international parties coming from other countries where the commercial activity has a place. In the period of literature research, an enormous amount of books, studies and authors came across with different and exciting theories. The specialised studies of language conflict began in the decade of 1950. One example the book of Einar Haugen about The Norwegian language in America, in 1953 The Monograph on Languages in contact by Uriel Weinreich, and The first edition of Die Entwicklung Neuer Germanischer Kultursprachen von 1800 bis 1950 by Heinz Kloss' in 1952 (Darquennes, 2010). The world, the variety of language is quite wide. Noways, just The European Union, has about 513

million inhabitants over 27 member states. The EU Community has as official languages all the national languages of the member states except for the Luxembourgish. However, it could not fund a specialised investigation about avoiding or preventing language conflict.

Language conflict as a topic takes until the late 1960s to be more outstanding studied by linguists. In language conflict and language planning by Haugen. The case of modern Norwegian, the publication of Mackey's lectures on Bilingualism as a world problem (1967) and Rafael Ll. Ninyoles' work on language conflict in Valencia (Ninyoles 1969). In the 1980s sociologists (e.g. Raimondo Strassoldo and Giovanni Delli Zotti), psychologists (e.g. Richard Bourhis), political scientists (e.g. Kenneth D. McRae) and linguists (e.g. Klaus Mattheier, Colin H. Williams, Harald Haarmann, Louis-Jean Calvet and Peter Nelde) followed their example. Especially McRae, Haarmann and Nelde made significant contributions to secure a prominent place for language conflict within linguistic research (Darquennes, 2010). Haarmann (1986 and 1990) introduced a general theory of language conflict inspired by Einar Haugen's ideas on language planning and the ecology of language. Also, Nelde started a series of Conferences in the world about Language Contact & Language Conflict (Darquennes, 2010).

Thus, it could be said that it does not point to research more on that topic if there are plenty of studies, but why it continues being a common issue nowadays? The collected data contribute with valuable information about that perspective because it looks that people know that language can be a causative agent of conflict with counterparties even internal conflict for themself; however, they just continue to undervalue it as a secondary matter during commercial relationships. Businesses are not interested in hire translators or interpreters; it is known the that business matters is almost always a money issue so maybe it can be one of the reasons why people in business try to save costs of hiring services. Although another idea comes across, perhaps having a translator can be a sign of weakness. Egos, status,

appearances, power and self- importance are important things in the business world, and people always concern about the prestige of the brand. Why does the CEO of X company not speak good English? Or why he needs a translator? In that sense, it could be a possibility, matters that could be explored in another research.

Moreover, In The Circle of Conflict of Christopher Moore are identified some sources of conflict. There are values, relationships, data, interests and structure. A new adaptation of the circle includes language as a source of conflicts. "*The Size of each segment reflects the likelihood of that source being present"* (Partnership and Community Collaboration Academy, 2020). Focused on language as a cause of conflict, the adaptation of Jolie Bain Pillsbury says:

> *"If you see or hear: i) Same words meaning different things. ii) People unaware that they are not in the same conversation. iii) People "listening for" different things.*
>
> *You might: i) Identify the language differences and invite a focus on the meaning underlying the words, rather than the words themselves. ii) Model and encourage common language with common definitions. iii) Explore MBTI*[1] *communication preferences*

[1] The Myers-Briggs Type Indicator (MBTI) assessment is a psychometric questionnaire designed to measure psychological preferences in how people perceive the world and make decisions.

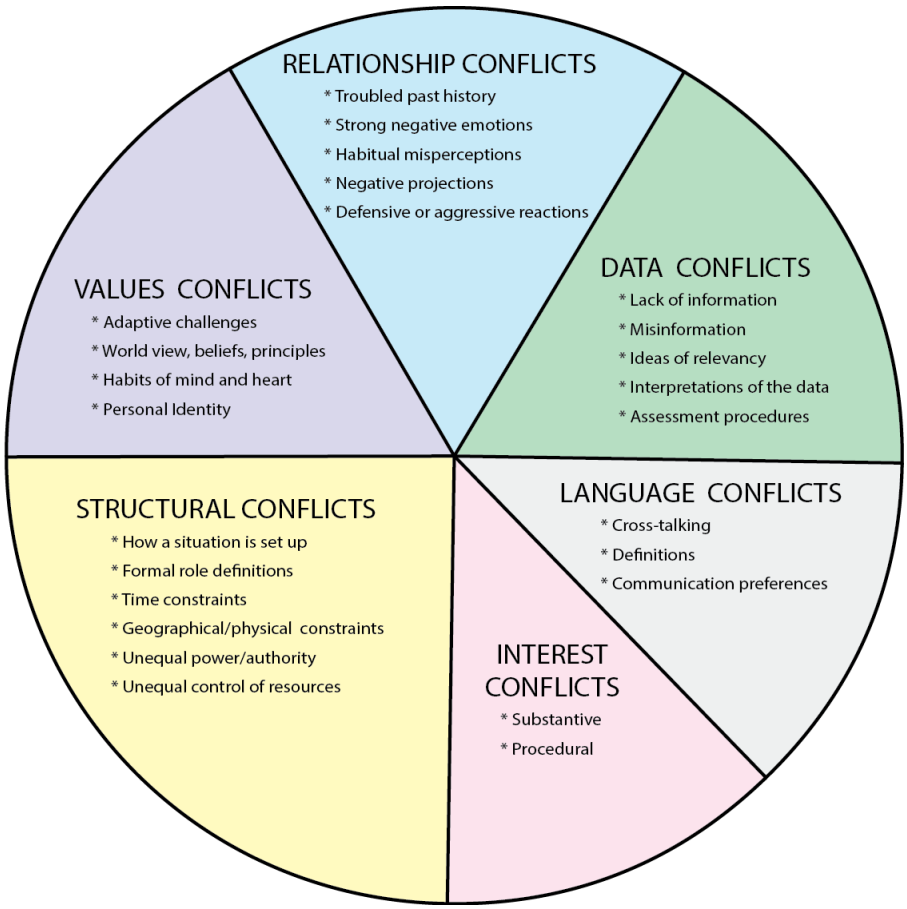

Figure 31. The Circle of Conflict Adaptation

2

However, the study of language in conflict goes across multiple aspects and not only related to misunderstanding or misinterpretation. Taylor, in "*The Role of Language in Conflict and Conflict Resolution, explores the functions of language in conflict and how different communicative acts relate to speakers' motivational goals and conflict outcome*." It is essential to understand how language is a complex system that means that it has to be studied in a broadway. Intensions' actors can give words

[2] The Circle of Conflict Adaptation, Based on Christopher W. Moore's Circle of Conflict © Jolie Bain Pillsbury

different meanings and change the sense entirely. Besides, between foreign actors, the culture as well plays a vital role, and it has to be taken into consideration. Some literature says that be aware of that issue is the first advice for those who are in negotiations using a different language. It sounds easy, but if one thinks about how many matters are involved in a negotiation, it could be a challenging task. Firstly, the personality of the negotiators and how they cope with these circumstances, the data collected show the high level of anxiousness that actors in a commercial negotiation experiment during those sessions. Besides, a good negotiator has an ample amount of data result of the preparation stage, multiples options, a BATNA[3]. Also, many other factors can play a part during those bargains, new information, pressure from bosses, the personality and the approach of counterparties; It is human interaction, so there is a room filled with different feelings, thoughts, personalities, interests, positions and many others.

Moreover, Taylor explores the "*called macro-level and shows how episodes of language produce phases and cycles that escalate the conflict or move it toward a resolution"* (Taylor, 2014). It is interesting how some kind of words can make the difference to cause conflict and be stuck at the room bargaining, or contrary can just help to close a deal and move on to another stage. Those episodes are quite tricky, in order be focused all the time and do not lose track. Understanding that one word or small sentence can break relationships or finished business is not only the solution. Jim Camp, in his book "NO, The Only Negotiation System You Need for Work and Home", says that less speaking is more beneficial to negotiations. He takes an interesting approach towards negotiations and explains that during any bargaining is better just listen carefully the counterparty positions, keeping quiet and think deeper before speak back. This advice can be useful some times and in different contexts, but some

[3] Best Alternative to a Negotiated Agreement (Fisher, 2012)

cultures can see that as a lack of manners or a not trustworthy person. In that sense, being less talkative is not always a good option.

Furthermore, another categorisation of language comes across, the competitive and cooperative language. The competitive is characterised by behaviours such as justifications, irrelevant arguments, personal attacks, and excessive demands and threats (Giebels & Noelanders, 2004; Olekalns & Smith, 2003). Then the cooperative is associated with behaviours such as proposals and counterproposals, agreements, expressions of confidence in the other's ability, and humour (Donohue & Roberto, 1996; Putnam & Jones, 1982). Traditionally the hard approach to negotiating (the competitive) has been using for a long time with a lot of broken relationships as a consequence. The language and the approach are closed related; it is not the use of the words, otherwise the intention and the way that we say them. William Ury, in the Harvard Project, shows how negotiations have to separate the people from the problem (Fisher, 2012).

Authors agreed that can be complicated to determine what is the cause and what is the effect of the linguistic content and structure. A categorisation of low and high context in languages has been made. English, Spanish or German, are low context and they have a particular issue with ambiguity and therefore at least some discomfort for a negotiator of a high-level context culture even when the used the technology for communication. Quite the opposite is in Asian countries where people prefer brief communication (March, 1998). Another issue quite common is the language discrepancy that agreements made in two or more language can have. Companies used to write down contracts in more than one language, that because the parties' native languages are different. Also, because it helps and facilitates consulting conditions by company staff, even it can be legal formality required by authorities in some countries in order to the contract can be implemented.

Means of communication have to be considered when language is analysed. The way that communications are made plays a primary role in avoiding conflict caused by language. By telephone, face to face, via mail, video call, each one has weakness, and strengths. It has been demonstrated that actors that negotiate email miss information that provides an overview of the counterparties' behaviours, that means that those conducts vary when people interact by tech tools. For example, people that do not see a face lose some elements of communication like trust and personal information (Thompson, 2014). The author makes some comments about the cultural differences that exist in international negotiations. He says "*take time to find out how that person views the world, and do not assume that your view of the issue is the same of them"*. However, when the communications are virtual trust is based on cognitive abilities and not in the appearance or visual features. Also, one good point of having virtual communications is that it reduces status differences that are often present in negotiation face to face.

In that order, here are the issues identified that are attached to the language in multi-language and commercial negotiations:

1.- The negative feelings or emotions that using a foreign language can cause to negotiators.

2.- The cultural agent attached to the mother tongue that can create misleadings and misunderstandings.

3.- The use of slangs, jokes, metaphors, etcetera can create issues, lack of effective communication.

4.- The misinterpretation and mistranslation that some words or phrases can cause.

5.- The lose emotional information using tech tools.

6.- The linguistic discrepancies that a written agreement when it is performed. Also, when the contract is written and signed in two or more languages.

5.2 Finding Solutions

According to Neisser, actors in multi-language negotiations *"should avoid slang, jargon, aphorisms, similes and metaphors common to your own culture"* unless you know that those terms are familiar to counterparties (Jopling, 1997). People who do not share the same native language can have issues with the meaning of phrases or words. Even with people who share mother tongue depending on the country or area that they are from, they can have misunderstanding caused by taking a different meaning of words or do not understand the context in which something it is said. One example as an essential concept of the words, jurisdiction, jurisprudence, trial, and appeal describe different concepts or events when used by North American lawyers as used by french or Japanese (Jopling, 1997). It noticed languages are not just different by grammatic and vocabulary otherwise it differs in how people perceive those words the called "context"; also it depends in the personality of the receptor by the manner that the message was delivered and taken. In synthesis, the communications do not need only a translation; also, an precise interpretation is necessary.

Team negotiators are often ordinary in large size negotiation sessions, so group review can effectively help with language issues. A more in-depth analysis and more reliable information coming for other members of the team is an excellent way to avoid conflict caused by language (Zimmerman, 1985). However, teaming has some issues to consider because it is proved that decision made by groups of people tend to be more extreme than a unipersonal decision (Timothy McGuire, 1997). However, what happens when just one person carries negotiations for each party? It would be necessary to consider this matter and bring a companion to the sessions.

Regarding the written agreements following some of the Principles of International Commercial Contracts 2019 can help to avoid future conflict caused by this linguistic discrepancies. The article 4.7 (UNIDROIT, 2019) dictates that when a discrepancy arises from a contract drafted in two or more languages, and both are equally authoritative, then the first contract drafted will have the interpretation preference. In that sense, to avoid conflict to this regard is evident that the agreement has to be carefully drafted, trying to avoid any kind of discrepancies; however, it is impossible avoided them at all. Two options come towards this issue; one is being aware of which language can be less complicated to interpretation and then establishes in the contract that such language will be authoritative in case of discrepancies. The second if the authoritative language is not an option to negotiate, then start drafting the agreement in the less complicate language. It could be complicated do not take a side and looking at their interests, but a cooperative approach has to be taken in that regard.

A fact is that usually, native English speakers do not speak other languages, but fortunately for them English it the language of international business. Pon Staff gives four strategies to avoid conflicts related to foreign language:

"Strategy 1. Hire your own translator, and make your choice carefully.

Strategy 2. Brief your translator before negotiations start.

Strategy 3. Stay on guard.

Strategy 4. Be sure to "chunk" it" (Staff, 2018).

He affirms that finding the perfect translator is vital, looking for someone that best suits the negotiating needs. Besides, the conflict management aspect come to find more solutions. For example, the contract should reflect strategic decision, accurately and sufficiently described with organization how to assess, how to change, how to vary, and how to implement the business. Companies must pay enough attention

to those aspects in a contract, skills as effective communication, emotional intelligence, empathy, and creative problem solving are essential to implement conflict management in a commercial project. In Fenn's book, the case study of Terminal 5 in the UK airport is analysed; it is considered a success of contract even though the construction industry is the sector with the most numbers of commercial disputes. The terminal 5 was a success because the construction was finished on time without any significant issue that could affect the project at that scale. The features that are considered made that possible were, "*i) The project culture. ii) The effective Leadership and iii) The supplier behaviours*" (Fenn, 2012).

5.3 Foreign Legal Frameworks

Conflicts caused by differences in legal frameworks of the parties is one of the aims of this research. In that regards, parties have to be conscious of legal limitations. Again a cultural factor can affect perceptions' parties. The task of conflict management and legal departments can be challenging to prevent a clash of legal frameworks. Firstly, the contract comes as a vital object; a contract is an agreement between two or more parties to create mutual business relations or legal obligations, and contracting freedom is the basic principle of international trade. At that time, the legal framework cannot be an issue; a Mexican company can sign a contract with an Irish legal framework to govern the agreement. Well, at that moment everything is going to be perfect, perhaps the Irish party has more power, and for that reason, the Mexican counterpart agrees to solve any kind of dispute in the Irish Courts with another legal system. At this point, reasonable expectations and contract interpretation across legal traditions such as common law and civil law practice are generally congruent, but different concepts are used as overarching explanations, reflecting the two traditions' differing philosophies.

However, more than power dynamics, cost of litigation abroad, philosophical legal theories, and system differences, the real conflict come in the performance of the agreement. A typical example in commercial and international business is the franchise agreement. This kind of contract has set beforehand the conditions and terms, and they usually not modified. That means if the Irish company has set conditions that are legally applicable in Ireland, they expect that as well they are in Mexico. Here is where the hard work starts, a detailed review of conditions have to be made and analyses through the Mexican legislation; that task is usually not carried out. Businesses are faster than lawyers, and the operation is always ahead. Also, even when the legal departments review the agreement clauses, they cannot find some issues regarding legislation incompatibilities. However, franchise usually has procedures, sales manuals, shop designs, employees policies, knowhow manuals, marketing and advertising guidelines, that they can be legal accurate in Ireland but what happen if they are not in Mexico. At that point, when parties are aware of those legal incompatibilities, the business is running. There is when parties have to be creative and flexible in order to understand that it is a joint issue, and both parties have to make efforts to find solutions, make changes, vary conditions, etcetera.

Law often imposes structural limits to perform commercial activities. The global fight and prevention of money laundering have imposed many limitations to do commercial activities related to jewellery, real states, financial services, those some others of issues that negotiators have to be aware in bargaining processes. There are many commercial activities related to “the designated non-financial businesses and professions.” denominated by Financial Action Task Force (FATF). Moreover, each country has its own legal conditions in this regard, even when international regulations exist.

Furthermore, experienced lawyers understand the difficulties that perform a contract in a foreign jurisdiction can be. In many circumstances, the bargaining model is not truly applicable because people cannot negotiate and accept a condition that is not legal.

5.4 Contract Roman Law & Civil Law

Regarding the traditional legal systems, theoretical and philosophical differences between Civil Law & Common Law are noticeable. However, according to studies, there is not a discussion about natural incompatibilities that can create legal conflicts only for that regard. Roman Law contrary to Commun Law did not descend into an analysis of the parts of a contract in terms of offer, acceptance and certainty if not the essential is to look for an agreement between the parties in the form of a genuine meeting of minds (consensus ad idem). However, judges were prepared to construe contracts and resolve ambiguities (All Answers, 2003).

5.5 The emotional agents

The emotions and feelings were surprising findings in this research. The anxiousness was related to the use of foreign language in commercial communications. I can be explained as a state of worry and nervousness. The HSE in Ireland gives some advice regarding these emotions in order to control them. Good eating, exercise, relaxation, self-talk, talking about your anxiety, give it time are some of the activities recommended (Executive, 2020). However, this work is limited and is no able to discuss those aspects because it was not aimed, but without any doubt, there is an opportunity to explore and look for valuable insights in that regard.

5.6 Conflict Management

Conflict management can be explained as the procedures and measures created to reduce or avoid harmful effects of conflict at the same time that tries to transform those negatives effects into positive outcomes using the creativity to find value in those conflicting interests. Three categories can be found in conflict management, i) Domination, that uses a win-lose-relation. ii) Compromise lose-lose-future conflict. iii) Integration win.win. Some authors made a comparison between conflicts and illnesses. They say that conflict has to be diagnosed, then the prevention of conflict can be possible by the prediction of future conflict, in order to manage conflict, firstly, the risk has to be identified, followed by sound analysis, then the conflict can manage using the strategies (Fenn, 2012).

Through this work, it has been evident that conflict management in the early stages will be the best way to avoid and prevent commercial conflict between foreign parties. It is well known that companies usually do not invest in that. However, it is a fact a good implementation in companies can bring enormous value and results. As Fenn says *"Conflict is inevitable and essential. It is part of the dynamic capitalism".* In this respect, conflict management some times can not avoid the conflict, but it can create the mechanisms that help to decreases the impact. The cost of commercial disputes can be catastrophic for a company; for that reason, a formal study must be done each time that a company is planning a new business or contract. A professional had to study the legal and commercial impact that those activities can generate to the organisation. A series of there stages regarding commercial conflict has to be considered, *"i) Dispute avoidance by conflict management. ii) Consensual dispute by choosing and establish an ADR clause in the agreement. iii) Using an adjudicative dispute resolution"* (Fenn, 2012).

The franchise or pre-made contracts are standard legal instruments commonly used in international trade. This kind of agreement gives to on party the advantage because they are entirely familiar with conditions. However, that fact sometimes can be a weak point being that agreement made according to a particular jurisdiction; it is necessary to analyze the special legal conditions of the country of the counterpart or where the commercial activity is going to be performed. Even when conditions are agreed parties should agree to find alternatives. Sometimes when the agreement is signed, some options to solve conflict are not available or considered. The flexibility is a feature that has to be always present in relationships. It can help to reduce cost impact and give confidence to the relation.

5.7 Commercial Conflict Resolution

Observing the collected data from question 29 that asked the participants, for what reason would them decide to litigate a conflict, around the 35 per cent said that they chose to litigate if they cannot find another option. It is interesting that among these participants, the litigation is the last of the resources to solve a conflict with a commercial counterpart. However, almost the same percentage replied that they would litigate if they have a legal recommendation to do it. A lawyer giving legal advice regarding starting a dispute is a polemic. It is believed that conflict of interests comes at that stage in the jurisdictions where it is not a distinction between barrister or solicitor. The example of Mexico where is not a distinction between lawyers, once that they have their authorization to practice law they can be legal advisors or litigate a case in behalf of clients. That means that the same person that recommends going to court can be the professional who makes money by the legal fees for the process of litigation. Some ethical considerations have to be done regarding this aspect.

Traditionally, there are two principal systems of law in countries, the Common Law and Civil Law. It is interesting that from the data collected the majority percentage of the participants are from jurisdictions with a Civil Law system. In general, Common Law jurisdictions has an adversarial approach to litigation and arbitration. Judges and arbitral tribunals play the role of an impartial finder of fact and law in the adversarial battle between the parties. In contrast, Civil Law jurisdictions use the inquisitorial method. Judges and arbitral tribunals actively elicit the facts and law from counsel and witnesses. In arbitration, this means that the tribunal is in complete charge of questioning witnesses. A party or counsel who wants to question a witness must present the question to the tribunal, which then questions the witness (Laeuchli, 2007). Those features have to be taken into consideration when the participants' answers of lasts five questions are analysed. Specific in countries like Mexico, some ADRs such the mediation are not typical. In that sense, 50% of the respondents who are originals from that country are no familiar with this concept.

5.8 Using Negotiation

Negotiation is defined by Goldman & Rojot, as *the method by which two or more parties communicate in an effort to agree to change or refrain from changing: 1 their relationship with each other. 2 their relationship with others. 3. their relationship concerning and object or objects* (Rojot, 2002). The results of the questions related to negotiation as a way to resolve a conflict were contingent 84% of the respondents answer that negotiation is the first option to solve a conflict. Being negotiation a common way to solve problems in life, people can be receptive to use it. Negotiation does not create an antagonism or negative effect in the parties when it is set while that can happen with other ADR. Negotiation in commercial and international relationships has particular elements have to be considered

and not lose sight. Those elements are the language and all the issues related to communication, the contract drafting, legal framework, jurisdictions and systems of law, and conflict management.

5.8.1 Preparing to Negotiate

There is an extensive list of authors and theories about negotiating. Lewicki & Hiam, explain as the preparation as a pre-stage. It is the moment to gather information and do planning and goal setting. The information is joined:

1.- "Information that will help you to define your own objectives and argue for what to achieve in the negotiation

2.- Information about those on the other side, their goals and objectives, how they are likely to view you, and they may want to achieve in the negotiation" (Hiam, 2010).

Focused on point 2, it is crucial that in this stage, the information related to the local legislation that can apply to the agreement to negotiate. Furthermore, looking at the legislation that applies to the other party. Also, it is essential to seek information regarding the foreign language and culture that can affect the agreement somehow.

From the personal point of view of the researcher, the preparation stage is the cornerstone of any negotiation. Negotiators cannot recover from insufficient preparation. During the bargaining sessions, things can change drastically, clash of personalities, hard approaches, rudeness, new information, etcetera. However, the value that an adequate preparation can give to negotiator will never be substituted by any other resource. Having the whole picture, adequate information, objective data, a

good knowledge of the counterpart's interests will help to build a solid BATNA and elements to have a successful performance.

5.8.2 The Negotiation stages

There are several ways to approach the discussion of the negotiation stages, for this work it prefers a comparison between a traditional hard approach versus the Principle Approach of the Harvard Project in by William Ury (Fisher, 2012). The comparative chart uses the negotiation stages presented by Korobkin (Korobkin, 2014) jointing it with the elements presented by Getting to say yes. It will explain each stage contrasting elements and ideas between two approaches.

Table 11. Comparison of negotiation stages (Principled Vs Hard Approach)

<table>
<tr><td colspan="2">First Stage

Information Exchange</td></tr>
<tr><td colspan="2">1.1 Introduction into negotiation/ The Opening</td></tr>
<tr><td>The Principle Approach (P.A)</td><td>The Traditional Hard Approach (H.A.)</td></tr>
<tr><td>A friendly opening speech is given, trying to show honest intentions and willingness to collaborate. Getting the counterparties' trust</td><td>A strong speech is made. Actors are trying to intimidate the counterparties by information obtained in the preparation stage.</td></tr>
<tr><td colspan="2">Evaluation</td></tr>
<tr><td colspan="2">The P. A. tries at this stage to show the disposition to collaborate with the parties, whereas the H.A. shows a strong position usually with high expectations about the outcomes. Moreover, P.A. is willing to obtain the parties´ trust while H.A. tries to intimidate and affect the parties in order to take</td></tr>
</table>

<table>
<tr><td colspan="2">advantage.</td></tr>
<tr><td colspan="2">1.2 Positions exposition</td></tr>
<tr><td>Positions with fair and objective criteria are presented by showing the support criteria. Usually, more than one position is presented as an alternative to the counterparties.</td><td>Positions are made taking any possible advantage from the situation and without any consideration of the counterparties. There is usually one position.</td></tr>
<tr><td colspan="2">Evaluation</td></tr>
<tr><td colspan="2">The P.A. has positions that were made with objective and reliable information as a result of that the positions could be seen as good options by the counterpart; in contrast, using the H.A. the positions could to hurt counterpart’ susceptibilities as usually them are looking for the highest claim.</td></tr>
<tr><td colspan="2">1.3 Bargaining</td></tr>
<tr><td>The Principle Approach (P.A)</td><td>The Traditional Hard Approach (H.A.)</td></tr>
<tr><td>The negotiator can move between the BATNA and fair conditions. They are listening to the counterparties´ positions in order to reach a common collaborative position.</td><td>Negotiators do not move the position at all, and they do not listen to other parties´ positions. Practically they are digging in their own position.</td></tr>
<tr><td colspan="2">Evaluation</td></tr>
<tr><td colspan="2">Bargaining can be the stage of the negotiation process more complicated, but at the same time, can be the critical moment to reach the agreement between parties. The P.A. sees this stage as the moment to collaborate, showing the parties the good faith to give to all the parties something to gain (their cake slice). At that moment, by the H.A., they are just around of their position without intentions to move, trying to tire out the others.</td></tr>
</table>

<table>
<tr><td colspan="2">Second Stage

Agreement Proposals</td></tr>
<tr><td colspan="2">2.1 Exposition of a proposal</td></tr>
<tr><td>The Principle Approach (P.A)</td><td>The Traditional Hard Approach (H.A.)</td></tr>
<tr><td>Make aware of the parties the fairness of the proposal by explaining the reliable data support. It tries to incorporate the positions of the counterparties in order to create a sense of collaboration.</td><td>Negotiators are trying to convince the parties why the proposal is the only solution and why they should be accepted. It is usually the same initial position or with minimal concessions. It does not include the counterparties' interests or concerns.</td></tr>
<tr><td colspan="2">Evaluation</td></tr>
<tr><td colspan="2">Similar to the other stages, a negotiator with the H.A. is always trying to impose his own interests, whereas the P.A continues looking for a joint trust and collaboration to built a shared solution. At this moment, the agreement could be visible, but there is a long way to sign an agreement.</td></tr>
<tr><td colspan="2">2.2 Counterparty´s proposal</td></tr>
<tr><td>Listening skills are vital to finding common points and move forward to the agreement beneficial to all parties.</td><td>Underestimate the counterparty´s position and looking for the weakness point to attack it. Not interest in listening or build a joint deal.</td></tr>
<tr><td colspan="2">Evaluation</td></tr>
<tr><td colspan="2">In the P.A., listening skills are crucial to understand counterparty’s proposal and see the interest and concerns through it. At this stage, the counterparties' interest can be visible if a good evaluation can be made. In comparison, the H.A. continuing listening to the information only to take advantage of weak points or negative aspects, the aim is to win.</td></tr>
<tr><td colspan="2">2.3 Incorporating proposals</td></tr>
</table>

There is the intention to incorporate conditions from the counterparty´s proposals with a recognition of the fairness and objective criteria of the counterparties.	The H.A. tends to avoid merge proposals. If there exists a possibility to merge the proposal, the negotiator will try to get the most significant part of this own interest and giving up as little as possible.

Third Stage The Final Resolution/ The Closure	
3.1 Getting an agreement of the central issue 3.2 Discussing details and secondary conditions	
The Principle Approach (P.A)	The Traditional Hard Approach (H.A.)
Demonstration of good faith and collaboration. There is a sense of fairness to deal with the last details as the main issues.	None intentions of collaboration. Not move of his positions. They are continuing with a strong approach without a sense of cooperation. Sometimes there is a give up of some minimum details that are not important to their interests. These give up are usually given as favour more than a cooperation signal.
Evaluation	
At these latest stages, the attitudes and positions bring the outcomes. The trust and collaboration are in the atmosphere and signing an agreement that satisfies all the parties. Besides, a few possibilities that disputes arise again and bring the parties again to into a negotiation. It knows that sometimes an agreement is no possible, but the base to a new negotiation has been built with all the right attitudes and efforts made by the P.A.	

On the other hand, the H.A. has the same attitude along all the negotiation process. All the already mentioned can bring to these stages a breakdown relationship where even negotiations cannot keep going. Even though when an agreement is signed, counterparties leave the table feeling that they lost the negotiation. That eventually would bring again to the parties to negotiate. Probably with a worse scenario and probably a dispute will arise in a future cause by the same hard negotiate conflict.

5.9 Other Alternatives of Dispute Resolution (ADR)

Ireland nowadays has become in a place where solve dispute by an ADRs is increasing every day. With the economic boom in the last years and expensive litigation. Also, it not only the money issue features as public procedures and time spend are others. The mediation has been used as a preliminary stage of litigation with some impressive percentage of resolution. According to The mediator's Institute of Ireland, statistics show a success rate for mediation averaging 80 per cent (The Mediators' Institue of Ireland, 2020). In The Commercial Dispute Resolution 2020, Waring says that in order to have successful conflict management, parties have to establish the best model of ADR for all the parties involved. It will be a way to preserve a good relationship and maintain the value for money (Waring, 2020).

Finding the best model of ADR to parties is not an easy task. However, the conflict has to be assessed by a professional. He has to take into consideration factors such as the monetary value of the conflict, the economic situation of the company, the size of the businesses, the kind of conflict, tha available options, etcetera. It essential that the initial agreement establishes an ADR clause. It is demonstrated

that once that the conflict has arisen it is more challenging parties can agree about the ADR to use. Waring says that the appropriate method to the client has to aim the relationship.

5.10 Mediation

In some countries as Ireland, the most common type of ADR is meditation. The main characteristic is that a neutral third party comes to facilities communication and help the parties to go through the sessions to find solutions that satisfice both parties. However, mediation has some issues in commercial conflict; one of the most important is the are not specialized mediators like in Arbitration where people can find an extensive list of arbitrators with broad experience in different areas such intellectual propriety, the tech industry, manufactury sector, etcetera.

5.11 Arbitration

Arbitration is a form of alternative dispute resolution frequently used in commercial disputes (Dunne, 2014). This form of ADR become popular since globalization helped by the increase of international trades. Hence the need to look for a way to solve the conflicts arisen between international and commercial parties. However, the use of arbitration has been extended on a domestic basis. The most valuable achievement of this Arbitration, without doubt, is the 1958 New York Convention. The Convention achieved the recognition and the enforceability of the arbitral awards almost in all the countries (Mistelis, 2009). Arbitration begins from the will of the parties. Then parties have to formalize this by an arbitral clause in a contract or an especial agreement to go through the arbitration to solve disputes.

Traditionally arbitration has been perceived as an arrangement between two parties who have agreed to it as a method of resolving disputes arisen from the contractual and commercial relationship (Julian D.M. Lew, 2003). Authors agreed that Arbitration is the most well-established form of ADR, and it can be suitable to resolve for commercial and contractual disputes between international parties. The expertise of arbitrators gives an extra value to some industrial sector that requires some specialised knowledge. However, it is known that this ADR is not recommended to deal with multi-issues disputes.

5.12 Litigation

The last survey's questions were looking for some valuable perspectives of the participants regarding when they will show litigation as a way to solve a conflict or dispute. The majority of participants said that they would choose litigation if they cannot find another solution. So Litigation was the last choice for them. However, an important part of respondents said that legal recommendation would be enough. The truth is that culture has a real impact on those answers; a more in-depth analysis can be made to find some premises.

Litigation is a traditional way to solve dispute for hundreds of years. It could be defined as the process where a person takes legal action into the court to obtain something that he/she thinks is his/her right. In that sense, states have created judicial systems formed by courts, which have the function to adjudicate legal disputes. It is the fact that significantly improves have been made in courts along decades, but litigation is almost always attached to the politics of governments. It that sense it will be difficult to really find a real independent system of Justice. Litigation can be costly, prolonged, and it causes antagonism that brokes relationships. The term Commercial Litigation is an extensive term and

not easy to define. It is carried out in usually specialised courts established to deal with commercial disputes. However, why to choose litigation over other ADR?

Here some advantages:

The law is already established.

The law defines the process.

Appeals can be made over many aspects and moments of the process.

The preventive measures.

The enforceability by the state.

Multiparty does not affect the process.

Parties do not have to agree beforehand to litigate.

The issues to litigate can be more than one

In contrast some disadvantages of litigation that some ADRs can yield.

The parties cannot modify the process to save time or costs.

The time could be longer than it is expected.

Political or economic pressures could influence the process and decisions.

The parties cannot choose the judge.

The judge is not an expert in the subject of the issue.

The law establishes the pieces of evidence allowed.

The fees and costs are expensive.

Usually, the procedures are public.

CHAPTER V

CONCLUSION

Show how language as a primary cause of conflict can impact commercial and contractual relationships between international parties and demonstrate how non-face to face communication can affect commercial relationships, are two of the aims of this dissertation. In that regard, through the discussion chapter, crucial concepts related to the topic and findings were elucidating. At first, the language was analysed as a general canal of communication and narrowing it to be a foreign interaction primary element in commercial and contractual relationships between international parties. Until now, the research kept apart from the English language as the most common language used in business around. It was not seek related that specific language as a cause of conflict if not the focused on the feature as a foreign language in general. The primary data collected fund negative emotions created by using a foreign language as communication in commercial negotiation. Perhaps these sensations are caused by lack of self-confidence regarding the level of the foreign tongue´s proficiency. However, this research does not analyze these factors because there were not elements of the research hypothesis; the level of language's command was not asked. Besides, the cultural agent attached to the mother tongue came as an undoubted element and well explored by several authors for many years. This factor is demonstrated that can create misleadings and misunderstandings during communication for that is vital that parties involved in that kind of relationships are always aware of such cultural differences. That awareness will help to avoid issues caused by this element; moreover, this element is not tangible, and those kinds of perceptions can be challenging to assess. Besides, It goes to explore the use of some words, phrases, slangs, jokes, metaphors, among others, can generate issues that affect effectiveness and accuracy

during the communications. Avoiding using those agents can lead to the participants to a good understanding without subjective perceptions of the meaning of those phases.

Furthermore, the translation languages' complexity to another can cause two significant issues, the misinterpretation and the mistranslation. Phrases and words cannot have the same intention when they are literally translated into another language. There the value of the interpretation comes into consideration; it is not only used a device to translate if no the understanding of a foreign language is more complicated than that. A mix of different pieces of knowledge is needed to understand the meanings of some statement fully, moreover, when legal and commercial technicalities are being used. In this regard, a legal aspect mixed with linguistic discrepancies can appear when agreements are being executed, and they are written in two or more languages. Legal principles from the Unidroit are there to help with these issues. It says that if one of the languages does not have the authority of interpretation, the version drafted version will obtain this authority (UNIDROIT, 2019).

The means of communication used in those relationships are usually by tech tools. Participants showed their preference practically the same for face to face and written communications. It is known that foreign parties tend to use the technology to communicate, reducing finance and time costs considerably. Here it comes another not tangible factor is not assessed, such human and physiologic elements that only a face to face communication can give to the participants.

Show how different legal frameworks are a significant cause of conflicts between international contractual relationships and explore how the foreign language and legal frameworks have a significant effect on international commercial relationships during negotiations and business relationships, are two more of the research aims & objectives in this work. In this regard, the data collected showed

participants´unawareness of the importance of this issue. From a lawyer's point of view, the critical role of the applicable legal framework is undisputable. A core element of a contract is to know where the disputes will be solved and under wich legal system. The data obtained about who usually take decisions in contract negotiations was precise, lawyers are not decision-makers even tho the agreement is a bounded and legal instrument that requires law expertise. It is evident that a significant part of the conditions is purely operative and commercial, and it is not a lawyers job. However, it is their job to analyse those and seek until the ultimate consequences that those conditions could cause. Only 13 per cent of the data collected came from law professionals. It would be self-evident that the results of the legal elements would have been others if only lawyers answered the survey. A literature review regarding traditional systems of law such common and civil law was done, trying to find elements to discusses; however, it is a well-analysed topic that not much more can be said. Even though the differences in legal forming contracting are evident while common law looks for specific elements such offer, acceptance, consideration, the intention of creating legal relation and capacity of the parties, the civil law looks for the parties' consent and legal capacity, the object of the contract can be trade and the motivation of the contract is legal. In that sense, legal systems are compatible, and they cannot be fund elements that apports to this dissertation. The conflicts caused by different legal frameworks are originated from poor conflict management that does not appropriated evaluate risk at that point, it is evident that contacts signed by international parties and that will be performed in more than one jurisdiction are complex. That complexity has to be evaluated by a multidisciplinary team.

Finally, Finding the methods that can create awareness between the actors in negotiations and parties in international commercial relationships to prevent conflicts and also finding the best approaches to solve and manage conflicts caused by language and legal framework in commercial and contractual relationships were the last two aims of this study. For these objectives, the research explores different

approaches the Negotiation Harvard Project (Fisher, 2012) which give valuable insights about how to address negotiations, combined with Peter Feen's ideas and theories studied in Commercial Conflict management and dispute resolutions (Fenn, 2012). Besides, the ABC Guide of international negotiations (Jacqueline Klosek, 2009) only for mentioned them. Integration of those theories, ideas and evaluations are taken into consideration to deal with the particular issue of conflict caused by foreign languages and legal framework in commercial and contractual relationships.

The cornerstone is the stage of preparation; each author gives different relevance to this part. However, by the findings and discussion, it can be said that at this stage can make the difference to solve a conflict or escalate it. Actors in a negotiation have to be aware of who is the counterpart, from where they come from and at least have a general picture of the cultural differences between them and the way that businesses are made in the counterpart's country. The need for hiring a translator or interpreter has to be evaluated not only in the economic aspect. Legal research of the counterpart legislation or the country where the commercial activity has place has to be done when is needed; looking for understanding the particular situation of the business matter object of the agreement. A series of internal meetings from all the areas involved at the company is vital. Sometimes, conflicts are caused internally by a lack of communication between colleagues; everyone has to understand their position and job in order to achieve appropriated results. It can be an issue when companies do not have in-house legal counsel, and there is not an amalgamated negotiator team.

In general, the purpose of this research is to explore the causes of conflict in foreign and commercial relationships and to prove that the foreign language and legal framework are a primary agent that cause conflicts in those relationships. It can be said that partway it was proved. On the one hand, that regard to the foreign language, the primary data collected is clear, and it does not leave room for doubt. The

data shows that language is a significant agent of conflict in foreign communications through negotiations and eventually in written agreements. On the other hand, the foreign legal framework does not show be an element that causes conflict itself; otherwise, conflicts related to this factor looks that is caused when an appropriated analysis is not done beforehand.

To summarise, this research has the objective to find an appropriate approach in order to avoid that kind of conflicts in commercial and international relationships, and it can be said that this work could find it. It was possible with the analysis and selection of the elements taken from different theories' authors. After to has been explored all the sub-element in those categories such as means of communication, cultural differences, written agreements in two or more language, use of some phrases and slangs, etcetera; the conflict management is considered the best solution to avoid conflicts caused by foreign language and legal framework. Besides, the element of the legal framework shows that the focus has on limitation of some commercial activities have in countries and the legal analysis that professionals of law have to do. The data collected showed that in higher percentage lawyers are hired to participate in negotiation processes the only point here is that lawyers tend to be experts in national legislation in their countries and the question here will be if they are familiarized with the foreign legislation of the counterparties.

REFLECTION

A substantial and positive experience was obtained from this dissertation. Firstly, the challenge of reading several pieces of literature and writing 20 thousand words in a foreign language and at the same time, the satisfaction for the result that every chapter was contributing to the understanding of the researched topic. Having a commercial and legal background was encouraged to research more and try to find the possible quality of data. Besides, a challenge came from the specialized language and concepts used in the language and linguistic pieces of literature. Also, it is interesting that a few authors explore both of the main elements of the dissertation and it is understandable because a vast difference exists between them; however, in foreign commercial relationships, they merge. One of the challenges was to find good literature regarding the foreign legal framework. It looks at this kind of conflict only approach when the conflict has become in a dispute and not as part of avoiding or management conflict. Secondly, I could say that the amount of data collected obtain was more substantial than it was expected, the required length of this work is not sufficient to complete a full analysis of all the valuable data obtained. I wish I could explore deeper the elements of gender, nationality, mother tongue, age and industrial sector of the participants. I had to keep focused on the aspects aimed, and exacting insights could have been obtained from such analysis.

LIMITATIONS

A few limitations were experienced through the present work. Firstly, the actual pandemic situation in the world has been impacting lives and activities for everyone. Such a situation made limited access to libraries and physical books. Besides, the mental welfare of people, including the researcher and the participants influenced how the research was carried out. One example is the participants that they are focused on other important matters such as personal life and work that are affected instead to participate in the survey.

In the collected data, the main limitation was to obtain participants from English native countries. It was important to have the right proportion of those; unfortunately, some of the people reached have not to experience with international and commercial relationships, and others were not interested in participate. The personal background of the researcher is reflected by having half of the participants from Mexico. However, it can be said that English speakers usually have not to speak a foreign language to do business in that sense they perspective may have been different since they do not experience issues related to speaking a foreign language. However, they could give valuable data regarding the other perspective of having business in their native language.

Finally, regarding the required length of the dissertation, It was quite a challenge to choose the topics to explore in a more profound way to keep the limit of words. It made that more analysis of the data was done looking for new insights or theories about the research topic and its variants.

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APPENDIX I.

Survey's Open Statement

This survey is seeking for professional people who have been involved in business or contractual negotiations with foreign parties and where a different language is used. Also, It is looking for people who have been in a professional or commercial relationship with a foreign party. This survey has the purpose of collecting data that will be analysed and interpreted as a part of the research in the field of dispute resolution. The research is an assessment part of the requirements to the researcher in order to graduate from the program of the Master in Arts of Dispute Resolution at Independent Colleges Dublin; it will take less than 10 minutes. The treatment of the data collected will be respected for the appropriate confidentiality of commercial or professional information supplied to the researcher.

APPENDIX II

Survey's Data Privacy Statement

Thank you for agreeing to participate in this research study. Your participation helps the researcher ("Jonathan Hervert") to understand your behaviours through conflict in commercial and contractual negotiations and relationships, which will allow him to provide enough data to build the Master Degree Dissertation in Dispute Resolution. As the controller of personal data processed in connection with your participation in our research study, the researcher is committed to protecting your privacy and handling personal data about you openly and transparently under the General Data Protection Regulation, and the Acts applicable in Ireland and Europe. It is done in order to protect the rights and freedoms of individuals that are participating in this survey. This Privacy Notice explains what data we collect from or about you, how we use and protect that data, and your legal rights. Please note that this Privacy Notice applies only to your participation in this survey. Information we collect about you. To carry out this survey, we may process, including collect, use, store and transfer different kinds of personal information. Personal information includes details such as your name, your personal and/or business e-mail address, phone number, your nationality, range of age, details related to your years of professional experience, and language. Your Data Protection Rights If the researcher processes your personal information, you have rights concerning that data. You may exercise your rights by contacting the learner or the college. If you agreed to participate in a future interview, and share your personal information, be aware that it will be only used to contact you to make the interview appointment. Your personal data will be delated of any digital or physical storage device six months after this date. The other data shared through the questions will be used only to measure percentages, response rates, at no time will they be related to your name, e-mail or telephone number, or any other data that can identify you. Participation in this research study is always voluntary. If you do not agree to the terms of this

Privacy Notice, please do not participate in this study, and you do not finish the survey. If you have any inquires about this project or data collection you can contact the learner by e-mail jhervert2@gmail.com or the college by registrar@independentcolleges.ie