

## **EXERCISE: CG 1**

Module:	Transfer Skills Knowledge of Legal Systems
Type of Exercise:	Sight translation
Topic:	Waiver of rights; plea agreement
Learning Outcome(s):	On completion of this exercise, trainees will be able to: <ul style="list-style-type: none"><li>• produce a complete and correct version of this document in the target language, respecting register and terms of art</li><li>• understand the concept of a plea agreement and ascertain if there is a legal equivalent in their country's legal system</li><li>• compare basic procedural rights as reflected in this document to those that exist in their country's legal system</li><li>• correctly reproduce terminology related to procedural rights in English, when required to do so.</li></ul>
Language (Combination):	English/Other language
Equipment:	Language laboratory, digital or analogue recording and playback equipment are recommended, but not essential
Time:	1 hour
Suitable for:	Intermediate/Advanced
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## TEXT

The following are the terms and conditions for the plea bargain offered by the State Attorney to \_\_\_\_\_ (name of Defendant) \_\_\_\_\_. This agreement is conditional upon the defendant's representation that this document bears his true name and that he has no felony convictions other than those described in the terms of this agreement.

Unless the plea is rejected or withdrawn, the defendant hereby gives up any and all trials and appeals to which he may be entitled if he were not to enter into this agreement. Furthermore, the defendant understands the following rights and understands that he waives such rights by pleading guilty:

1. his right to a jury trial;
2. his right to confront the witnesses against him and cross-examine them;
3. his right to present evidence and call witnesses in his defence, knowing that the State will compel witnesses to appear and testify;
4. his right to be represented by counsel (appointed free of charge, if he cannot afford to hire his own);
5. his right to remain silent, to refuse to be a witness against himself, and to be presumed innocent until proven guilty beyond a reasonable doubt.

This written document contains all the terms and condition of this plea agreement, and the defendant understands that any promises made by anyone, including his lawyer, that are not contained within this written plea agreement, are without force and effect, and are null and void.

I, \_\_\_\_\_ (name of Defendant) \_\_\_\_\_, am not on or under the influence of any drug, medication, liquor, or other intoxicant, and I, \_\_\_\_\_ (name of Defendant) \_\_\_\_\_, am at this time fully capable of understanding the terms and conditions of this agreement, and my agreement and plea are not the result of force, threats, assurances, or promises other than those which are contained in writing in this agreement. I have read this agreement with the assistance of counsel, understand its terms, understand the rights I give up by pleading guilty in this matter, and agree to be bound according to the provisions herein.

Signed: \_\_\_\_\_

(Defendant)

Date: \_\_\_\_\_

## METHODOLOGY

1. Ask trainees to read the text. Briefly discuss text type, register, tone and purpose. Clarify any doubts trainees may have about meaning.
2. Ask trainees to predict possible translation problems based on their first reading. Without solving these problems for the trainees, give them a short time (limit to just a few minutes) to think of options. Tell them they may not write any solutions or ideas on the text itself.
3. Have trainees record their first attempt at sight reading this document into the target language. Then ask them to listen to their recording and to identify any problem areas they had not anticipated.
4. Conduct a group session to share strategies and solutions for each of the difficulties encountered. Remind trainees not to write words or notes on the text itself.
5. Have trainees tape a second attempt at sight reading the text after the group discussion. Listen and compare to the first rendition.

## TEACHING POINTS

1. Encourage careful reading of the document, with emphasis on meaning, not form. Encourage avoidance of literal translations.
  - a. Example: “This agreement is **conditional upon the defendant’s representation** that this document **bears his true name**” simply means “This agreement **will not be valid** unless the defendant **states** that the written document **includes** his **real name**.”
  - b. Example: “... or promises **other than those which are contained in writing** in this agreement” simply means “or promises **not included in this written agreement**”.

2. Encourage trainees to anticipate structural changes in their translated version.
  - a. Example: **“that this document bears his true name”** could also be stated as **“that the name found on this document is his real name.”** This may help students find an appropriate version in the target language.
  - b. Example: **“the Defendant hereby gives up any and all trials and appeals to which he may be entitled if he were not to enter into this agreement”** could also be rendered **“By accepting this agreement, the Defendant gives up his right to any and all trials and appeals that he may otherwise have.”**
  
3. Focus on lexis: register, legal terminology and terms of art. Some examples:
  - a. to waive a right
  - b. without force and effect
  - c. null and void
  - d. plea, to enter a plea
  - e. hereby, herein
  - f. to be bound by the provisions of the agreement
  
4. Knowledge of the legal system. Determine if each of the procedural rights included in this document has an equivalent in your legal system. If it does, how is that right stated in your other language?
  - a. the right to a jury trial
  - b. the right of a defendant to confront witnesses against him and cross-examine them
  - c. the right of a defendant to present evidence and call witnesses in his defence
  - d. the right to be represented by counsel
  - e. the right to remain silent
  - f. the right to be presumed innocent until proven guilty.