Using Images as an Effective Tool to Facilitate Teaching Legal Concepts

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Association des Professeurs de Langues des Instituts Universitaires de Technologie
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Abstract
Legal language, as instrument of legal thought and closely linked to community social events, is derived from the most common terms and concepts of everyday life. The theoretical approach to the teaching of Legal English should therefore be organised around one main object: the linguistic performance in the field of Law in a social-cultural context. By using Adjunct Content and Language Integrated Learning (CLIL) rather than full CLIL in an integrated approach to the teaching of a foreign language and legal concepts, the teacher copes with teaching languages for specific purposes, preserving the quality of both language and content of the discipline. This paper addresses the benefits of integrating images in such an approach, in an English course to Law students, in order to facilitate language learning and avoid linguistic ambiguity in a discipline which cannot exist outside discourse.

Keywords
adjunct-CLIL, ESP, images, interdisciplinary, Law, Legal English

Mots-clés
anglais juridique, ASP, droit, Adjoint EMILE, images, interdisciplinaire

Résumé
Étroitement lié aux manifestations des collectivités sociales, le langage du droit, instrument de la pensée et des notions juridiques, puise dans les termes les plus communs, ceux de la vie quotidienne. Par conséquent l’approche théorique de l’enseignement de l’anglais juridique devrait s’organiser autour d’un objectif prioritaire : la performance linguistique dans le domaine du droit dans un contexte socioculturel. En utilisant Adjoint EMILE (enseignement de matières par intégration d’une langue étrangère) plutôt qu’EMILE pur pour intégrer l’enseignement d’une langue étrangère et les concepts juridiques, l’enseignant peut affronter l’enseignement des langues de spécialité en préservant la qualité de la langue et le contenu de la discipline. Cette communication porte sur l’intégration de l’image dans un cours d’anglais à des étudiants de droit pour faciliter l’apprentissage du langage et éviter les ambiguïtés linguistiques dans une discipline s’exprimant nécessairement par la parole.
Using Images as an Effective Tool to Facilitate Teaching Legal Concepts

Legal language, as an instrument of legal thought and closely linked to community social events, is derived from the most common terms and concepts of everyday life. It affects all facets of life. Legal English, however, is a professional language variation, employing legal terminology with technical meaning generally not known to laypersons. There is an increasing use of English for intra-national communication in international and supranational organisations. For example, legal debates in the United Nations, the European Union or the development and financial institutions of Bretton Woods, are held in English.

English has become a compulsory module for a Master’s degree in Law in France as a result of its importance as an international language. There is a tendency to teach the non-linguistic discipline (NLD) in a second language directly, by means of an immersion method such as Content and Language Integrated Learning (CLIL). In this article, however, it is argued that in cases of language learning difficulties, it is better to use Adjunct-CLIL rather than full CLIL (see I.1. infra).

This article addresses the advantages of using images in an integrated language learning approach. It was developed by the author as “Applied Linguistics to another Discipline by Integrated Method” (ALDIM), in order to help francophone Law students to cope with a course in Legal English. After more than five years of diligent work and in-depth research on foreign language didactics it has proved to be a useful approach to define and establish the teaching programme. This integrated approach as a teaching device, set up to compensate for the learning difficulties ascertained in educational situations, is based on a series of macro and micro tasks in a three-phase language learning training programme (Appendix 1).

While English for specific purposes (ESP) makes use of underlying methodology and activities in the discipline it serves, Law in this case, a method such as CLIL interchangeably used with immersion is focused on a content-based subject. In some cases, however, CLIL is not feasible. Unlike Economic English or Medical English, Legal English is more difficult to learn as there is no universal standard. Legal language, characterized by certain specific features, contributes to creating and expressing the norms in force in different societies, affecting and modifying people’s behaviour, e.g. through statutes, court decisions and contracts (Koebek 2008). Learners have to deal with defining concepts of a foreign legal system in English as a foreign language (L2), avoiding linguistic ambiguity in a discipline.
whose existence as social object is entirely based on discourse (Riley 2008: 7-14). Integrated language learning courses should not be considered in cases where these learners have difficulty in absorbing both the content of the NLD and the foreign language.

1. A theoretical approach to the teaching of Legal English

When learners who were not exposed to immersion programmes (in bilingual schools) at a very early age in their school career cannot cope with NLD courses taught in a foreign language at tertiary level, an integrated or hybrid language learning approach should be considered (Liebenberg 2008). Being familiar with a codified legal system, as opposed to the English Common Law system, francophone Law students learning Legal English confront two obstacles.

They are faced with learning English as a foreign language, for legal purposes, as well as a foreign legal system, the Common Law. The European Communities Act, 1972 (Branaa et al. 2006: 24) took the UK into the European Community. It is therefore important for these students to have a sound knowledge of English as well as that of the Common Law, in order to perform their duties in an international professional environment.

1. General principles

While the author was lecturing in an International Business Law course through English (CLIL approach), it became clear that most of the students could not make any progress as a result of insufficient linguistic skills. In CLIL the NLD prevails whereas in an ESP course the focus is on the language itself. English was the second language for 95% of the students. This resulted in a 75% failure rate on the annual English examination. As most of the learners found it too difficult to cope with the legal concepts and concentrate on the language at the same time, it became necessary to prepare supporting tasks to help them overcome linguistic difficulties. The author had to consider an Adjunct-CLIL approach (Dalton-Puffer 2007; 2008). This decision led to the development of ALDIM, as set out below. Since groups studying Private Law and Public Law were smaller, it was easier to experiment during these courses.

Adjunct-CLIL rather than full CLIL is an approach intended to evolve from a certain logical structure (Appendix 1) following particular observations. The content is introduced by a content specialist and complemented by language tasks based on texts containing legal concepts in L2. Adjunct-CLIL could be regarded as a golden mean between ESP and CLIL. Recent research presenting CLIL in terms of a continuum tends to shift the emphasis from content to linguistic competence by using an Adjunct-CLIL approach (ibidem). The author calls ALDIM an Adjunct-CLIL approach organised around one main object: linguistic performance in the field of a specific discipline in a social-cultural context. In the case we present here, the focus is on teaching legal concepts, i.e. teaching about Law, rather than teaching Law itself.
2. ALDIM: An integrated approach

The author has adopted an Adjunct-CLIL approach, developing a version which is referred to in this article as ALDIM. The content focus of the ESP approach is based on Legal English for French Law students who are L2 learners of English. The arguments for this approach are as follows.

- Adjunct-CLIL is closer to ESP than full CLIL. It is coordinated with and integrated in non-linguistic disciplines (NLD).
- Teaching of the language and of the NLD takes place simultaneously. As this creates a double challenge for the learners, they need additional support beyond that offered through CLIL.
- The approach is based on a 3-phase language learning task-based programme, called “Applied Linguistics to another Discipline by Integrated Method” (ALDIM). It is a continuous evaluation process, starting with a self-assessment test, a questionnaire based on a student profile and a pre-test in Phases A and B respectively and ending with a final examination after Phase C. The programme (study course) established in the final phase, Phase C, is based on the results of the first two phases.
- It becomes the core of an active and constructive process by which the learner’s aptitude and progress are constantly monitored. The syllabus is designed in cooperation with Law specialists and the development of materials is based on target-centred and student-centred objectives. The approach, therefore, provides specified outcomes for both content and language.

The needs analysis core of an ESP approach can also be applied to Adjunct-CLIL especially with its emphasis on defining the programme, organising the training and selecting the materials. From an applied linguistics perspective, ALDIM is an interdisciplinary exercise. It not only identifies, but also analyses and offers solutions to language-related and social or real-life problems as referred to by Narcy-Combes (2005). The focus is on reconciling language and law as set out in figure 1.

![Figure 1 – Reconciliation scheme](image)

| Linguistic discipline language [English] | Context and positioning DISCIPLINE | Non-linguistic discipline (NLD) - Law |
| Didactics - languages | Theoretical structure Adjunct-CLIL | Didactics - Law |
| Language Learning / Teaching | Training ACQUISITION | Learning/Teaching of legal concepts |
| Non-specific English (NSE) ≠ ESP Task-based programme | Experimentation CONTENT | Legal concepts |

Source: Liebenberg 2010

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When studying legal concepts, the cultural significance of the differences between legal systems becomes clearer in the functioning of the legal system through the action of political, administrative and judicial authorities. The development of legal concepts as legal subject in a social-political structure is strongly linked to communal norms and values of that structure (Carbonnier 2001). This can best be illustrated by Legrand and Samuel’s observation (2008: 22-24), that by applying quotations marks when writing ‘common law’ in any other language but English, is to emphasize its foreign origin and inexpressibility other than in its own language. Becoming familiar with the content of certain aspects of Law as an abstract discipline, could be challenging or less interesting, depending on the overall approach to the legal matter.

II. Teaching concepts across different legal cultures

This section addresses basic differences in the legal systems and the use of images to help learners come to grips with the differences. For instance, the cartoons which are discussed in this article are distributed among a group of the learners who have to study legal concepts, foreign to them. They are prompted to identify characters or objects in the cartoon and then invited to link them to concepts they are learning in the Legal English course. The cartoons often have historical and political overtones as they have a decisive influence on the law making process. From a linguistic perspective the Law student learns legal concepts in a foreign language in a foreign legal system, without necessarily interpreting them in a legal capacity. That is why it is preferable to start the course with the differences in origin and history of the two respective legal systems.

Once students are aware of these differences it becomes easier to focus on a comparative study of legal concepts. The use of visual materials in teaching Legal English to Law students has proved to be an effective way of dealing with a learning impasse.

1. Different legal cultures: Common Law vs. Civil Law

Common Law, built up from both custom and so-called “judge-made” law, is based on a legal system that gives great precedential weight to the principle known as stare decisis. As the practice among judges is to follow decisions taken by predecessors, courts are bound by these in similar future court decisions. This legal system dates back to 1066 (Hotchkiss 1994: 49), when William of Normandy conquered England. The Normans discovered that there was no unified body of law in the country, but only local unwritten customs. Eager to establish their rule on English territory, they introduced their methods of administration, e.g., a system of itinerant justices. This resulted in the establishment of a set of regulations to be applied uniformly throughout the country (Branaa et al. 2006: 8).

As it was common to all England, it became known as Common Law, significantly developed under Henry II (op. cit.: 16). On the European continent, however, most
countries have Civil Law, a legal system inspired by Roman Law and derived from
the Code of Justinian. This consists of laws a) being codified into collections,
b) holding legislation as the primary source of law, c) proceeding from abstrac-
tions, d) formulating general principles, and e) distinguishing substantive rules
from procedural rules, mostly based on the French Civil Law Code of 1804.

For the purposes of this article the focus is on France as a Civil Law country, as
opposed to anglophone countries in which the Common Law system prevails. The
objective is to deal with concepts, as was mentioned before, analysed and studied
by a group of 4th year Public Law students, preparing for a Legal English exam
paper.

As the Legal English course corresponds to the branch of law studied by these
students, the language programme is adjusted accordingly. For example, Public
Law students in their 4th year of legal studies learn about Constitutional Law is-
sues, contracting in Government Procurement and Labour Law issues.

Having been introduced to American Institutions in the 2nd year of their course, as
it corresponds to the curriculum in French Law programmes, the students briefly
revise basic civil rights in a comparative study of Constitutional Law concepts.
Anglo-American Constitutional Law issues are approached with reference to the
drawing up of the Magna Carta in 1215, in England, followed by the Bill of Rights
in 1689. The Magna Carta lays down the limits of the Crown and the rights en-
joyed by Parliament. It is, therefore, a document which governs the constitutional
relationship between Parliament and the Crown forming the core of the current
constitution (Branaa et al. 2006: 33). The Magna Carta also became the source of
many of the most fundamental US concepts of law, e.g. the concept of a written
constitution (Magna Carta Law Library).

In case law there is an increasing dependence on the Magna Carta as seen in co-
ments and commentaries from cases at the United States Supreme Court level
(Hotchkiss 1994: 49-50). An example of this dependence is seen in the concept of a
trial by a jury of one's peers. In France, the Declaration of the Rights of Man and of
the Citizen (Déclaration des droits de l'Homme et du Citoyen) is a fundamental
document of the French Revolution, defining as universal the individual and col-
lective rights of all imperial territory. Influenced by the doctrine of natural right it
secures the universality of human rights, which are binding at all times and in
every place (Declaration of 1789). The seriousness of the content of these concepts
explains why it is so important to be able to develop a method, such as integrating
images, in order to facilitate language learning in a discipline whose existence is
entirely based on words. In addition to the pedagogical value of using visual im-
geages, if done in a humorous way, this can be motivating for the learners.
2. The use of images as a tool to enhance the learning of abstract legal concepts

As the introduction of foreign legal concepts in a foreign language (English) often creates anxiety among the learners, using visuals in the learning programme enhances student comprehension, retention and application. Images as well as videos or films can be used as useful tools in order to promote the development of learners’ visual skills in combination with learning abstract legal concepts in a foreign language. Role play (e.g. an attorney-client discussion) also helps learners imagine themselves in specific contexts. A lack of such an activity can result in a low level of intercultural competence.

The use and interpretation of visual images helps learners to understand the relationship between the images and their meanings. From a theoretical perspective, imagery is a critical issue in terms of memory structures and processes (Shepard & Cooper 1982: 6). According to Shepard and Cooper, imagery, as a cognitive phenomenon, was first studied by psychologists such as Wundt at the turn of the century. The concept of visual literacy can be defined as “the ability to ‘read,’ interpret and understand information presented in pictorial or graphic images” (Wileman 1993: 114 in Stokes 2001: 12). Associated with visual literacy is visual thinking, described as “the ability to turn information of all types into pictures, graphics, or forms that help communicate the information” (ibidem).

Gardner’s theory of multiple intelligences (1993) includes a spatial intelligence category for persons considered ‘picture smart’ or ‘visual smart’. They have the ability to use mental images such as drawings or cartoons to memorise facts. Gardner’s theory, therefore, implies that learning and teaching should incorporate opportunities for learners with a variety of intelligences. For instance, a person with a strong spatial intelligence can benefit from spatial activities. Also, in order to make the learning environment attractive, the goal is to focus on capturing attention, emphasising the relevance of the field of interest, obtaining confidence and overall satisfaction (Keller 1987; Patsula 1999).

The use of humour is becoming an increasingly desirable characteristic in foreign language teaching, as is shown in the work of younger researchers such as Szirmai (2010). Humour creates a positive attitude towards the subject matter and reduces anxiety. A combination of humour and visual imagery (in cartoons) was identified by Szirmai as being a potentially effective technique to use in the integrated language learning approach of francophone Law students.

Using images in the form of cartoons not only requires some historic-legal background thereby stimulating the learner’s intellect, but also helps him to remember the concept, especially as he works from the principle of moving from the known to the unknown. In the next section are examples of how cartoons are used to help francophone Law students to understand three legal concepts in English.
3. Constitutional concepts

As the curriculum of the Public Law student at the Law Faculty addresses Constitutional Law issues, it is useful to draw the attention to differences between some Common Law and Civil Law countries.

3.1. A written constitution

The British constitution is used as an example of an unwritten constitution of a Common Law country, as shown in the first cartoon (Appendix 2). The student learns that although the constitution is not written, Great Britain has a constitutional heritage that dates back to the *Magna Carta* of 1215. This is a guarantee of civil and personal liberty which later also found expression in the constitution of the United States of America, another Common Law country. The written constitution of the USA is composed of a preamble, 7 articles and 27 amendments of which the first 10 form the Bill of Rights.

In the cartoon (Appendix 2), the first American president, George Washington, is holding the constitution in the form of “27 amendments of Uncle Sam” (a nickname for the US government as well as the USA). During the course the students have studied the origin as well as the content of the US constitution. They recognise this character as a symbol for the USA. Next to him appears Napoleon, holding the ‘Code’ which serves as constitutional foundation for most of the European Union member states. The ‘O’ in ‘Code’ resembles the 12 stars of the European Union flag. The students understand immediately that the Napoleon character represents the Napoleonic Code on which most legal structures in the EU are based. Hence the reference: “1 – 4 = ALL; ALL – 4 – 1.” By using D’Artagnan’s (Alexandre Dumas), famous motto “One for all and all for one”, the students realise that this refers to the rest of EU legislation in a humorous way.

In the bottom part of this cartoon the student sees British members of Parliament in session, discussing the fact that they might as well edit the constitution. Having covered the transition from the House of Lords to a newly established Supreme Court (in force since October 2009) in Legal English courses, this topic is used in a fruitful debate on “Who knows what might happen in future?” Although it is not always possible for all the learners to express themselves fluently, the introduction of this cartoon triggers off positive participation.

Having identified understanding the concept of an unwritten constitution as a “puzzle area” (Allwright 1999 in O’Brien 2001), learners are invited to participate in a discussion elaborating on the differences between codified and unwritten constitutions. This discussion becomes an example of how Action Research, that facilitated the development of ALDIM, is applied in the integrated language and Law courses. Since the process finally shifts in favour of a gradual approach (see I.2. *supra*), it can be concluded that the author’s method is based on the pragmatic process of Action Research, rather than on applying its standard rigorous process. The author has experimented by means of modifications and the continuous evaluation of re-
sults in the language learning programme in order to adapt to the learners’ needs in case of failure. The process is demanding as it involves a transposition from non-specific English to ESP.

Proceeding from the known to the unknown learners can overcome certain problems, solved by models within a specific theoretical framework. As qualitative research it gives rise to renewing methodological practices because it leads to reassessing and reformulating the problem of a complex approach in learning. It requires innovation, creativity, abstract speculation and pedagogical distanciation (Narcy-Combes 2005: 121). This is clearly illustrated by the use of images. Familiar notions are used in order to explain that a constitution exists although it is not written.

The Law students, having dealt with American Institutions in the 2nd year of their course, know the history of the US constitution. They are also familiar with French legal and political history as well as the evolution of European Supranational Law and its effect on British legal procedure. One example involves the modifications to the new Supreme Court of the United Kingdom inaugurated in 2009. Drawing parallels to what they already know, the task of illustrating the concept of an unwritten constitution becomes easier.

3.2. Basic civil rights
In dealing with a comparative study of legal concepts related to basic civil rights there is a focus on selected trial-related concepts regarding basic civil rights in order to make Legal English more “learner-friendly.” These comprise, for example the right to a fair trial, the presumption of innocence, the legal rights of suspects in custody – no detention without trial and trial by a jury of one’s peers. The Law students also grapple with these concepts through the use of cartoons.

**Presumption of innocence**

The maxim of presumption of innocence has been adapted by many Civil Law systems. It is in fact a legal instrument created by the French cardinal and jurist Jean Lemoine in the 14th century (Quintard-Morenas 2010: 107-149). The onus is on the state to prove that an alleged criminal is guilty, as protected by Article 9 of the Declaration of the Rights of Man and of the Citizen (Declaration of 1789). This fundamental right is so important in modern democracies that it has been explicitly included in legal codes and constitutions, for example European Supranational Law. “Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law” (Article 48 of the Charter of Fundamental Rights of the European Union).

Similarly, under British Common Law, ‘Presumption of innocence’ is a legal right of the accused in a criminal trial. This means that a person is to be considered “innocent until proven guilty,” (coined by the English lawyer Sir William Garrow, 1760-1840). This explains the use of the word “alleged” in referring to crimes and
their perpetrators (Appendix 3). The burden of proof is thus on the prosecution to prove that the accused is guilty beyond a reasonable doubt. In the case of remaining doubts, the accused is to be acquitted. Although not explicitly quoted in the US Constitution, presumption of innocence is expressed in the 5th, 6th and 14th amendments (Coffin v. United States, 1895 and In re Winship, 1970). The two characters in the cartoon must have spent quite a while in their cell. It is therefore ironic that one of them needs to be reminded that he can stop using the word “alleged.”

3.3. Legal concepts related to suspects in custody

Two legal concepts related to suspects in custody are discussed here: ‘detention without trial’ and ‘plea bargaining’.

The first concept discussed is ‘detention without trial’. As a legal remedy which can be sought by a prisoner/detainee or by another person coming to their aid, the writ of Habeas Corpus safeguards an individual against arbitrary detention by the state. It requires that a person be brought before a judge. Having origins predating the Magna Carta, a cornerstone of the English constitution, the procedure for issuing a writ of habeas corpus was first codified by the Habeas Corpus Act in 1679. Although it does not exist under French law, citizens are still protected by French civil rights. The practice of detention without trial is also in strong conflict with basic rights as well as several Human Rights laws.

For the purposes of this paper, Great Britain’s Human Rights Act of 1998 is not discussed, nor is a comparison made of the days, even years of being held in detention without trial in both Great Britain and France (infra). However, it is possible to study a potential cause of extreme prevention (Foster 2009) through the use of a metaphor from President Bush’s ‘Axis of Evil’. Foster’s deliberate use of the word “prevention” instead of “detention,” is consistent with the French concept of détention provisoire, or détention préventive (a term used until 1970). This is demanded by the juge d’instruction, examining magistrate in Great Britain or committing magistrate in the United States. It is regarded as a security measure necessitated during inquiry. The phrase is expressed in the third cartoon (Appendix 4). It is a portrayal of three judges instead of the three monkeys which embody the proverbial principle to “hear no evil, see no evil and speak no evil.” In solidarity the three judges do not hear, see or speak evil. The monkeys were replaced by judges, thus serving as a reminder that the prisoners were deprived of appearance before a judge (writ of habeas corpus). The learners are invited to recall the events that led to detainees held without trial at Guantanamo Bay.
The second concept discussed is the legal strategy of ‘plea bargaining.’ Should a suspect appear before a judge, he might have an option to plead guilty and therefore get a lighter sentence. Although plea bargaining exists in most countries, the focus is on the USA. After the learners have watched parts of the film “Criminal Justice”, directed by Andy Wolk in 1999, in which it is exceptionally well illustrated (Liebenberg 2008), they are prepared to discuss this concept during the course. Plea bargaining can apply, for example, in cases involving defendants charged with several crimes. The public prosecutor might propose a deal in which the defendant pleads guilty to one of the lesser crimes involving a penalty not exceeding one year in prison. The deal, if accepted by the defendant, then has to be accepted by a judge.

Plea bargaining has not been well accepted in France. It gravely infringes on the rights of defence, the long-standing constitutional right of presumption of innocence, the rights of suspects in police custody and the right to a fair trial. This is clearly seen on Marianne’s face in the fourth cartoon (Appendix 5). Having overcome the controversy of what is known as comparution sur reconnaissance préalable de culpabilité (CRPC) or plaidre coupable (the French equivalent of plea bargaining), a limited form of it was introduced in 2005. Only a small minority of criminal cases are settled by ‘CRPC’: in 2005, out of 530,000 decisions by correctional courts, only 21,000 were ‘CRPC’. This means that a majority of cases are still resolved in a traditional trial.

**Conclusion**

Law students as learners of a foreign language have to overcome initial L2 learning problems before they can tackle learning Legal English. They have to cope with basic language learning obstacles as well as a specific approach to words, drawing on insights from the philosophy of language to deal with interpreting legal concepts. This article has highlighted the use of visual aids in the form of cartoons in order to facilitate the language learning process.

With the ever-changing and rapid evolution of language teaching devices and the diversity of language learning contexts, specialists in didactics continuously study new paradigms in order to find solutions to the complex nature of language teaching in tertiary education. New didactic concepts can be applied to trans-cultural perception. Concepts, in this case legal concepts, are presented from a different angle than they would be when taught to native speakers. The use of language is crucial to any legal system. Lawmakers must use language in making laws. Courts must state their grounds for decision. Interpreting legal concepts is no light feat, thus the importance of building a sound foundation in language skills cannot be stressed enough. That is why it is so important that Law students have a good philosophical understanding of the meaning and use of the type of language used in their profession.
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Using Images as an Effective Tool to Facilitate Teaching Legal Concepts

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### Appendix 1

**CREATING A TASK-BASED LANGUAGE LEARNING PROGRAMME IN 3 PHASES**

**PHASE A**
- Evaluating the learner’s language skills in L2 [English]:
  - self-assessment test
  - questionnaire

**PHASE B**
- Evaluating the learner’s existing language knowledge base in L2

**PHASE C**
- Continuous evaluation in applying L2:
  - active and constructive process by which the learner’s aptitude and progress are constantly monitored
  - establishing a solid base in order to manage existing knowledge and determine the learner’s potential acquisition of knowledge and skills in the future
Appendix 2

Appendix 3

Recherche et pratiques pédagogiques en langues de spécialité – Cahiers de l’APLIUT
Volume XXXI N° 1, février 2012 – ISSN en cours
Appendix 4

Appendix 5