"Forget it, let's go with a handshake": contracting practices of exporting small to medium size enterprises (SMEs)

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Abstract

Purpose – This paper aims to dissect cross-border contracting practices among exporting businesses. The under-representation of exporter-importer dynamics and the superficial understanding of contracts are the motivation for this exploratory study.

Design/methodology/approach – The qualitative multiple case study design focuses on 18 small to medium size enterprise (SMEs) exporting from New Zealand. The analysis encompasses coding, pattern matching and explanation building. This paper uses coding to uncover themes and pattern matching/cross-case comparison to facilitate explanation building.

Findings – The paper underlines the scant use of formal international sales/distribution contracts, the lack of knowledge concerning contracting, barriers to contract formation, misgivings about the court system and litigation and the adoption of proxy contracts. This paper depicts varieties of contracting practices, namely, no formal contract, improvisational, normative, and formal contractual arrangements and underlines the context in which each approach applies.

Research limitations/implications – Similar to most studies in this area, the dissection of contracting practices derives from the exporter side of the dyad. This robs the research of a holistic view of the exchange. Nonetheless, this paper contributes to a better understanding of contract formation and formalization and to the role of context in shaping the activities of exporting SMEs.

Practical implications – Although formal contracts are vital, they are not obligatory in all exchanges. Contracts matter more for high intensity exporters with comparatively short relationship histories, selling knowledge-intensive products in predominantly non-relational cultures. Policymakers should highlight the importance of contracts in such contexts and direct SMEs to several freely available resources on cross-border contracting.

Social implications – The research casts fairness/equity and access to justice as pertinent structural disadvantages impacting the contracting practices of exporting SMEs.

Originality/value – According to the authors' knowledge, this paper is among the first studies to provide an in-depth portrayal of the contracting practices of exporting SMEs, to detail the pervasiveness of non-contractual contracting practices and to depict contracting as nuanced and context-dependent.

Keywords Psychological contracts, SME exporters, Contracting practices, Exporter-importer exchanges, Formal contracts, Normative contracts

Paper type Research paper

Introduction

On May 14, 2015, Judge Matthews of the New Zealand High Court presided over a case between a New Zealand exporter *Nelson Honey and Marketing Limited* and *William Jacks Trading Company*, a Singaporean business that had procured honey from *Nelson Honey and Marketing Limited* since 2010. The details of the case were as follows [1]: The plaintiff, *Nelson Honey and Marketing Limited* alleged that after receiving an order from *William Jacks Trading* (the defendant), it dispatched two consignments worth (NZD) $206,000.00 to a warehouse in Auckland, New Zealand. *William Jacks Trading* consigned both shipments to Shanghai, China, but upon receipt at the destination, the honey was not of acceptable quality (i.e. froth and discoloration). On October 30, 2013, *William Jacks Trading* rejected the goods and refused to pay for both consignments. *Nelson Honey and Marketing Limited* refused to accept the rejection and sued for the cost of the consignments.

After receiving a proceeding to appear in a court in New Zealand, *William Jacks Trading* made its displeasure clear by filing,

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in January 2015, an appearance under protest. *William Jacks Trading* then filed for a dismissal of the case and counter-sued, in a Singaporean court, for the storage and testing costs, as well as the "inconvenience and embarrassment" emanating from the impasse. The serious questions this case raised about the contracting practices of small to medium size exporters are the impetus for this study. For instance, *was there a formal contract; where was the contract concluded; did the contract include jurisdictional clauses or dispute resolution remedies*?

Thus, from the vast academic landscape of inter-organizational exchanges (Lichtenthal *et al.*, 2018; Roehrich *et al.*, 2020; Valenzuela-Fernández *et al.*, 2020) we examine contracting practices of small and medium size exporting firms. Gaps regarding the understanding of both contracting practices and the exporting small to medium size enterprise (SME) context justify the study. Although the study of business-to-business exchanges has attracted researchers from *industrial marketing*, *supply chain management* and *international business* (Aykol and Leonidou, 2018; Crum *et al.*, 2011; Roehrich *et al.*, 2020) there is a dearth of knowledge on contractual governance. "Contracts are under-researched in business-to-business marketing, which is remarkable given their ubiquity in practice" (Möhring and Finch, 2015, p. 406). Aulakh and Gençtürk (2008) and Griffith and Zhao (2015) underscore that even among the studies that examine contractual governance, there is an oversimplification of what contracting entails. Missing is "a more nuanced view on the type of formal contract" (Petersen and Østergaard, 2018, p. 273).

Ju and Gao (2017), Li and Ng (2002) and Samiee and Walters (2003) illustrate that most of the research on buyer-seller relationships (Möhring and Finch, 2015; Petersen and Østergaard, 2018; Poppo and Zhou, 2014) derives from domestic market exchanges. Moreover, cooperative arrangements, strategic alliances and international joint ventures (Krishnan *et al.*, 2016; Luo, 2007) are the most routinely researched international contexts, to the exclusion of non-hierarchical options such as exporting (Aulakh and Gençtürk, 2008; Griffith and Zhao, 2015; Obadia *et al.*, 2017). In their bibliometric review, Valenzuela-Fernández *et al.* (2020) provide anecdotal support noting the "co-occurrence," within this expansive academic landscape, of "international business" and "small to medium size enterprises" is infrequent.

Our study is premised on the precept that formal contracting is fundamentally important in cross-border exchanges and provides a common denominator for aligning expectations for contracting parties who may originate from countries with contrasting formal and informal institutional environments (Cavusgil *et al.*, 2004; Griffith and Zhao, 2015; Poppo and Zenger, 2002). Astute contracting practices help counter opportunism, enhance relationship value and culminate in higher exchange performance (Ferguson *et al.*, 2005; Krishnan *et al.*, 2016; Poppo and Zenger, 2002). We investigate the contracting practices of small to medium size exporters and contribute broadly to the discourse on exporter-importer relationships (Aulakh and Gençtürk, 2008; Aykol and Leonidou, 2018; Griffith and Zhao, 2015; Leonidou and Katsikeas, 2010; Leonidou *et al.*, 2014). Small to medium size exporters are increasingly claiming a stake in the global marketplace and driving growth. They attain higher levels of productivity, create better paying jobs, earn foreign currency and help improve the balance of payments and standards of living (Chabowski *et al.*, 2018; Leonidou and Katsikeas, 2010; Kahiya, 2020). On one hand, newness and smallness imply exporting SMEs may approach internationalization with a limited reservoir of knowledge, resources or established routines regarding formal contracting; on the other hand, completely disregarding contracts can leave some SMEs one legal dispute away from bankruptcy. Informed in part by a scholarship from *International Law* (Bortolotti, 2013; Burton, 1980; Stone, 2015), we contribute to the discourse on contractual governance (Aulakh and Gençtürk, 2008; Ferguson *et al.*, 2005; Griffith and Zhao, 2015; Luu *et al.*, 2018). We incorporate critical aspects of cross-border contracting encompassing contract formalization, jurisdictional clauses and dispute resolution (Butler and Herbert, 2014; Butler *et al.*, 2018).

We elucidate contracting practices among exporting SMEs by stressing the scarce use of formal contracts, the lack of knowledge regarding contracting, barriers to contract formation, misgivings concerning the court system and litigation, adoption of proxy contracts and myriad contextual factors, which illuminate the use and non-use of formal contracting practices. Our research adds to extant knowledge, varieties of contracting practices: no formal contract, normative-, improvisational- and formal contractual arrangements and underlines the context in which each approach applies. We highlight that several exporters operate with no formal international sales/distribution contracts, preferring to seal deals via a handshake or an email. Others adopt *proxy* improvisational and normative contracts. Improvisational contracts encompass modified quotes and operating standards, whereas normative contracts embrace international documentation (e.g. bill of lading or letter of credit) and incoterms. The prevalence of such contracting practices contradicts conventional guidance from trade development agencies [e.g. International Trade Center and International Chamber of Commerce (ICC)] and practitioner-focused advise on the management of cross-border exchanges. We surmise that formal contracts are vital but not obligatory, and the level of importance is context dependent.

Psychological, normative and formal contracts

Broadly, our study reflects social exchange and neo-classic contracting theories. Social exchange theory presumes that the exchange of social or material resources is one of the most fundamental forms of human interaction (Blau, 1964). In neo-classic contracting theory, transactions are not discrete and the relationship may involve triadic governance (Macneil, 1978). Of the multiple frameworks used to encapsulate contracting (e.g. formal-informal, transactional-relational and implicit-explicit) our literature review uses the psychological-, normative- and formal contract typology. This nomenclature is especially informative, as it condenses key attributes of the aforementioned dichotomies. While our overview of psychological and normative contracts mirrors tenets of social exchange theory, our discussion of formal contracts borrows from neo-classic contracting theory.

Psychological contracts

Macaulay's (1963) description of non-contractual relationships has been instrumental in shaping the discourse on implicit mechanisms – psychological and normative contracts. Robinson and Rousseau (1994, p. 246) define a psychological contract "as beliefs in paid-for-promises or reciprocal obligations." It derives from an individual's perceptions about the terms and conditions underpinning an exchange (Rousseau, 1989). Because a psychological contract is in the eye of the beholder, it is an abstract form of agreement. Although most of the research on psychological contracts (see Anderson and Schalk, 1998; Rousseau, 1989) examines the employer-employee dyad, psychological contracts are applicable to buyer-seller exchanges (Blessley *et al.*, 2018; Kingshott *et al.*, 2020; Lövblad *et al.*, 2012). For example, Blessley *et al.* (2018) argue that in customer and supplier exchanges, individual level psychological contracts influence trust, satisfaction and ultimately affective commitment. Kingshott *et al.* (2020) illustrate psychological contracts are particularly susceptible to breaches whose effects include reducing trust and voice in an exchange relationship. While psychological contracts reflect individual and idiosyncratic perceptions, normative contracts derive from shared beliefs and expectations.

Normative contracts

Normative contracts are implicit mechanisms that reflect mutual expectations regarding acceptable behavior in a social exchange (Macneil, 1980). These contracts are prevalent (Macaulay, 1963) and we encounter them "in our daily lives in the form of privacy policies, software licenses and service agreements" (Camilleri, 2015, abstract). Mutual expectations concerning tolerable behavior help sustain an exchange relationship in the absence of a contract. Paraphrasing Macneil's (1980) 10 norms, Vincent-Jones (2000) indicates contracts articulate "obligations and responsibilities," outline "mutuality and reciprocity," "provoke active responsibility" and impose "accountability" on parties. These norms help align expectations and confer some "bindingness" and "obligatoriness."

Two such norms – *honoring commitments* and *standing behind your product* are universal in most buyer-seller exchanges (Macaulay, 1963). These norms or conventions can, in turn, influence the laws underpinning formal contracts (Arnautu and Tudurachi, 2018). Take, for example, the norm of honor or good faith, which has garnered renewed interest among business scholars (Czinkota, 2016; Schwalbach, 2020): good faith is as much a part of normative contracts as it is formal contractual governance (i.e. an obligation under Common Law). Thus, the legal code in an explicit formal contract "represents a formalized (and often idealized) statement of those norms" (Lempert, 1972, p. 1). Normative contracts use informal social controls and are effective so long as relational norms (e.g. flexibility, information exchange and solidarity) are present, promoted or upheld (Claro, 2003; Roath *et al.*, 2002; Uhlaner *et al.*, 2007; Zaheer and Venkatraman, 1995; Zhang *et al.*, 2003). While both psychological and normative contracts are implicit, formal contracts are explicit.

Formal contracts

A (formal) contract is "a set of legal institutions and rules with obligational force supported by the legal system and by judicial enforcement and dispute resolution procedures" (Vincent-Jones, 2000, p. 320). What distinguishes formal contracts from other forms of agreements are rational planning of the provisions and contingencies contained therein, and the inclusion of legal sanctions that encourage exchange partners to uphold the provisions (Macaulay, 1963). A formal contract should specify terms and provisions and outline the means for resolving commercial disputes (Butler and Herbert, 2014; Butler *et al.*, 2018). It should clarify the law applicable, the court(s) authorized to preside over the case, and the dispute resolution method (e.g. litigation, arbitration or conciliation). Formal contracts are the primary thrust of this research.

Most of the studies on the use of contracts in industrial marketing (Camén *et al.*, 2012; Ferguson *et al.*, 2005; Hoetker and Mellewigt, 2009; Möhring and Finch, 2015; Osmonbekov *et al.*, 2016; Petersen and Østergaard, 2018; Poppo and Zenger, 2002; Poppo and Zhou, 2014; Rai *et al.*, 2012; Yu *et al.*, 2006; Saussier, 2000), focus on domestic business-to-business exchanges [2]. Contracts play multiple roles including providing structure to the initial agreement, fostering the platform for relational interaction and enabling the ongoing modification of the exchange relationship (Möhring and Finch, 2015). Contract specificity facilitates the meeting of minds or alignment of expectations, which enhances the value or performance of an exchange (Rai *et al.*, 2012). Legal sanctions contracts impose serve as a deterrent against opportunism and under-performance. Because fairness perceptions are vital to the efficacy of contracting (Poppo and Zhou, 2014), parties should exercise caution concerning the use of legal sanctions. For instance, strict contractual enforcement increases perceived inequity in an exchange relationship (Osmonbekov *et al.*, 2016). Liu and Çetinkaya (2009) imply that issues of fairness are likely to arise where differences in market power between exchange partners, exist. Not all exchange situations necessarily lend themselves to formal contractual governance: Hoetker and Mellewigt (2009) demonstrate that contractual governance mechanisms are best suited for strategic alliances involving property (as opposed to knowledge-based) assets. Likewise, Camén *et al.* (2012) observe that formal contracts in the marketplace are not always conventional (i.e. transactional or arm's length). Where the goal is to pre-empt "disputes through private ordering" and "putting in place proactive remedies," contracting becomes strategic instead of conventional (Petersen and Østergaard, 2018, p. 269). It is likely only a portion of these findings apply to international business-to-business exchanges given contracting takes on additional ramifications when cast in a cross-border context (Burkert *et al.*, 2012).

Several studies (Abdi and Aulakh, 2017; Luo, 2002; Luo, 2005; Lusch and Brown, 1996; Wuyts and Geyskens, 2005; Zhou and Xu, 2012) investigate contracts in international exchanges outside of the exporter-importer dyad [3]. Lusch and Brown (1996) find that contract inclusiveness and obligatoriness help lessen opportunism in international joint ventures. Further, structuring a contract multi-dimensionally (i.e. incorporating specificity, adaptability and obligatoriness) increases its efficacy to reduce opportunism in international joint ventures (Luo, 2005). For new purchase transactions,

careful partner selection hedges against opportunism only to a point and contracting offers an operational alternate for exchanges involving non-close partners (Wuyts and Geyskens, 2005). Zhou and Xu (2012) indicate that weaknesses in institutional environments undermine the potency of contractual governance. Relational mechanisms fill the void by serving as a proxy for weak institutions. By demonstrating that contract completeness and cooperation drive international joint venture performance both independently and jointly, Luo (2002) signals a complementary relationship between contractual and relational governance. Abdi and Aulakh (2017) theorize and empirically substantiate both effects. Specifically, environmental uncertainty fosters a substitution effect whereas behavioral uncertainty drives a complementary relationship. Despite Burkert *et al.*'s (2012) demonstration that contracts appear more frequently in international than in domestic transactions, the cross-border version of exchange remains under-represented, much less the exporter-importer dyad.

Notwithstanding the large body of work on exporter-importer relationship quality (Leonidou *et al.*, 2014), we identified just eight studies (Aulakh and Gençtürk, 2008; Bello and Williamson, 1985; Cavusgil *et al.*, 2004; Griffith and Zhao, 2015; Ju and Gao, 2017; Oberle and Ponterlitschek, 2019; Skarmeas *et al.*, 2019; Wu *et al.*, 2007) specifically addressing contracting practices in exporter-importer exchanges. Table 1 provides an overview of this literature. Purely contractual arrangements are not the exclusive mechanism of choice for exporters (Bello and Williamson, 1985; Wu *et al.*, 2007). Trust-based and knowledge-sharing mechanisms are viable alternates for facilitating exchange (Wu *et al.*, 2007). Bello and Williamson (1985) study channel management arrangements in business-to-business exchanges and highlight *conventional*, *administrative* and *contractual* agreements. They portray *conventional* and *administrative* arrangements as denoting no formal contractual agreements. Multiple contextual and venture level factors help shed light on this (Aulakh and Gençtürk, 2008; Bello and Williamson, 1985). For instance, Aulakh and Gençtürk (2008) illustrate antecedents of contract formalization include export dependence, product standardization, international experience and export intensity.

While Bello and Williamson (1985) and Wu *et al.* (2007) delineate various types of contracts and their applications, in their prescriptive practitioner-focused guidance for managing cross-border transactions, Oberle and Ponterlitschek (2019) contend formal contracts are indispensable to all exporter-importer exchanges. This reflects the presumption that the mere presence of a formal contract entails that export-related "tasks are standardized for greater efficiency and coordinated for greater effectiveness" (Bello and Williamson, 1985, p. 79). Griffith and Zhao (2015) probe contract specificity, monitoring and violation. They find contract specificity reduces contract violation if the buyer's home country comprises low business risk or high country-globalization. Further, contract monitoring dampens the negative effect of contract violation on exchange performance. Cavusgil *et al.* (2004) suggest that a formal contract forestalls importer opportunism to the extent that the parties deem it enforceable. As a mechanism to motivate contract compliance, output control boosts export performance across the short and long term, whereas process control (i.e. evaluation or monitoring) weakens export performance in short-term relationships (Ju and Gao, 2017). However, Skarmeas *et al.* (2019) find that relational (and not contractual) governance enhances relationship value.

Scholarship on contractual governance suffers from a constricted conceptualization of contracting practices. Contracting practices are defined as *contractual governance* (Camén *et al.*, 2012; Yu *et al.*, 2006) or using narrowly defined constructs such as *contract complexity* (Poppo and Zenger, 2002; Poppo and Zhou, 2014), *contract specificity* (Griffith and Zhao, 2015; Zhou and Xu, 2012), *contract inclusiveness* and *obligatoriness* (Lusch and Brown, 1996) and *contract enforcement* (Ju and Gao, 2017; Osmonbekov *et al.*, 2016). Further, past research investigates no more than two of these constructs. Operationalization typically entails three- or four-item scales (Ferguson *et al.*, 2005; Rai *et al.*, 2012; Wu *et al.*, 2007) and in some cases just a single classification question (Poppo and Zenger, 2002). We contend the conceptualization and operationalization of contracting practices limits advancement in knowledge as it misses numerous dimensions relevant to the discourse. Moreover, several of these studies (Ju and Gao, 2017; Skarmeas *et al.*, 2019; Wu *et al.*, 2007) examine large businesses including *Fortune 500* firms (Aulakh and Gençtürk, 2008), to the exclusion of contracting practices of exporting SMEs.

We seek to provide a comprehensive representation of the characteristics of formal contracting in international business-to-business exchanges involving exporting SMEs. Against the backdrop of limited established routines, how do exporting SMEs approach formal contracting? Our conceptualization of formal contracting uses scholarship from *International Law* and covers terms and language in contracts, use of legal help, the law applicable, jurisdictional clauses and dispute resolution procedures. These issues are relevant and especially bothersome for exporting SMEs. For instance, in the event of a dispute, seeking to enforce a contract or to get redress via litigation can be confounding. Challenges include the lack of neutrality, limited experience and expertise, risk of parallel and multiple litigations, cost and time to resolve disputes and obstacles to enforceability (Blackaby *et al.*, 2015; Bortolotti, 2013; Butler and Herbert, 2014; Lew *et al.*, 2003).

If a dispute were to arise in an exchange with no formal contract, the parties would need to determine ex-post, and through lengthy and costly litigation, jurisdictional clauses, the law applicable, the place of performance and dispute resolution procedures. Thus, the International Trade Centre (2018) implores traders to look beyond standard provisions *vis-à-vis* goods, price, delivery and payment and to accord commensurate attention to non-performance, breach and dispute resolution – the very issues that may return to haunt the SMEs. Oberle and Ponterlitschek (2019, p. 423) warn exporters as follows: "do not seal oral contracts with a handshake, do not allow being urged to sign a document you do not know and understand completely, do not start processing the order before the contract is signed and in full force." Similarly, the ICC cautions that international documentation and incoterms do not constitute contracts in and of themselves (International Chamber of Commerce, Incoterms, 2020). How much of this advice do exporters heed? The prevalence of formal contracting and the exact nature of contracts exporting SMEs adopt are unclear. On one hand, "contracts are productive, potentially value enabling measure[. . .]" (Ehret and Haase, 2012, p. 453) and on the other exporting SMEs are so

Table 1 Studies on formal contracts in exporter-importer exchanges

Author	Context	Contracting concept	Key findings
Bello and Williamson (1985)	*Exporter-importer exchange* Nationwide sample of USA export management companies	Three contractual forms deriving from three classifying questionnaire statements	Three export channels (conventional, administrative and contractual) are evident in the marketplace. Each of these differ concerning the extent to which they use formal and informal mechanisms
Cavusgil *et al.* (2004)	*Exporter-importer exchange* 142 USA-based exporting manufacturers expanding through foreign distributorship	Three-item *Likert* scale consistent with past empirical studies	A formal contract has a negative but insignificant effect on distributor opportunism
Wu *et al.* (2007)	*Exporter-distributor exchange* Sample drawn from USA export manufacturers expanding globally through foreign distributor agreements	Three-item *Likert* scale deriving from Lusch and Brown (1996)	Contractual arrangements are one of the three (i.e. including trust-based and knowledge sharing) effective forms of structuring export manufacturer-foreign distributor exchanges. Yet only trust is effective at reducing foreign distributor opportunism
Aulakh and Gençtürk (2008)	*Exporter-importer exchange* Interorganizational exchanges between a sample of 91 Fortune 500 exporters and their overseas customers	Three-item *Likert* scale consistent with past empirical studies	Export dependence, product standardization, international experience and export intensity are positively associated with contract formalization
Griffith and Zhao (2015)	*Exporter-importer exchange* 151 export manufacturers from the USA	*Contract specificity*, *contract monitoring* and *contract violation* each measured on four-item *Likert* scales	Contract specificity is an effective mechanism for thwarting contract violation if buyer's home country features low business risk or high country globalization. Contract monitoring dampens the negative effect of contract violation on exchange performance
Ju and Gao (2017)	*Exporter-distributor exchange* 217 export manufacturers drawn from diverse industries in China	Enforcement/control mechanism: four-item scales for *output*- and *process* control, respectively	Output control enhances performance in both the short and long term, whereas process control weakens performance in the short term
Oberle and Ponterlitschek (2019)	*Exporter-importer exchange* Prescriptive practitioner-focused approaches for managing cross-border exchanges	International sales agreements and international distributor agreements	Contract formation and formalization are imperative in governing cross-border exchanges
Skarmeas *et al.* (2019)	*Export-importer exchange* 211 UK importers of industrial products	*Contractual governance* Three-item *Likert* scale capturing the extent to which businesses have specific-customized-detailed contracts	Contractual governance has no measurable effect on relationship value

disadvantaged in cross-border contracting that their plight should be treated as a "human rights" issue (Butler, 2019). How do these dynamics manifest in exporters' contracting practices?

To address these gaps, we investigate the contracting practices of exporting SMEs with a view to providing "a finer-grained understanding of how international marketing managers coordinate contractual governance" (Griffith and Zhao, 2015, p. 35). We respond to Cao and Lumineau (2015, p. 33), who direct future studies to elaborate attributes of contracts, the role of contracts in practice and contextual factors underpinning this. Specifically, we answer the following exploratory question:

Q1. How do exporting SMEs structure and manage contracts for cross-border exchanges?

Of particular interest to our study are the attributes and types of contracts in use and the rationale for their adoption. The question of *how* exporting SMEs handle a fundamental decision typifies the kind of managerial conundrum, which lends itself to qualitative research design (Doz, 2011).

Method

Our choice of method reflects methodological fit – a consideration as critical in qualitative enquiry as it is in quantitative empirical research (Edmondson and McManus, 2007; Eisenhardt, 1989). The research question "how" implies a process-based premise for which a qualitative inductive case study approach is apt (Edmondson and McManus, 2007; Welch and Paavilainen-Mäntymäki, 2014), as it provides a thick or rich description of the phenomenon (Baxter and Jack, 2008; Crick, 2020; Doz, 2011). Qualitative research design is also appropriate when the subject matter (i.e. contracting practices) and context (i.e. contracting environment) are closely intertwined (Eisenhardt, 1989; Yin, 1981).

Case selection

The rationale for case selection is crucial to the rigor of qualitative research (Fletcher *et al.*, 2018; Flyvbjerg, 2006; Eisenhardt, 1989; Yin, 1981). Yet, Fletcher *et al.* (2018) indicate much of international business (IB) research in top-tier journals disregard this step. We use multiple case design, which is the fitting method "when the same phenomenon is thought to exist in a variety of situations" (Yin, 1981, p. 101). Topic sensitivity mandated that we seek, from the three main chambers of commerce (i.e. Auckland, Canterbury and Wellington), help with recruiting participants. Our approach entailed providing sufficient detail about our project including its goals, deliverables and procedures in place to preserve anonymity, confidentiality and research integrity. We vetted the initial list of nearly 40 businesses that expressed an interest, to verify if they met the criteria of being *an active SME exporter*. From the remaining 26 businesses, we used purposive information-oriented sampling designed to select cases for maximum variation – i.e. "to obtain information about the significance of various circumstances for case process and outcome" (Flyvbjerg, 2006, p. 230). The 18 case firms differ concerning size, export intensity and sector/industry, etc. (i.e. key predictor variables in export literature) (Kahiya, 2018). Capturing this diversity is essential to the richness of data and to the capacity of case study research to inspire novel ideas (Siggelkow, 2007).

The instrument and protocols

The primary source of data for this paper is a set of semi-structured interviews conducted with the 18 exporting SMEs from New Zealand. In line with past research (Baxter and Jack, 2008; Crick, 2020; Doz, 2011; Eisenhardt, 1989; Yin, 1981), we sought to supplement this via triangulation with archival data, websites and other freely available information on the businesses. One researcher conducted all interviews in two waves of data collection. Of the first 10 interviews, eight were in-person face-to-face while, for logistical reasons, two were online. Data from the eight businesses in the second wave emanated from face-to-face interviews.

Apart from generic questions on firm demographics, the interview protocol included questions concerning contractual governance practices. These prompting questions were developed in line with the United Nations' *Convention on Contracts for the International Sale of Goods* (CISG), *International Trade Center's* template on international sales contracts and key literature (Aulakh and Gençtürk, 2008; Lusch and Brown, 1996) covered in the previous sections. Of paramount importance to our study were the extent of *utilization of contractual governance*, *contract explicitness/specificity* and views concerning *obligatoriness*. We recorded all interviews together with field notes before transcription for further analysis. Respondents had the opportunity to read the transcripts to validate correctness and completeness.

Sample profile and data analysis

Appendix 1 provides a digest of the diverse 18 case firms in this study. For instance, the sample comprises assorted sectors such as generic manufacturing, high-value manufacturing (e.g. jewelry) and service-dominant sectors such as software design. They cover the continuum of SMEs ranging from micro (i.e. <11 employees), to small (i.e. 11–49) and large (i.e. >50–249) [4]. The sample firms also exhibit marked differences in export intensity with low intensity exporters (i.e. <10%) mixed with some virtually export-only firms (i.e. >80%). These divergent attributes are essential for attaining maximum variation in sampling.

Guided principally by Eisenhardt (1989) and Miles and Huberman (1984) data analysis involved initial within case analysis, coding and cross-case analysis. Within-case analysis entailed using contact summary sheets as source documents for a detailed case write-up. The purpose was to ensure the researcher became "intimately familiar with each case as a stand-alone entity" (Eisenhardt, 1989, p. 540) and to serve as a prelude to coding and cross-case analysis. The coding scheme emanated from the guiding questions in the protocol, and cross-case comparisons considered results of within case analysis, coding protocol and diverse profiles of the firms (Eisenhardt, 1989; Miles and Huberman, 1984). To reduce researcher bias (i.e. potential for spurious conclusions) (Birkinshaw *et al.*, 2011; Sinkovics *et al.*, 2008) we adopted an iterative "cross-case pattern search using divergent techniques" (Eisenhardt, 1989, p. 533). Finally, we enfolded our findings in extant literature and used contrastive explanation building to reach theoretical saturation (Eisenhardt, 1989; Tsang and Ellsaesser, 2011; Yin, 1981). Overall, our approach is consistent with past multiple case study research (Crick *et al.*, 2020; Friman *et al.*, 2002; Möhring and Finch, 2015), which adopts manual coding; pattern matching and explanation building as the analytical template. Viewed in light of Piekkari *et al.*'s (2010, p. 113) typology of "common," "best" and "innovative" practice in case study research design, our method exemplifies *best practice*.

Findings and discussions

We organize our findings and discussion around six major themes emergent in the study. Several exporters operate with *no formal contracts*, their *knowledge of legal aspects of international buyer-seller exchanges is limited*, they face *barriers in drawing and enforcing contracts*, and they consider *dispute resolution* via *legal channels* (e.g. *litigation) a last resort.* Frequently, they use *proxy (improvisational/normative) contracts to substitute formal contractual arrangements.* Finally, multiple *contextual factors shed light on the use and non-use of formal contracts*. We discuss each of these themes and enfold them with extant knowledge on exporter-importer contracting practices.

We seldom use formal contracts

Several of these exporting SMEs do not have formal contractual arrangements with their overseas customers. Attitudes and views concerning the implications of not having a formal contract were varied. For instance, *Business F* states: "lots of people do not have contracts, forget contracts, I mean it is a joke, it is silly, you do not have contracts at our level." For this business and a few others, there is unease about this situation and its potential consequences. *Business G* echoes the sentiment: "[. . .] at the moment there is no contract. It actually makes me cringe to have to say that, but it is something that we are working on."

Unlike Möhring and Finch (2015), formal contracts are not pervasive in these export exchanges. The explanation is probably contextual in that Möhring and Finch (2015) studied the governance of project-related work, which differs from the recurrent exchanges between exporters and importers. Our finding also contrasts with Camén *et al.* (2012), who show that contracts are a fundamental preamble to relationship building in buyer-seller exchanges. Nonetheless, we corroborate Macaulay's (1963) seminal work on non-contractual governance mechanisms in which he argued planning (i.e. a formal contract) and deciding on legal remedies or sanctions may not be necessary in governing exchange relations.

Our knowledge of formal contracting is limited

Knowledge of how to engage in formal contracting is often lacking. There is concern over the nature of legal documents and terminology used in cross-border exchanges. *Business N* explains: "[. . .]. I would say interpreting English language in a legal document would be such a barrier that most people would not deal with you." Among those that have used or contemplate using formal contracts, reading and mastering specific details is frustrating. Often, they neither read/understand contract terminology nor expect their exchange partners to do so. *Business B* explains:

> For a layman like myself, even reading a legal document is already something, you have a bit of an idea of what it says, but what it really means you don't really know.

Several businesses contract with no knowledge of jurisdictional clauses and the law applicable in the event of a dispute. Worryingly, yet unsurprisingly, these exporting SMEs display scant knowledge of the United Nations Convention on *Contracts for the International Sale of Goods* (CISG) – the law, which, by default, applies to the contractual governance of international buyer-seller exchanges in New Zealand. Most responded with a simple "no" or "never heard of it," giving the researcher little leeway to probe further. A select few were either inquisitive (e.g. *Firm G* – "no, [I have not heard of it] tell me more") or somewhat flippant (e.g. *Firm F* – "I have never heard of it, I am not surprised there is one, but who cares?") of CISG.

The lack of knowledge and expertise probably explains why *Business E* aims for standard terms across contracts with the customer paying legal fees for altering any part of the contract:

> They are dealing with one person – me. I'm dealing with their finance department and their legal department, like 30, 40 or even 50 people [. . .] so you're dealing with 50 people and they have lawyers on tap that are on payroll and they want to keep those guys busy. And that's why we say, yeah you can go down that track [changing our standard contract] but you're gonna be paying our legal fees as well.

Knowledge and resource gaps are a reverberating theme for SME exporters (İpek, 2018; Kahiya, 2018; Park *et al.*, 2015). Building from Park *et al.*'s (2015) taxonomy, knowledge and resource gaps are manifest concerning *know-what* (e.g. what law applies/what is CISG) and *know-how* (e.g. how to structure a contract to incorporate dispute resolution clauses). These knowledge and resource limitations elucidate why, according to Bortolotti (2013), SMEs take risky shortcuts such as simply "cutting and pasting" from other contracts, any terms and conditions they deem logical and reasonable.

We should not have to go to the courts to settle disputes

A common theme among businesses is the view that a court system is the last option for resolving contractual disputes. Businesses are mindful of the complexity associated with taking this route. *Business R* states:

> The thing with international stuff, too, is that your contract is your last resort, really. If something goes wrong, you just put it right. It is really the last line of resort because it's just difficult doing things on an international basis if you've got to deal with courts and things.

Business H explains how litigation is viewed:

> We have a unique product, and we partner with people that see the value to their business. We say we don't offer them a machine; we offer them a way to make a margin and it is a win thing for them[. . .] In the event that things go bad because of something they do wrong and if a dealer decides to take the machine back[. . .] in the case that it would go sour we would walk away, there is no need for a legal remedy.

Even for a business with formal contractual arrangements complete with dispute resolution clauses, litigation is not a realistic option. *Business E* expounds:

> I mean for us; we don't want to go to the courts[. . .] we don't want anything to do with the courts to slur our name. We are a gold partner to [large software company] and we are a pretty specialist partner to these guys, so we need our reputation to be strong globally[. . .] So, from a legal perspective we don't want to get into litigation because it will surface, and these people will come across it and be aware of it.

Also, most exporters could not articulate what arbitration involved nor could they distinguish it from mediation.

From both the perspectives of *International Law* and buyer-seller exchanges, the unpopularity of dispute resolution via litigation is predictable. Legal scholars (Butler and Herbert, 2014; Butler *et al.*, 2018) warn that litigation is a blunt instrument, which does not passably cater for the exporting SME context. Similarly, very few SMEs would willingly opt for litigation given that it will signal relationship breakdown. Thus, it appears, upholding relational norms (Claro *et al.*, 2003; Roath *et al.*, 2002; Uhlaner *et al.*, 2007; Zaheer and Venkatraman, 1995; Zhang *et al.*, 2003) and preserving an exchange relationship are far more important priorities than fairness in procedural justice.

Access to legal assistance is costly

The cost and (perceived) quality of professional legal help is a contributing factor to the low uptake of formal contracting. *Business B* explains:

> For us, the amounts are just too small, if we are doing a deal worth $50,000 the profit margin might only be 10%, if we use a lawyer - "poof" half the profit is gone.

Obtaining legal support appears prohibitively expensive to exporters regardless of whether they choose to draft the contract and then get a lawyer to check it or have a lawyer prepare one from scratch. In this regard, legal assistance represents a cost-based barrier. Further, there is a perception that *International Law* is a specialized branch for which not all lawyers are supremely qualified. Even where affordability is immaterial, the perception of the quality of the expertize presents a separate concern. *Business B* adds: "I would not have a clue where to start and I also probably would fear that if I went to my usual lawyer, he would not have a clue either[. . .]"

Aside from the actual cost of obtaining legal assistance, the opportunity cost of drawing a formal contract is possibly higher than what SMEs can afford. *Business H* elaborates:

> No, we don't. We have done it [drafting contracts] in a previous business I was involved in and we did at various times discuss contractual agreements with suppliers, but[. . .] they become super complex and you spend all your times crossing the t's and dotting the i's [. . .]and we take the view that it is going to be mutually beneficial to both parties, and if it is not working out, we part ways.

In most SMEs, especially the micro and medium, the owner/managers are often responsible for finance, marketing/business development and operations – an unbearably large portfolio. Value-enhancing entrepreneurial activities such as market selection, market visits and product development represent a better use of paltry resources than drawing formal contracts.

The first four themes [the underutilization of formal contracts by exporting SMEs, the lack of knowledge about contracting, cost of contracting and misgivings about dispute resolution via litigation] allude to access to justice – a niggling concern for SMEs in the global marketplace (Butler and Herbert, 2014; Butler *et al.*, 2018). Two additional themes – the adoption of *proxy contracts as a substitute for formal contracts* and *contextual factors underlying the use and non-use of formal contracts* – help us broaden the discourse. We address proxy contracts before shifting to contextual factors.

We rely on proxy (improvisational and normative) contracts

Numerous businesses (e.g. *C*, *F* and *G*) explained that without a formal contract, the protections, rights and obligations stipulated by the normative provisions in international buyer-seller exchanges were adequate. These include contracts with carriers (bills of lading, airway bills and road consignment notes), banks (letters of credit/bank drafts) and customs brokers (incoterms and documentation). *Business M* argues:

> I think of it in terms of key fundamentals. Everybody is operating on well-understood points of documentation of goods arriving. Just all those things that underpin the shipping terms etc (e.g., incoterms). They reflect understood processes or behavior.

The use of payment upfront constitutes another normative or generally accepted practice among these exporters. *Business B* contends:

> Well, obviously, you mitigate it; you approach it differently, but the risk would be that it is much harder, or at least I perceive it to be much harder to enforce any payment. We just don't go there; it is sort of accepted in international transactions that there is a lot more cash on delivery, pay before it leaves.

While from a risk management perspective insisting on prepayment is prudent, it creates an unattractive proposition for a foreign buyer anticipating credit terms for various reasons (e.g. lack of working capital, inability to secure a letter of credit or foreign currency restrictions).

Some businesses used quotes, purchase orders and invoices as improvisational contracts. *Business L* explains:

> Yes, it's quite basic and it's part of the quote and then I have the code of conduct or practice that I send out and that explains how we do business in New Zealand and how we do business as an industry in New Zealand.

While improvisational arrangements are effective to the extent that they serve an administrative role in structuring the exchange (Bello and Williamson, 1985), exporters may perceive normative contracts as containing a sufficient measure of "bindingness" or "obligatoriness" (Luo, 2007; Vincent-Jones, 2000) to substitute formal contractual arrangements.

Contextual factors underpinning the use and non-use of formal contracting

The businesses emphasized multiple contextual factors influencing the choice of contracting practices. For instance, a long relationship history generally obviates a formal contract. *Business R* explains:

> For some of it there is a contract but there is other people we have been dealing with for a long time where there is not actual contract as such, there is just an email back and forth, about what they want and we sort it out from there.

Formal contracting is mandatory in some institutional environments, whereas in others, it is a distraction. *Business N* states: "we have for America and largely with Canada, we have as well because everything you do with them is very contractual and its all very organized as well."

Business K adds:

> Some cultures it isn't enforceable. So, dispute resolution – for example in China – is more around relationships. So, it is always important to understand what is culturally appropriate in the market you are entering.

Small exporters selling to large well-endowed overseas customers often complete contracts as part of the requirement. *Business N* states: "one of the challenges in the export industry is that being small, you are a taker. You have very little power in the marketplace." *Business P* reiterates: "some of our customers (in the agricultural sector) are large players – so you end up having to conform to their service level agreements."

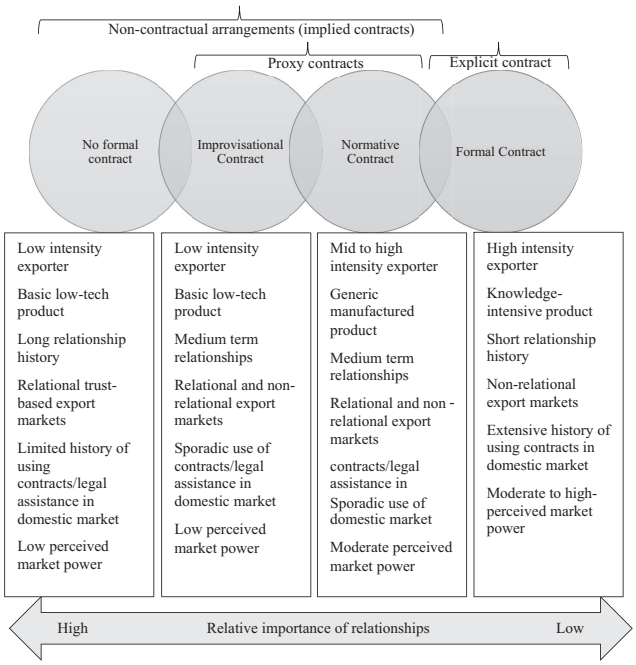
These buyer-driven contractual arrangements, in which the dominant party asserts itself, raise questions about fairness or perceived inequity (Osmonbekov *et al.*, 2016).

Toward varieties of contracting practices

Our findings indicate that exporting SMEs use a range of contracting practices to manage their exchanges. Several contextual factors determine the choice of a specific contracting practice. From the supplemental reflexive analysis conducted using the Braun and Clarke (2006) approach, four contracting practices: *no contract*, *improvisational-*, *normative-* and *formal contractual arrangements* – emerged. Figure 1 highlights each of these practices and the contexts in which exporting SMEs are likely to adopt them. Note here that our findings indicate that in some instances each of these businesses use more than one of these practices.

Numerous businesses outlined instances where no formal contracts existed. Such exchanges relied on emails and handshakes to seal deals. Most of the exchanges deriving from no formal contracts involved low intensity exporters with basic and low-tech products. On one hand, the exchanges required a long relationship history; on the other, the focal exporting SMEs had a limited history of using contracts in the domestic market. The key overseas markets for these exporters emphasized relational and trust-based exchanges. We note though that the lack of a formal contract does not imply the absence of contractual obligations (Macaulay, 1963). For these types of exchanges, it is likely a psychological contract (Rousseau, 1989) based on each party's personal beliefs about

Figure 1 Varieties of contracting practices



what the exchange entails, is in play. There is danger in this form of contracting practice given that the idiosyncratic nature of psychological contracts precludes the true meeting of the minds.

The *no formal contract* scenario described above represents one version of non-contractual arrangements. The other two practices – improvisational and normative contracts involve contracting by proxy. In both instances, a relatively quasi formal (i.e. compared to a handshake) mechanism is used. Quotes, proforma invoices and general terms of operation typify improvisational contracts. Often, the businesses adopting this practice lack resources to draft a formal contract or market power to influence terms. For instance, their customers are large buyers and distributors for which they must accede to the other party's operating terms. The adlib nature of these practices suggests that the provisions are likely to cover goods, price, delivery and payment and overlook non-performance, breach and dispute resolution. The occurrence of improvisational contracting practices is predictable because of the presence of the make-do *number 8 wire mentality* in New Zealand (Sibley *et al.*, 2011), the context from which the sample of exporters is drawn.

Normative contracts constitute the second variant of proxy contracts emerging from our study. The contracting practice involves reliance on international documentation and incoterms to govern the exchange. International documentation such as certificates of origin, letters of credit and bills of lading embody generally accepted norms concerning goods, price, payment and delivery. For several exporting SMEs, the documentation epitomized a satisfactory substitute for a formal contract. Mid to high intensity exporters with moderate to high perceived market power frequently adopted this practice. These proxy contracts afford some meeting of the minds and offer sufficient "bindingness" and "obligatoriness" to constitute a contract. However, the triadic nature (Macneil, 1978) of these contracts presents challenges, particularly for dispute resolution. For instance, unlike an international sales agreement, a bill of lading will involve three parties (exporter, importer and shipper) and a letter of credit as many as four (exporter, importer and their respective banks).

Finally, some exchanges involve formal explicit contracts. Detailed formal contracts are evident where high intensity exporters sell knowledge-based products to customers in non-relational export destinations. On one hand, the exchange relationships have a comparatively shorter history; on the other, the exporting SMEs have an extensive history of using contracts and legal assistance in the domestic market. These formal explicit contracts cover standard provisions concerning goods, price, delivery and payment, as well as non-performance, breach and dispute resolution. Thus, formal contracting practices offer a reference point and a chance for the meeting of the minds. Yet, for these businesses, contracts are needed not so much for monitoring performance (i.e. enforcement) as they are for specifying terms and provisions (i.e. explicitness). The existence of such contracts reduces but does not preclude relational exchange.

Conclusions and implications

Our study examined the contracting practices of small to medium size exporters. We responded to four gaps – the paucity of research on contracting practices in general, the oversimplification of what contracting entails, the under-representation of the international facet in buyer-seller exchanges and the limited number of IB studies looking at the exporter-importer dyad. Our study has added to the still limited stream of research on contracting – a very standard and pervasive practice but conspicuously missing in scholarly research in business. Borrowing from *International Law* (Burton, 1980; Bortolotti, 2013; Macaulay, 1963), we have provided a nuanced description of what contracting entails from the standpoint of contract formation and formalization. Our dissection of issues such as jurisdictional clauses and dispute resolution enriches IB literature (Aulakh and Gençtürk, 2008; Aykol and Leonidou, 2018; Griffith and Zhao, 2015) through the addition of a legal perspective and extends it beyond the frequently studied hierarchical governance mechanisms such as strategic alliances and international joint ventures. Equally, we add an international perspective to extant knowledge on buyer-seller exchanges (Möhring and Finch, 2015; Petersen and Østergaard, 2018; Poppo and Zhou, 2014).

Our findings highlighted the sparse use of formal contracts, limited knowledge and resources on how to engage in formal contracting, barriers to contracting and reservations about the court system and litigation. Myriad contextual factors underpinning these patterns have enabled us to depict varieties of contracting practices (i.e. no formal contract, improvisational-, normative- and formal contractual arrangements). This helps capture *the finer-grained understanding* (Griffith and Zhou, 2015) of contracting practices, which has been sorely missing in this research stream. For instance, depending on the context, any one of these – a handshake, an email, a quote, a bill of lading – constitute a contract for these exporters.

That none of the businesses interviewed have faced a dispute akin to what transpired in *Nelson Honey and Marketing Limited* vs *William Jacks Trading Company* speaks to their innate ability to resolve issues through informal social control or a false sense of security an unanticipated wrangle can debunk. Several businesses reiterated their willingness to cut their losses and move on or to yield to the customers' demands even when, legally, they were not liable. A cynical view may be that these exporters are victims of exploitation at the hands of dominant or highly valued exchange partners. Another explanation may have little to do with relationship preservation but the notion of affordable loss. These businesses may have been in a financially sustainable position to absorb the loss emanating from the specific exchange. What would happen if that specific exchange had an impact to the tune of $206, 000 (as was the case for *Nelson Honey and Marketing Limited*)? Would SMEs be comfortable to "let it go" or would they regret not using formal contractual governance?

Implications for theory

While our typology differs from the portrayal of contracting practices in exporter-importer exchanges in past research, extant literature corroborates several of the sub-parts and elements (Aulakh and Gençtürk, 2008; Bello and Williamson, 1985; Cavusgil *et al.*, 2004; Griffith and Zhao, 2015; Ju and Gao, 2017; Oberle and Ponterlitschek, 2019; Skarmeas *et al.*, 2019; Wu *et al.*, 2007). For instance, the contextual factors that elucidate the use or non-use of formal contracting uncovered in our study (Figure 1) substantiate Aulakh and Gençtürk (2008), who found that export dependence, product standardization, international experience and export intensity are positively associated with contract formalization. Our description of proxy contracts is consistent with Bello and Williamson's (1985) depiction of ancillary or administrative contracts in exporter-importer exchanges. Likewise, the "no formal contract" scenario is compatible with trust-based exchanges explained in Wu *et al.* (2007).

The implications extend beyond the exporter-importer dyad. For example, our study noted that smaller exporters who contract with large distributors do not do so on their own terms. In these buyer-driven contexts, the dominant party asserts authority, which raises questions about perceived fairness in contracting. This adds to the parent stream on business-to-business exchanges (Liu and Çetinkaya, 2009; Poppo and Zhou, 2014), which underscores the impact of power differences and strict enforcement on fairness and perceived inequity. We contribute, albeit to a lesser degree, to the debate on the interplay between contractual and relational governance (Cao and Lumineau, 2015; Petersen and Østergaard, 2018; Poppo and Zenger, 2002). For instance, the observation that compared to non-contractual arrangements, formal contracting demands reduced levels of relational exchange, suggests a substitution effect. Finally, our study has implications for the wider scholarship on exporting and internationalization. A handful of our initial themes (i.e. *lack of knowledge about contracting* and *costs of contracting*) stress the relevance of knowledge or resource-based explanation to our findings (Crick and Crick, 2020; İpek, 2018; Kahiya, 2018; Park *et al.*, 2015). Further, by detailing the multiple factors underpinning the four contracting varieties, we have contributed to the research stream (Kahiya, 2020; Michailova, 2011; Teagarden *et al.*, 2018) dissecting context in internationalization.

Implications for practice

Interestingly, the contracting practices mapped in this study are unequivocally at odds with the prescriptive advice (e.g. "do not seal oral contracts with a handshake, do not allow being urged to sign a document you do not know and understand completely [. . .]") from legal experts and trade development bodies (Oberle and Ponterlitschek, 2019; International Trade Center, 2018). Likewise, the ICC warns that international documentation and incoterms should not substitute formal contracts. While the importance of contracts in general is incontrovertible, our study pushes back against the sweeping supposition that contracts are indispensable. Most routine cross-border exchanges involving low intensity manufacturing exporters, with long relationship histories with clients in relational cultures, do not require formal contracts. The prominence of formal contracts rises for cross-border transactions involving high intensity exporters selling knowledge-intensive products in predominantly non-relational cultures. However, contemptuously dismissing formal contracting in exporter-importer exchanges is decidedly risky. For instance, if a dispute were to arise in a situation where no formal contract exists, parties will need costly and time-consuming litigation just to establish the terms/provisions governing that exchange.

It is essential to reiterate that for SMEs that are contemplating using contracts, there are several free and publicly available resources. For instance, the International Trade Center (2011) has produced a compendium of templates for eight (i.e. *contractual alliance*, *joint venture*, *commercial sale of goods*, *long-term supply of goods*, *contract manufacture*, *distribution of goods*, *commercial agency* and *supply of services*) commonly used contracts by SMEs [5]. As mentioned earlier, the ICC also offers resources and templates on how to frame an international sales contract [6]. The resources pertaining to the United Nations Convention on *Contracts for the International Sale of Goods* (CISG) – which is the default law governing the international commercial sale of goods by New Zealand firms – are just a click away [7]. Stakeholders charged with national level export development and SME growth should outline the importance of contracts, in specific contexts and direct businesses to these resources.

Limitations and future research

We studied contracting from a dyadic view, but like most studies (Aulakh and Gençtürk, 2008; Obadia *et al.*, 2017; Zhang *et al.*, 2003), we were unable to obtain data from the importers' end. This robs our study of a complete view on how exchange partners see governance mechanisms. For instance, if indeed some of these exporters are "honorable merchants" (Czinkota, 2016) it will be enlightening to examine how exchange partners perceive such good faith and whether they commit to reciprocating it. Our study is cross-sectional in nature and captures contractual governance at one point in time. It would be enlightening to attempt to track, via a historical or longitudinal case study design, how contracting practices evolve as the exporters' international footprint grows

(e.g. additional markets, more products or higher export intensity).

While the use of proxy contracts appears to be a deliberate choice, it is plausible that this is merely an embodiment of availability heuristics given incoterms, invoices and quotes are closer to the fingertips than elaborate contracts. It, therefore, would be an interesting exercise to establish if, broadly, the uptake of formal contracting practices would increase if SMEs had full knowledge of the freely available resources associated with formal contracting in cross-border contexts. Although Kahiya (2020) suggests extant knowledge on internationalizing New Zealand firms is generalizable to most small open economies (SMOPECs), it is conceivable the domestic market context has influenced our findings. The link between improvisational contracts and the *number 8 wire* mentality immediately comes to mind. Do these varieties of contracting practices of exporting SMEs from New Zealand hold in other contexts?

Notes

1 This case is publicly available from many sites including http://www.cisg-online.ch/content/api/cisg/urteile/2735.pdf.

2 For instance, Cao *et al.* (2018) indicate there are as many as 61 studies investigating contractual governance and hazards. Krishnan *et al.* (2016) uncover 82 studies on contractual governance and strategic alliances.

3 Although Cao and Lumineau (2015) do not distinguish between domestic and cross border exchanges, they find 149 studies on contractual and relational exchanges.

4 Based on OECD classification – see https://stats.oecd.org/glossary/detail.asp?ID=3123.

5 See http://www.intracen.org/model-contracts-for-small-firms/.

6 The international sales contract is available for a fee – see https://iccwbo.org/resources-for-business/model-contracts-clauses/

7 http://www.legislation.govt.nz/act/public/1994/0060/latest/DLM332322.html.

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Appendix

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Table A1. Sample profile and summary coding

Business	Informant*	Location	Size (full-time equivalent employees)	Industry sector	Export intensity (%)	Major export market(s)	Use of contracts in domestic market	Relationship length	Use of/access to legal help	Knowledge of CISG/ dispute resolution	Contractual practice (s) observed
A	O/M	Wellington	5	Jewelry	10	Australia, USA	Occasional	Comparatively long	Occasional/unhindered	Limited	Improvisational
B	O/M	Nelson	10	Machinery manufacture	80	Australia, EU, USA	Occasional	Comparatively long	Occasional/hindered	Limited	Improvisational, normative
C	CEO, D	Tauranga	6	Specialized industrial manufacturing/design	33	Multiple (global)	Frequent	Comparatively short	Frequent/unhindered	Comprehensive	Formal
D	O/M	Maunganui	3	Timber	15	China, South East Asia	Occasional	Comparatively short	Occasional/hindered	None	No formal
E	MD	Auckland	5	Avionics	90	Multiple (global)	Occasional	Comparatively short	Frequent/unhindered	Comprehensive	Formal
F	D	Christchurch	1	Food and beverage	90	French-speaking Pacific Islands	None	Comparatively long	Occasional/unhindered	None	No formal, improvisational
G	GM	Auckland	60	Food and beverage	45	China, South East Asia	Occasional	Comparatively long	Occasional/hindered	None	No formal, normative
H	MD	Tauranga	3	Marine	90	Multiple	Occasional	Comparatively long	Occasional/unhindered	Limited	No formal, normative
I	GM	Christchurch	5	Health and beauty products	5	South East Asia	Occasional	Comparatively long	Occasional/hindered	Limited	No formal
J	DBD	Auckland	40	Consumer electronics and software	95	USA	Frequent	Comparatively short	Frequent/unhindered	Comprehensive	Formal
K	GM	Christchurch	40	Food and beverage	50	EU, South East Asia	Occasional	Comparatively long	Occasional/unhindered	None	No formal, normative
L	MD	Queenstown	2	Film (video and animation)	80	Multiple	Occasional	Comparatively short	Occasional/unhindered	Limited	Improvisational
M	GM	Auckland	25	Building supplies	15	China, Pacific	Occasional	Comparatively long	Occasional/hindered	Limited	No formal, normative
N	O/M	Rotorua	5	Food and beverage	25	North America, South East Asia	None	Comparatively long	Occasional/unhindered	Limited	Formal
O	BD	Wellington	5	Educational software	100	Multiple (Global)	Frequent	Comparatively short	Frequent/unhindered	Comprehensive	Formal
P	CEO, D	Auckland	31	Technology and environmental solutions	95	Multiple (Global)	Frequent	Comparatively short	Frequent/unhindered	Comprehensive	Formal
Q	MD	Christchurch	40	Timber	45	Multiple	Occasional	Comparatively long	Occasional/unhindered	None	Improvisational, normative
R	GM	Dunedin	5	Food and beverage	70	Multiple	Occasional	Comparatively short	Occasional/hindered	Limited	No formal, formal

Notes: *Informant – BD (Business Development); CEO (Chief Executive Officer); CF (Co-Founder); D (Director); DBD (Director of Business Development); GM (General Manager); MD (Managing Director); O/M (Owner/Manager)