

Tricks of the Counter-Trade: An Evaluation of the Utility of Countertrade Transactions in Developing States Through an Analysis of the Sino-Congolese Barter Deal

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Abstract

This study aims to examine the development and trend of countertrade transactions and assess their utility in state development by first examining the emergence and current trend of countertrade practice. It will then provide background on underdevelopment in Congo before presenting a case study on the Sino-Congolese countertrade deal. In this, both China and Congo's stakes will be discussed, along with a comparison of this deal with another countertrade deal China has undertaken with a developing state. An examination of countertrade's role in state development will follow. Finally, points will be made regarding some adverse effects of countertrade and its impression on the international community as a whole.

Keywords: *Countertrade, Democratic Republic of Congo, China, Barter, Sicomines, Development*

Introduction

To many developing states, countertrade practices are not just an alternative means of economic growth; they are crucial to state development. Countertrade is unique in that it necessitates an “undertaking of commitments that usually [...creates] an added value for the [economies] of the countries involved in the transaction.”¹ Since the 1970s, countertrade has increased in popularity, shifting its image from that of an archaic means of trade used only because money had not yet existed, to a strategic and normalised trade mechanism.² These days, countertrade is used for a multitude of reasons, including promoting exports, trading surplus goods, establishing future markets, improving international relations, and preserving hard currency, among other reasons.³ In fact, up to 25% of international business transactions are due to countertrade practices, though this figure is not universally agreed upon.⁴

While countertrade may occur between two developed states, this paper will focus on countertrade transactions that involve developing states. This paper studies the barter deal between China and the Democratic Republic of Congo (“DRC” or “Congo”) as the deal is a textbook example of modern-day countertrade involving developing states.⁵

This study aims to examine the development and trend of countertrade transactions and assess their utility in state development by first examining the emergence and current trend of countertrade practices in section two. A background on Congo and the events leading up to its current state of underdevelopment will be provided in section three. Section four will present a case study on the Sino-Congolese countertrade deal, wherein both China and Congo’s stakes will be discussed. This section will also include a comparative case brief on China’s trade deal with Sri Lanka. An examination of countertrade’s role in state development will follow in section five.

¹ Gloria Esteban de la Rosa, “International Countertrade - Rules and Practices” (2011) 2(15) *International Journal of Business and Social Science* 273, 273

² Abdolhossein Shiravi-Khozani, “The Legal Aspects of International Countertrade with Reference to the Australian Legal System” (Thesis 1997), 1

³ Sak Onkvisit and John Shaw, *International Marketing: Strategy and Theory* (Routledge, 2008), Chapter 17

⁴ Peter Quirk, *Issues in International Exchange and Payments Systems* (IMF 1995), 27; GATT Secretariat estimated 5% in the 90s; British Department of Trade Industry estimated 15%

⁵ Whether China is a *developing* state is questionable.

Finally, points will be made about *some* adverse effects of countertrade and its impression on the international community as a whole in section six.

While there are numerous reasons for which a state may engage in countertrade deals, only their use vis-à-vis state development will be addressed. In considering their utility, we may find that countertrade transactions are a double-edged sword in terms of their implications for developing states, the international trade order, and morality in commerce.

The Emergence and Development of Countertrade

Countertrade is not technically a new way of trading, as its existence predates the conception of money, albeit in simplified barter form.⁶ During the 1970s and 80s, countertrade increased in use to finance trade and promote commerce whenever hard currency was scarce.⁷ Since then, countertrade has been used whenever currency was scarce or other forms of conventional market trade were impossible.⁸

Modern-day countertrade is not simply a mechanical exchange of goods; it entails additional countertrade commitments which are to be assumed and negotiated by the parties involved, however imbalanced their bargaining powers are.⁹ Because of the cooperation-based and sometimes seemingly “hostage-based” nature of the transaction contract, the parties involved are insured against any risks that may manifest.¹⁰ Besides, countertrade agreements need not be fair; if parties want fair terms, they ought to first negotiate and agree on them in their bilateral contracts.¹¹

According to Gloria Esteban de la Rosa, there has been a shift in the dynamics of world economies toward privatization and deregulation, as well as an overall increase in competition in the international market.¹² Thanks to this shift, importer states have chosen trade practices that “increase their productiveness and their marketing abilities as well as decrease their budget deficit and public sector

⁶ Shiravi-Khozani (n2) 1

⁷ George Dalton, “Barter”, (2016) 16(1) *Journal of Economic Issues* 181, 189

⁸ *Ibid.*

⁹ Rosa (n1) 273

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² *Ibid.*

expenses.”¹³ The result is that more and more foreign exporters have been undertaking countertrade commitments that “take the form of transfers of manufacturing experience or knowledge, creation of local employment and acquisition of new projects and investments for the exporter” instead of simply engaging in goods-for-goods or goods-for-money exchanges.¹⁴ This shift has birthed new countertrade forms like buyback and build-operate-transfer.¹⁵ While there are a fair number of countertrade forms available,¹⁶ the present discussion will only introduce barter, as it is relevant to the case study that will follow.

Barter

According to the United Nations Commission on International Trade Law, barter entails “a contract involving a two-way exchange of specified goods in which the supply of goods in one direction replaces [...] the monetary payment for the supply of goods in the other direction.”¹⁷ More precisely, goods and services of similar value are exchanged between the contracting parties without formal crediting by financial institutions or the need to transfer money.¹⁸ All that is required of the parties is to negotiate a mutually beneficial contract and directly exchange the goods or services. Barter deals are typically used for short-term, lower-value deals, so are thought to not be useful for larger-scale projects.¹⁹

The Congolese Tragedy

Ascertaining how countertrade can help Congo develop will first require an understanding of Congo’s interest in engaging in countertrade. Given its geography, great age dependency ratio²⁰ and wealth of natural resources valued at \$24 trillion,²¹ it is both ironic and tragic that Congo continues to top the list as the world’s poorest

¹³ *Ibid.*

¹⁴ *Ibid.*; also Michael Rowe, *Countertrade*, (3rd edn, Euromoney Books 1997), 20-21

¹⁵ Scott Lochner, “Guide to Countertrade and International Barter”, (1985) 19(3) *The International Lawyer* 725, 727

¹⁶ Other forms of countertrade include counter-purchase, offset, switch trading, swap, and evidence accounts

¹⁷ A/CN.9/SER.B/3, 8

¹⁸ Shiravi-Khozani (n2) 13

¹⁹ Pompiliu Verzariu, *International Countertrade*, (US Department of Commerce, 1992), [2]

²⁰ 97.25% of citizens are of working age, according to the World Bank

²¹ Connor Keowen, “Rich in Resources But Why is the Democratic Republic of Congo Poor?” (*The Borgen Project*, 1 August <<https://borgenproject.org/why-is-the-democratic-republic-of-congo-poor/>> accessed 18 December 2018)

state.²² Since its independence in 1960, decades of social and political strife have debilitated the country and stifled its economic potential. As is the case with most sub-Saharan African states, most of the blame can be assigned to colonisation.²³ Congo's wealth of resources ought to translate to a wealthy economy, but it has proven a curse to the DRC for it has made it vulnerable to continued exploitation—especially by its former coloniser, imperial Belgium.²⁴

Congo's current state of underdevelopment is also attributable to social and political instability caused by years of constant shifts of dictatorial rule after the assassination of former president Patrice Lumumba in 1961,²⁵ and a rebellion directly linked to Congo's refugee crisis that saw an influx of hutu refugees from Rwanda in the 1990s.²⁶ The country has also been plagued by the 22-year presidential reign of the Kabila kleptocracy.²⁷ It is suspected that current president, Joseph Kabila, has siphoned off millions of foreign aid, in return giving the state's natural resources to investors and foreign aiders, much to the expense of Congolese citizens.²⁸ All of these factors have contributed to an overall reduction of "national output and governmental revenue, and [increase in] external debt."²⁹ Although this issue has improved in the past decade as a result of economic reform projects like the 2002 Enhanced Interim Program,³⁰ progress remains slow because of bureaucratic inefficiency, patronage, corruption and inconclusive legal frameworks.³¹

The aforementioned problems, along with the Congolese government's inadequate use of its natural resources and unsatisfactory internal systems (e.g. educational system), have effected "pervasive poverty, political turmoil, security issues...and inadequate infrastructure"³²—the same hurdles that have made Congo

²² "Congo, Dem. Rep.", (World Bank) <<https://data.worldbank.org/country/congo-dem-rep>> accessed 2 January 2019, GDP of \$457.84 per capita (2017)

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ *Ibid.*, though Kabila lost the December 2018 presidential election

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ Interim Poverty Reduction Strategy Paper 2002 (DRC), [9], [94]; Enhanced Interim Program 2001 (DRC)

³¹ "The World Factbook: The Democratic Republic of Congo", (CIA)

<<https://www.cia.gov/library/publications/the-world-factbook/geos/cg.html>> accessed 2 January 2019

³² "Africa Gearing Up: Democratic Republic of Congo" (PWC) publication <<https://www.pwc.co.za/en/assets/pdf/africa-gearing-up.pdf>>, 31

unattractive to foreign investors. Because Congo receives few mutually beneficial trade opportunities from international investors, it continues on an incessant cycle of stagnant underdevelopment.³³ Hence, for Congo, engaging in a countertrade deal with China represents a chance to significantly develop the state.

A Barter Deal of Epic Proportion

Sino-Congolese relations did not manifest out of nowhere, though such relations were at best peripheral before 2006.³⁴ Relations between the two states were elevated as a result of Joseph Kabila's *Cinq Chantiers* reconstruction program,³⁵ comprising five sectors in desperate need of reform: "infrastructure, job creation, education, water and electricity, and health."³⁶ In order to fund the program, the Kabila government agreed to an initial \$9 billion barter deal with China, which was finalised in 2009.³⁷ The Kabila government would allocate its exploitation licenses 9681 and 9682 (cobalt and copper mines) to a Chinese consortium led by state-owned China Railway Engineering Corporation in exchange for the consortium's commitment to "[securing] the financing of \$6.565 billion worth of infrastructure projects of a public goods nature, such as [universities], roads and hospitals, and invest about \$3 billion in the mining project itself."³⁸ In addition, the consortium would reimburse its main financier, China Exim Bank (CEB), for the cost of financing the infrastructure with the revenue the mines of the joint-venture ("Sicomines") generates.³⁹

While the agreement presents benefits to the parties involved, we must question whether the reality is truly 'win-win'. Ascertaining this will require a synopsis of both parties' stakes.

China's Stakes

³³ World Bank (n22)

³⁴ Johanna Jansson, "Views from the 'Periphery': The Manifold Reflections of China's Rise in the DR Congo" in X Li and S Christensen (eds), *The Rise of China: The Impact on Semi-Periphery and Periphery Countries* (Aalborg Universitetsforlag 2012), 173-203; Sino-Congolese relations pre-2006 mainly consisted of China giving gifts to Congo and commissioning troops to MONUC

³⁵ Radio France International (RFI), "Les chantiers de Kabila" (2006)

³⁶ David Landry, "The Risks and Rewards of Resource-for-Infrastructure deals: Lessons from the Congo's Sicomines Agreement" (2018) China Africa Research Initiative No.16/2018, <<http://www.sais-cari.org/publications/>> accessed on 4 December 2018, 4

³⁷ *Ibid.*, later reduced to \$6 billion

³⁸ *Ibid.*

³⁹ *Ibid.*

According to professors K.H. Butts and Brent Bankus, “China’s economic growth has exceeded its domestic resource base,” thereby rendering it dependent on “imports for critical supplies of fuel and minerals.”⁴⁰ This dependency has driven the economic powerhouse to do business in Africa, in particular Congo, which teems with energy resources.

Many are sceptical of China’s involvement in Africa, fearing that China’s seemingly ‘no strings attached’ deals actually include strings that will always result in debt for the receiving party⁴¹. Contrary to this view, in 2009, Johanna Jansson reported that “Chinese private companies operating globally are...pushed abroad by the saturation in the Chinese market rather than by any Beijing-coordinated expansion plan.”⁴² Private Chinese companies doing business in the DRC have little to no direct links to the Chinese government.⁴³ This means that if the Chinese consortium does not find as much cobalt and copper as it expected,⁴⁴ it will bear the brunt of the failure and may run into trouble with CEB. Also if the political climate in Congo worsens, perhaps in the event of another revolt, then Congo may be unable to fulfil its part of the deal.

Congo’s Stakes

Of course, Congo has much to gain from the barter deal. An infrastructure deal of this magnitude will hopefully mean a more competitive future for the country. However, it has now been nearly ten years since the deal was finalised, and progress in various infrastructure projects has stagnated considerably since 2012.⁴⁵ While it may seem as though Congo has little to lose given how much it has asked of China, infrastructure can wear down fairly quickly over time if it is not well-maintained.⁴⁶ Thus,

⁴⁰ Kent Butts and Brent Bankus, ‘China’s Pursuit of Africa’s Natural Resources’, (2009) 1(9) CSL 1, 1

⁴¹ Jansson (n34), 31

⁴² Johanna Jansson, “The Sicomines Agreement: Change and Continuity in the DRC’s International Relations” (SAIIA, 2011), 6

⁴³ Johanna Jansson, “DRC: Chinese Investment in Katanga” (Pambazuka News, 2010) <<https://www.pambazuka.org/global-south/drc-chinese-investment-katanga>> accessed 8 January 2019,

⁴⁴ “Copper Reserves at China’s Sicomines in Congo Less Than Hoped,” (Reuters, 24 May 2013) <<http://www.theafricareport.com/Reuters-Feed/Copper-reserves-at-China-s-Sicomines-in-Congo-less-than-hoped.html>>accessed 7 January 2019

⁴⁵ Landry (n36) 14

⁴⁶ e.g. potholes, low-quality university buildings, etc.

if the Congolese government has neither the skill and expertise nor the finances to perform the necessary maintenance, deeper national debt will ensue.

Try as the World Trade Organization (WTO) may to classify China as a developing state,⁴⁷ the reality is that its economy is the second strongest in the world.⁴⁸ Compared to Congo, the poorest state, the juxtaposition of bargaining powers is remarkable not only in terms of its inequity: the consequences of the deal's potential failure would be felt more dearly in the DRC.

Whether the benefits Congo will receive truly outweigh these risks will depend on whether Congo progresses in the areas laid out in *Cinq Chantiers* and so breaks its resource 'curse'. The legacy of the Sino-Congolese deal remains to be seen.

A Comparison

There are, however, completed trade deals between China and other developing states that may give us insight into what Congo may experience. Of considerable interest is China's financing deal with Sri Lanka. In 2010, China agreed to loan Sri Lanka \$1.5 billion to finance Hambantota, an unviable port in Sri Lanka.⁴⁹ In the end, the Sri Lankan government ceded the port and the 15,000 acres of land surrounding it to China for 99 years because it was unable to pay its debt.⁵⁰

Alas, this debt trap is not a bizarre incident. In a 2018 report published by the US White House Office of Trade and Manufacturing Policy, it was proclaimed that "China uses a predatory 'debt trap' model of economic development and finance that proffers substantial financing to developing countries."⁵¹ Researchers, journalists, and policymakers have called this phenomenon 'debt trap diplomacy'. What occurs in 'debt trap diplomacy' is that states will engage in a bilateral agreement in which the creditor state will give excessive credit to the debtor state with the intention of taking political

⁴⁷ World Trade Organization, "Formation of Asian Group of Developing Members" (27 March 2012) WT/GC/COM/6

⁴⁸ "The World Bank in China", *The World Bank*, <<https://www.worldbank.org/en/country/china/overview>> accessed 2 January 2019

⁴⁹ Jamie Tarabay, "With Sri Lankan Port Acquisition, China Adds Another 'Pearl' to its 'String'", (CNN, 5 February 2018) <<https://edition.cnn.com/2018/02/03/asia/china-sri-lanka-string-of-pearls-intl/index.html>> accessed 10 January 2019

⁵⁰ *Ibid.*

⁵¹ "How China's Economic Aggression Threatens the Technologies and Intellectual Property of the United States and the World" publication (White House Office of Trade and Manufacturing Policy, June 2018), 1

or economic concessions from the debtor state when it inevitably becomes unable to pay off its debts;⁵² hence Sri Lanka's concession of its port. According to the Center for Global Development's March 2018 report on China's Belt and Road Initiative,⁵³ which many have deemed an embodiment of 'debt trap diplomacy', the following eight states are highly vulnerable to debt distress from trade deals with China: Djibouti, Mongolia, Tajikistan, Pakistan, Montenegro, Laos, Kyrgyzstan, and the Maldives.⁵⁴ Each of these states owe China the equivalent of between 40% and 90% of their GDPs.⁵⁵ Though these examples give weight to critiques of China's 'diplomatic' strategy, it is important to be mindful of the anti-China tone used in highlighting the strategy, as the policymakers who spoke out against China's latest 'diplomatic' tactic likely either publically censured China out of disagreement with its recent economic policies or came from states that have hypocritically used the tactic before in different forms.⁵⁶

Indeed, China is not the only state to adopt this strategy. Powerful economic forces like France and the UK used 'debt trap diplomacy' for over a century before China adopted this tactic.⁵⁷ Even though these examples did not involve countertrade deals, the same results can occur if a party does not fulfil the promises it makes under its countertrade agreement. Given the imbalances inherent to trade deals between developing states and powerful economic forces, the end result is often the weaker state's indebtedness to the more powerful state. Congo ought to produce a plausible

⁵² Brahma Chellaney, "China's Debt-Trap Diplomacy" (Project Syndicate, 23 January 2017) <<https://www.project-syndicate.org/commentary/china-one-belt-one-road-loans-debt-by-brahma-chellaney-2017-01?barrier=accesspaylog>> accessed 27 May 2019

⁵³ John Hurley, Scott Morris and Gailyn Portelance, "Examining the Debt Implications of the Belt and Road Initiative from a Policy Perspective" (Center for Global Development, 2018); China commenced the Belt and Road Initiative in 2013 to essentially recreate the Silk Road. The Belt and Road Initiative aims to create an environment of multimodal transport connectivity and maritime trade links for an overall atmosphere of multinational cooperation. In its initial stage, it is dispersing trillions of dollars of infrastructure financing through African, Asian, and European countries.

⁵⁴ *Ibid.*; 28

⁵⁵ *Ibid.*

⁵⁶ Matt Ferchen, "China, Venezuela, and the Illusion of Debt-Trap Diplomacy", (Carnegie-Tsinghua Center for Global Policy, 16 August 2018), <<https://carnegietsinghua.org/2018/08/16/china-venezuela-and-illusion-of-debt-trap-diplomacy-pub-77089>> accessed 27 May 2019; Ferchen notes that most of these critics believe that China is practicing neomercantilism and are wary of this practice because it could increase China's geopolitical influence.

⁵⁷ Geoffrey Aronson, "China is Playing the West's Debt Game", (The Arab Weekly, 7 April 2019) <<https://theArabweekly.com/china-playing-wests-debt-game>> accessed 27 May 2019; see example of Western creditors, including French and British bankers, stripping Egypt of its sovereignty from the 1870s to 1950s after Egypt's failure to pay off its debts.

plan for maintaining its infrastructure and building its economy before the completion of the Sicomines Agreement if it wants to avoid following the same path.

Countertrade's Role in Development

If there is a high enough possibility that countertrade deals between imbalanced parties will result in debt for the developing state, why would they engage in such deals? The answer is simple: they offer a *chance* to advance enough to be able to eventually compete in the market through conventional trade.⁵⁸ The golden rule of countertrade is to only engage in the practice where “it is absolutely necessary; unless no conventional financing method is available or unless real marketing advantages accrue from the deal.”⁵⁹ Many of the countertrade deals to which developing states agree only come into fruition because they are unable to follow the orthodox route of trade where the conventional means of payment is non-existent, too complex or impossible.⁶⁰ Sometimes, developing states have to revert to countertrade because their initial attempts at orthodox trade were rejected by the developed states they sought to do business with; this was the case with both Congo and Sri Lanka.⁶¹ As a result, it is not just goods and services the developing state will hope to gain, but also future business cooperation—especially if part of the reason it struggled to trade conventionally was because of political or administrative factors.⁶²

In addition, countertrade allows developing states to promote exports and exchange its surplus goods, which the international market may have otherwise rejected.⁶³ Countertrade is especially beneficial to overall state development when infrastructure is what the developing state will gain from the countertrade deal, as “investment in infrastructure projects is essential for the development and economic growth of a country.”⁶⁴

⁵⁸ Axel Halbach and Rigmar Osterkamp, “Countertrade with Developing Countries: New Opportunities for North-South Trade?”, 24 *International Economics* 17, 17

⁵⁹ Rod Rees, “Barter for Beginners” (March 1986) *Management Today*, 76-77

⁶⁰ Laurel Delaney, “Countertrade: The Pros and Cons of A Cashless Trade”, (The Balance Small Business, 12 Sept 2018) <<https://www.thebalancesmb.com/countertrade-the-pros-and-cons-1953402>>accessed 7 January 2019

⁶¹ Landry (n36)

⁶² Delaney (n61); e.g. an embargo

⁶³ *Ibid.*, 22

⁶⁴ Shiravi-Khozani (n2) 41

It is unfortunate that so many countertrade deals involving developing states deepen the participating developing state's debt, because debt is not necessarily inevitable. What leads states to fall into debt, besides failure to complete their contractual commitments, is poor response to marketing problems and an inability to maintain the improvements produced through the deal.⁶⁵ According to Axel Halbach and Rigmar Osterkamp, the marketing problems developing states face include: "lack of markets for particular goods and services...restrictions on access to potential markets; and...lack of foresight."⁶⁶ Not only does countertrade help resolve these problems, it can also "safeguard the country's ability to import despite the shortage of foreign exchange,"⁶⁷ which is an advantage that conventional trade does not afford. Also, countertrade deals often involve the transfer of services (requiring expertise) and technology, which helps advance states that did not already have the technology and/or infrastructure. Nevertheless, long-term development is not ensured by securing a countertrade deal but by making proactive decisions once the deal has been finalised. Though countertrade deals between two developing states tend to work out better because of equal bargaining powers, when the deal is between a developing state and an economically sound state, it is for the former to ensure that its government and domestic workforce gain the necessary skills and expertise to maintain the project.

The Dark Side of Countertrade

Despite its positive role in state development, countertrade is undermined by the fact that there are "no international uniform rules or any established precedents to regulate" such transactions.⁶⁸ As a result of poor regulation, parties to the transaction are presented with a moral dilemma: trade ethically or riddle the countertrade deal with corruption, whether through tax evasion, bribery or money laundering. For countries like Congo that are afflicted by high levels of corruption, a corruption-riddled countertrade deal will only further the state's socio-political instability and produce a higher level of income inequality, stunting the state's economic potential.⁶⁹ Despite the

⁶⁵ Delaney (n61)

⁶⁶ *Ibid.*,

⁶⁷ *Ibid.*

⁶⁸ Shiravi-Khozani (n2) 7

⁶⁹ Ali Kutan, "Does Corruption Hurt Economic Development?: Evidence from Middle Eastern and North African and Latin American Countries" in Serdar Sayan (ed), *Economic Performance in the Middle East and North Africa: Institutions, Corruption and Reform* (Routledge 2009), 26

existence of domestic rules aimed at combatting corruption, countertrade is still regularly abused.⁷⁰ For this reason, countertrade has received backlash from the international community.

Countertrade Versus the International Community

The IMF, World Bank, and General Agreement on Tariffs and Trade (GATT) Secretariat view countertrade as “a violation of the principle of global welfare maximization inherent in multilateral free trade.”⁷¹ Because most Western governments, and by extension the Organization for Economic Cooperation and Development, support these international economic organizations and have officially adopted GATT (succeeded by the WTO), they too dismiss countertrade as an attack on the very principles of multilateralism, non-discrimination and transparency that they uphold.⁷² Quite the opposite, countertrade epitomises bilateralism, discrimination and secrecy.⁷³

In contrast, more inclusive organizations like the United Nations (UN) and United Nations Conference on Trade and Development (UNCTAD), whose member states include developing states, view countertrade more ambivalently.⁷⁴ Though the UN and UNCTAD recognise the risks in countertrade, they view it as the next best solution to a state’s trade problems wherever their high expectations cannot be realised.⁷⁵ Either way, on both national and international levels, and even in the ‘Third World’, countertrade is “no longer [regarded] as positively and uncritically as the current spread of this type of trading arrangement might suggest.”⁷⁶ It certainly should not be regarded “as a permanent solution or even as a welcome instrument for reshaping the structure of world trade.”⁷⁷

⁷⁰ *Ibid.*, 27

⁷¹ Delaney (n61) 19

⁷² Cedric Guyot, “Countertrade Contracts in International Business” (1986) 20 *The International Lawyer* 921, 925

⁷³ Delaney (n61) 19

⁷⁴ *Ibid.*, 20

⁷⁵ *Ibid.*

⁷⁶ *Ibid.*

⁷⁷ *Ibid.*

Conclusion

If anything is clear, it is that countertrade is not an easy game to play: “even experienced specialists expect, at best, only about one deal in ten to succeed, and even the successful transactions can prove more expensive and difficult than foreseen.”⁷⁸ Though a developing state may benefit significantly from countertrade deals, there is a high likelihood that states will enter into deep debt. This is too high a cost to pay, for debt is what keeps poor states poor.

Of course, engaging in countertrade may sometimes be an absolute necessity; so, in the event that a state has no other avenue of generating cash flow other than through countertrade, it should do so. Perhaps for Congo and other developing states engaging in countertrade, their deals will actually present a win-win situation for all of the parties involved. Or, much to the disapproval of the international community, the deals may further perpetuate corruption in those states and present more problems than solutions in the future. Nonetheless, whether a given countertrade deal will achieve state development will always depend on the specific facts of the case. Sometimes the countertrade deal lasts for such a short period of time that it is unrealistic to expect a developing state to gain the necessary skills and expertise to maintain what they have gained from the deal; or worse, unforeseeable circumstances may frustrate the deal. Where a deal is for a long period of time and the parties are not in turmoil, it will be up to the participating developing state to use what it has gained from the deal (e.g. facilities, new trade relations and markets) to eventually trade conventionally.

⁷⁸ Rees (n60), 77

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