exchange. However, negotiations can normally lead to a time period for counterpurchase extending beyond the period of financing for the original export.

I) Letter of Release

Upon fulfillment of the countertrade commitment, a letter releasing the exporter from further obligations should be issued by the contract partner. Frequently, East European FTO's do not issue letters releasing exporters from their obligations. Under these circumstances, it is advisable to send the FTO copies of the invoices, bills of lading and a bank debit note along with a letter advising that if you do not hear from them by a certain date, the obligation will be considered fulfilled.

J) Negative File

As it is generally thought that paying a non-fulfillment penalty can prejudice an exporter's hopes for future business, it is important to keep track of failed attempts to source countertrade goods. This "negative file" can keep an exporter in good standing with his countertrade business partner and forms the basis for claims under any credit clause (as described above). This also allows for a good case to be made to prolong the time period for fulfillment of the counterpurchase agreement.

MITIGATING RISK IN COUNTERTRADE

There is a lack of understanding of how insurance should be used to mitigate risk in countertrade transactions. The need for insurance arises mostly under three forms of countertrade: counterpurchase, barter and partial compensation. In each case the need for insurance, be it political or credit, can be minimized through the proper negotiating and drafting of contracts.

A) Counterpurchase

An exporter can transfer risks associated with the counterpurchase commitment when he chooses to transfer the rights and obligations under his counterpurchase agreement to a trading house. However, if an exporter undertakes the counterpurchase commitment on his own, then he should mitigate his risks by taking all the necessary contractual precautions and, if required, availing himself of insurance facilities from the private sector.

Normally, in any counterpurchase arrangement, there are two separate transactions: one for the export and one for the counterpurchase commitment. Generally, the transactions have separate financing arrangements. Therefore, quantifying the risks associated with counterpurchase normally entails an assessment of the potential costs of late-delivery or non-delivery of the goods to a third party. In situations where there is a substantial price subsidy, contractual arrangements can frequently be negotiated with the purchaser of the products to accommodate late-delivery. However, in situations where this is not possible, it is advisable to seek insurance coverage.

B) Barter and Partial Compensation

In the case of barter, payment is made entirely with goods. Partial compensation consists of partial defrayment of the payment in goods, with the remainder in hard currency. There are a number of ways to minimize the risk of non-payment in these transactions.

One should not export until the goods for payment have been received and the resultant foreign exchange generated put into an escrow account. A stand-by letter of credit, which could be accessed in the event of late or non-delivery of the goods, should be negotiated for protection. If, for a variety of reasons, the exporter is not able to negotiate some form of recourse, then it would be in his interest to avail himself of whatever insurance protection is available. However, the insurance company would, in all likelihood, insist on a guarantee of the foreign exchange availability from the central bank of that country.

C) Insurance Facilities

The Export Development Corporation, along with all other government-supported insurance agencies, will not cover exports which depend on countertrade for payment. They state that coverage is not available where payment for exports is to be, in whole or in part, in goods, or where payment is dependent on a purchase or import contract. However, there are a number of companies in the private sector who are prepared to underwrite risks associated with countertrade. Some Canadian companies that can provide these facilities are the following:

Reed Shaw Stenhouse Ltd.
P.O. Box 250
Toronto Dominion Centre
Toronto, Ontario M5K 1J6
(416) 868-5692
Contact: Mr. Jim Edwards, Vice-President

Marsh & McLennan Ltd.
P.O. Box 58
First Canadian Place
Toronto, Ontario M5X 1G2
(416) 868-2780
Contact: Mr. Tony Fusco

ADDITIONAL INFORMATION

The Department of External Affairs established the Trading House and Countertrade Division (TEH) in December 1984 with a mandate to develop an information program to assist exporters in dealing with the intricacies of countertrade. This Countertrade Primer was prepared by this Division.

The Trading House and Countertrade Division (TEH) is located on the 5th Floor, Tower C, Lester B. Pearson Building, 125 Sussex Drive, Ottawa, Ontario KIA OG2. You are invited to telephone (613) 996-1419, or to write, for assistance on countertrade matters.