

Prepayments and the debts of producing states

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The prepayment agreements between traders and state-owned producers have attracted the attention of the International Monetary Fund and of the organisations that monitor the debts of developing countries. When a state-owned oil company receives a prepayment from a trader, repayable through future deliveries of oil, the state incurs an obligation that may not appear in its public debt statistics, that is secured on its most important export revenue and that ranks, in practice, ahead of its other creditors. Several states that became unable to service their debts in the last decade had substantial obligations under such arrangements, which complicated their restructuring by requiring the involvement of the traders and their banks.¹

For the traders of Zug, these developments raise legal and reputational questions. The terms of a prepayment, and in particular its pricing and its security, may be scrutinised in a subsequent debt restructuring, in which the trader may be asked to accept losses along with the state's other creditors. The negotiation of a prepayment with a state-owned company carries the risks of corruption described in Chapter II. The transparency of such arrangements, which the international initiatives on debt transparency seek to promote, may require the disclosure of terms that the traders have traditionally kept confidential. The practitioner advising a trader on a prepayment must take these factors into account. Care is also needed to ensure that the agreement complies with the laws of the producing state on public borrowing, whose violation can render the agreement void.

1 Notes

1. EITI, Guidance note "Resource-backed loans", August 2023, eiti.org: Chad restructured prepayment agreements with Glencore of more than USD 2 billion (2013–2018), repaid through crude oil deliveries; in South Sudan nearly all oil revenue went to repaying resource-backed loans (IMF, 2019); such loans are scrutinised by the IMF and the G20 for lack of transparency. IMF, Press Release No. 22/379, 13 November 2022, imf.org: debt treatment agreement between Chad and its creditors under the G20 Common Framework. ↩

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