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Making Security Interests Public: Registration Mechanisms in 35 Jurisdictions

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Overview



The importance of a strong secured transactions law and effective registration system for movable collateral has been a focal point of legal reform for international organizations over the past two decades. Efforts by international donors to modernize secured transactions systems started in the 1990s in Central and Eastern Europe.¹ Several jurisdictions in the region—such as Bulgaria, the Czech Republic, the Slovak Republic, and Ukraine—started reforming their legal frameworks based on modern principles. Reforms were introduced in other regions in subsequent years.

After the East Asian financial crisis in the late 1990s, a G-22 report highlighted the importance of modernizing secured transactions systems to diversify credit risk and foster nonbank financial intermediation. As a result, multilateral banks initiated benchmarking exercises on secured transactions by adopting international conventions, model laws, and developing regional technical assistance tools.

In 2001 the International Institute for the Unification of Private Law (UNIDROIT) adopted the Convention on International Interests in Mobile Equipment. Furthermore, the United Nations Commission on International Trade Law (UNCITRAL) adopted the UN Convention on the Assignment of Receivables in International Trade. The same year the World Bank ratified principles for insolvency and creditor right systems (revised in 2005) and the Asian Development Bank conducted a major study of secured transaction law reform in China, India, Indonesia, Pakistan, and Thailand.

In 2002 the Organization of American States enacted an Inter-American Model Law on Secured Transactions² and in 2009 adopted the Model Registry Regulations under the Model Inter-American Law on Secured Transactions.³ Meanwhile, UNCITRAL adopted in 2007 a guide to legislation on secured transactions.⁴ In 2010 the International Finance Corporation (IFC) issued a guide on secured transaction systems and collateral registries.⁵ A new version of World Bank principles on insolvency and creditor rights is expected to be adopted soon, as well as a guide on registration systems from UNCITRAL.

1 EBRD, Model Law on Secured Transactions, 1994.

2 http://www.oas.org/dil/Model_Law_on_Secured_Transactions.pdf.

3 Model Registry Regulations under the Model Inter-American Law on Secured Transactions, http://www.oas.org/dil/CIDIP-VII_doc_3-09_rev3_model_regulations.pdf.

4 UNCITRAL, Legislative Guide on Secured Transactions, 2007.

5 Alvarez de la Campa, Alejandro, Everett T. Wohlens, Yair Baranes, and Sevi Simavi. 2010. *Secured Transactions Systems and Collateral Registries*. Washington, DC: International Finance Corporation.

The role of modern collateral registries in the publication of security interests

Movable assets—tangible or intangible—often account for most of firms' capital stock. Thus it is important for jurisdictions to develop adequate laws on secured transactions to allow borrowers and lenders to recognize movable assets as collateral, supporting financing secured with such assets.

Though the legal and regulatory framework is essential to any secured transactions system, the efficacy of a secured transactions law also requires an effective registration mechanism for interests in movable property.

This report focuses on analysis of such institutions, highlighting the importance of a publicly accessible registry where information on interests in movable assets can be registered. The main goals of collateral registries are to provide public notice of interests in movable assets and to establish priority in the assets described in the notice for secured creditors.

This report also addresses the different registration mechanisms for security interests in movable property and their effectiveness in achieving the two goals stated above. It does so using the results of a 2010 World Bank Group survey on collateral registries.

The publication was developed for use as a diagnostic tool and informational source for policymakers, development practitioners, and legal experts involved in collateral registry reform. It may also be educational for those who are not experts in this field, but might be affected by collateral registries in their business or personal activities. This paper complements the literature on legal and institutional frameworks for secured transactions, which has not extensively documented the functionality of existing registry systems.

The report emphasizes the practices and features available in different registries and key characteristics of effective collateral registries. The experiences of jurisdictions that have instituted best practice registries show how technology can improve the efficiency of collateral registries.

SECTION 1:

Survey methodology



The Collateral Registries survey was developed by the International Finance Corporation (IFC) and World Bank's Doing Business Project, and the IFC's Global Secured Transactions and Collateral Registries Program.

Since its inception in 2003, the Doing Business Project has influenced about 300 regulatory reforms around the world by measuring and tracking changes in the regulations applying to domestic companies in 11 areas, including secured transactions. *Doing Business 2012: Doing Business in a More Transparent World*, launched in October 2011, showed that between June 2010 and June 2011, 21 jurisdictions reformed their secured transaction laws.⁶ The goal of the Secured Transactions and Collateral Registries Program, on the other hand, is to increase access to credit for firms, especially SMEs, by providing technical advice on implementing secured transactions laws and developing collateral registries to facilitate the use of movable assets as collateral.

This survey is one of the first empirical studies on registries of security interests for movable collateral.⁷ The answers were provided directly by the managers of registries. Contact information was obtained from each of the registries surveyed and can be provided on request if an institution gives permission. Managers of 36 registries in 35 jurisdictions around the world were interviewed between February and October 2010. An effort was made to obtain information from every region and to facilitate continued update and expansion of the database (Table 1).

The Collateral Registries survey was designed to obtain quantitative data (such as the number of registrations or full-time registry employees) and qualitative data (such as whether online registration is possible). This approach allowed for better understanding of the strengths and weaknesses of registries.

The survey included four main sections: types of registry, types of movable collateral, number of registrations, and registry regulations and features.

First, information was requested on registry types. When more than one registry existed in a jurisdiction, the types of assets registered in each registry were assessed to decide which registry should be surveyed. Another issue that arose was the concept of state or provincial registries relative to national or federal ones. In Canada and the United States unified collateral registries exist at the state level (as in British Columbia and Texas) but not at the federal level. In these cases, the state registries were compared with national jurisdictions

⁶ Secured transactions reforms highlighted by *Doing Business 2012: Doing Business in a More Transparent World*: Chile, Georgia, Honduras, Liberia, Mexico, Tonga, and members of the Organization for the Harmonization of Business Law in Africa (OHADA).

⁷ Different jurisdictions sometimes use different terms for a security interest, such as charge or pledge.

of similar per capita income, population size, and registry type. Finally, for jurisdictions with more than one registry depending on the type of debtor (such as a bill of sale registry for individuals and unincorporated companies, and a company registry for incorporated companies), only the registries for interests in incorporated companies were surveyed.

Second, data were gathered on the types of movable collateral for which security interests can be registered—such as inventory, livestock, or equipment—and the percentage of registrations per category of movable property in the registry’s most recent year of operation. For example, at the Pledge Registry in Bosnia and Herzegovina, 20 percent of registrations in 2009 involved machinery and equipment. Such percentages enabled the analysis of the most common movable property used by companies as collateral and, consequently, their acceptance by financial institutions. Not all the registries were able to provide these data, usually because they lacked efficient tracking systems.

Third, statistics were gathered on the number of registrations, amendments, extensions, searches, and terminations starting in 2000 or for the period since regarding registries created afterward. This information provides an overview of the level of use and dynamism of secured financing guaranteed by movable goods.

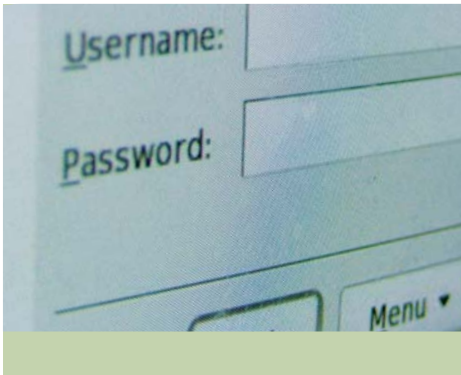
Finally, data were gathered on registry regulations (such as the types of assets registered) and features (such as existence of websites and online registration).

Table 1: Jurisdictions and registries surveyed

Region	Registries
East Asia and Pacific	Cambodia (Secured Transaction Filing Office) China (Credit Reference Center, Accounts Receivables Finance Registration System) Hong Kong SAR, China (Companies Registry) Macau (Commercial and Movable Property Registry) Malaysia (Companies Commission) Singapore (Accounting and Corporate Regulatory Authority) Solomon Islands (Secured Transaction Registry) Vanuatu (Personal Property Securities Registry)
Europe and Central Asia	Albania (Registri I Barreve Siguruese) Bosnia and Herzegovina (Ministry of Justice, Pledge Registry) Bulgaria (Central Register of Pledges) Croatia (Claim Security Register for Movable Assets and Rights) Kosovo (Zyra për Regjistrim të Pengut) Macedonia (Central Registry) Romania (Arhiva Electronica de Garantii Reale Mobiliare) Serbia (Register of Pledges on Movable Assets and Rights) Slovak Republic (Central Notarial Registry of Liens)
Latin America and Caribbean	Colombia (Registro Mercantil) Guatemala (Registro de Garantías Mobiliarias) Jamaica (Companies Office)
Middle East and North Africa	Jordan (Driver and Vehicle License Department)
OECD	Australia (Register of Companies Charges) Canada, Nova Scotia (Personal Property Registry) Canada, British Columbia (Personal Property Registry) Finland (Register of Enterprise Mortgages) France (Le Registre des Privilèges, des Nantissements, et des Gages) Ireland (Companies Registration Office) New Zealand (Personal Property Securities Register) Norway (Register of Mortgaged Movable Property) Spain (Registro de Bienes Muebles) United States, Texas (Office of the Secretary of State of Texas)
South Asia	Bangladesh (Office of the Registrar of Joint Stock Companies and Firms)
Sub-Saharan Africa	Kenya (Companies Registry) Mauritius (Conservator of Mortgages) Rwanda (Office of the Registrar General, Rwanda Development Board) Senegal (Registre de Commerce et Crédit Mobilier)
Total	36 registries

SECTION 2:

Findings and best practices



Access to the registry and to the registry information

International standards

Access to the registry and its information is key when evaluating the performance of a well-functioning registry system. Grantors, potential secured and unsecured creditors, and potential competing claims have an interest in the information contained in a collateral registry and in its availability. Thus the legal and institutional frameworks of the registry should permit simple registration of notices and searching for information. Ideally, the registry should be accessible online around the clock to anyone, without the need to prove the parties' consent to perform a registration. Personal appearance by one or both parties should not be required because it precludes remote registration (by an electronic interface, email, fax, or mail) and impedes use of the registry.⁸

Under best practices, online access should be available for registration and searches by recurrent users (such as banks) and one-time users. A common method of providing online access to recurrent users is to allow them to establish accounts by assigning user names and passwords. Fees are charged to accounts, so users do not need to pay in advance of each transaction. Online access should also be provided to users without accounts. Credit or debit card information works for such users, as does logging in with receipt number for an advance payment made to the registry bank account.

A search of the registry information or submission of a file for registration should be allowed by anyone who has paid the fee, if a fee applies, regardless of the reason⁹ or party involved in the process.¹⁰ Searching should be provided based on the debtor's identification or a serial number if the law provides for indexing by such numbers. Ideally, searching should be free or subject to a reasonable fee, such as one to cover maintenance of the electronic platform.

Survey results

The survey results show a trend toward open access. Some jurisdictions that first established paper-based registries have added online searching and registrations, while others have provided exclusively online access for those functions since the registry's creation. Examples

⁸ See recommendation 54 (d) of the UNCITRAL Legislative Guide on Secured Transactions and Article 36 of the OAS Model Law on Secured Transactions.

⁹ See recommendation 54 (g) of the UNCITRAL Legislative Guide on Secured Transactions.

¹⁰ See recommendation 54 (f) of the UNCITRAL Legislative Guide on Secured Transactions.

where online searches are possible include Cambodia, Guatemala, the Solomon Islands, and Vanuatu.

Some jurisdictions still require appearance by one or both parties at registration, precluding remote registration and creating barriers to use of the registry. Of the jurisdictions surveyed, Finland, Jordan, Macau, Senegal, and the Slovak Republic require personal appearance.

Other restrictions on access to registries include the system in the Slovak Republic, where only a notary can register on behalf of the creditor, and the systems in Singapore, Hong Kong, China, and Jamaica, where only interested parties can register.

In about 60 percent of the registries surveyed, searches are free or cost less than USD5. In Romania and the Slovak Republic searches are free of charge.

Registration process

International standards

The functions of registration are, or at least should be, to publicize a security interest and to perfect it against third parties. There are two types of registration: notice registration and document registration.

Document registration requires delivery and recording of the agreement and possibly other documentation. On the other hand, a notice registration will not require documents to be registered, just basic information to alert a potential creditor or buyer of a claim of a security interest in the assets described in the notice. A notice registration system is considered ideal for registration of security over movable assets.¹¹

A notice registry has much lower administrative and archival costs than a document registry, which requires registering voluminous documentation as well as the review by specialists of the documents provided and the assets used as collateral. It also reduces the risk of registration

error, since the registry staff do not need to transpose the information from the document into the system.

Survey results

More than half of the jurisdictions surveyed still use document registration. Thus, this is a reform area that might be of interest to governments around the world. Guatemala, Hong Kong SAR (China), Ireland, Serbia, and the Slovak Republic require a copy of the original security agreement. Croatia requires a copy of the original loan agreement, in addition to a copy of the security agreement. The former Yugoslav Republic of Macedonia, Kenya, Rwanda, and Senegal require a notarized copy of the security agreement or loan agreement. Bangladesh and Kosovo, among others, also require proof of payment of stamp duties in addition to security or loan agreements. On the contrary, registries such as the ones in Cambodia, Solomon Islands, New Zealand and Vanuatu do not require additional documentation to be presented, besides the registration form. Annex 1 includes more detailed information on documents needed for registration in each jurisdiction.

Notice systems: paper-based or online registration?

International standards

Paper-based notice registration systems usually require information submission in a notice or form by a registrant, entry of the notice's information into the registry record, assignment of a date and time to the notice, and entry of the relevant information from the notice into the registry index — when the information becomes available to searchers. In an online registry, these steps occur when registrants complete registration.

Under international best practices, electronic systems are preferred over paper systems mainly because registrants and searchers have immediate access to the registry record. Such practices also minimize the risk of entry

¹¹ See recommendation 54 (b) of the UNCITRAL Legislative Guide on Secured Transactions.

of incomplete or irrelevant information and of human error.¹²

A paper-based registry may create a priority risk of non-disclosure of an effective registration if its rules make a registration effective on receipt rather than upon entry into the database. If a potential creditor or buyer searches a registry database between admission of the notice by the registry and when its content is entered into the database and available for search, the searcher will not find the effective registration and may rely to its detriment on the search results. In some paper-based systems, this risk is transferred to the registrant by making the registration effective just after the information is transposed into the system, so searches will reveal all effective registrations. The registrant or creditor can control its risk by not making advances until it receives confirmation from the registry that the data have been entered from the paper registration into the database.

Paper-based archive systems are also less transparent for other factors. The likelihood of having information destroyed or lost is higher. This may cause problems when determining priority rights among creditors. Another factor to take into account is that an online system, as opposed to a paper-based system, can and should incorporate safeguards that permit the identification of the registrant. This may be useful in case of fraudulent acts by users of the registries. Though uncommon, they generally consist of false registration by unknown individuals intending to harass or cause economic damage to a person named as debtor, or inappropriate termination of an existing debtor's registration.

Online registration systems also should be designed to eliminate the handling of cash payments by the registry's staff by using the payment processes previously described. This eliminates accidental loss of cash and makes corruption less likely. And by making acceptance and rejection criteria for

registration concrete, specific, and limited, online registry systems reduce the potential for corruption as the registry staff cannot withhold registrations. A sound regulatory environment and an electronic registry that applies rule-based decisions eliminate all or nearly all discretionary judgments.¹³

Survey results

The form of registry that most incorporates the best practices is a completely electronic one under which registration information is transmitted online and retrieved electronically from the registry database. About a quarter of the jurisdictions surveyed use an exclusively computerized, online system, and do not accept paper registration forms. These jurisdictions include Bosnia and Herzegovina, Canada (British Columbia and Nova Scotia), Cambodia, China (Credit Reference Center), New Zealand, and Vanuatu.

In other jurisdictions, such as Albania, Croatia, and the former Yugoslav Republic of Macedonia, information is entered from paper registration forms into electronic databases. Once paper registration forms are accepted in databases, they are stored in registry archives.

Many jurisdictions provide for both registration options (paper or electronic) simultaneously, including Guatemala, Spain, and the United States (Texas). Though hybrid systems might seem most feasible in some cases, they are not the best solution. They should only be used to facilitate transition to online systems.

Registration in six jurisdictions: electronic, paper-based, and hybrid systems

Procedures to register or search differ. The following summaries of registration mechanisms in six jurisdictions show those differences.

12 See recommendation 54 (j) of the UNCITRAL Legislative Guide on Secured Transactions and Articles 45 and 46 of OAS Model Law on Secured Transactions.

13 International Finance Corporation. 2010. *Secured Transactions Systems, and Collateral Registries*. Washington, DC.

ELECTRONIC SYSTEMS

Vanuatu

Vanuatu shows how well an electronic registration system can work. The Personal Property Securities Registry, started in 2009, was created by the Financial Services Commission. The system is completely computerized and does not accept paper-based registration forms.¹⁴ Searches are also available online and may be performed by simply entering the name of the debtor, the registration ID number, or the asset's serial number in the search section of the website. Searches are free of charge.

To perform a registration, registrants must simply provide their names, contact information, debtor names and addresses, secured party names and addresses, and collateral description, which could be general or specific.

New Zealand

The Personal Property Securities Register (PPSR) was created in 2002¹⁵ and is under the Ministry of Economic Development. The registry is electronic, accepting only online registrations. Searches can also be performed online at minimum cost.

To register a notice of security interest, secured creditors need to create a secured identification number. After this number is created, access is provided to a registrant's user (such as loan officers), who can register notices of security interests and accrue transaction fees to accounts. A notice shall contain information on a security interest expiration date if the financing statement is to be registered for less than five years,¹⁶ the debtor, collateral, and secured party details.

14 The Republic of Vanuatu Personal Property Securities Registry is available at <http://www.ppsr.vu/index.aspx>.

15 <http://www.ppsr.govt.nz>.

16 A financing statement over any personal property can be registered for a statutory period of five years (or a shorter period) and can be renewed for five years continually until the debtor has performed all obligations.

PAPER-BASED SYSTEMS

Albania

Albanian's Central Collateral Registry, started in 2001, was established by the Secured Transactions Law. This law applies to all real rights on intangible property or tangible property, whether present or future, that secures one or more obligations arising before or after the securing agreement.

The registry has an electronic database, but online registration is unavailable. A security holder or their representative submits an application for registration to the registry office. The application form must include details such as registration duration, debtor's and secured party's information, serial number of the goods or description of other collateral that do not have a serial number, and registering person's information. The submission of the form does not require the attachment of any original documents. Registry staff enter the information from the application form into the system, and a receipt (certificate of registration) is sent showing the full entry of the data to the registrant, the security holder, and debtor.¹⁷ Due to cost requirements, operation of the registry was privatized in 2009. That has created some uncertainty about ownership of the database and control over the registration function.¹⁸

Bulgaria

In Bulgaria a registrant must present an application for registration on paper, along with proof of payment of a stamp duty and signature of the creditor. Once a registration form is accepted, the basic data are transferred to a database and the original forms with more detailed information scanned and attached to the registration record. The paper entry is valid for five years and can be renewed for five more years. Without a renewal, the registry software automatically considers the registration record inactive.

17 As defined in the Albanian Law on Securing Charges adopted in October 1999.

18 Baranes, Yair. 2010. "Establishing Modern Secured Financing Systems in Developing Economies." FS Series 10. USAID, Washington D.C.

The Central Collateral Registry, created in 1997,¹⁹ requires serial-numbered goods to be identified by serial number and vehicles by chassis number. But when the collateral is a set of goods in turnover, a general description is sufficient. When entering an enterprise security interest, it is also enough to stipulate “security interest of the enterprise as a set of rights, obligations, and factual relations.” Furthermore, future assets can be described in general terms when initial entries are made. When they come into being, they must be described specifically in an amendment to the initial registration. In the case of future harvest, species production (wheat, rye, and the like), the amount of expected yield and location of planting are to be distinguished.

Completion of the registration form is usually conducted by the secured creditor. The application does not have to be notarized. Nevertheless, if registration is requested by a person other than the debtor, the debtor’s consent is required in an official notarized form. Amendments to the Secured Transactions Law in 2008 provided for online registration and free electronic reports. But for various reasons (lack of financial resources, lack of adequately paid information technology specialists, and general regulations), the registry is currently not able to provide this service.

Moreover, though the branches of the Collateral Registry have electronic interconnections, they do not have access to the centralized database and so are not allowed to make entries, perform searches, and issue certificates and reports. But at the central registry, any person can perform a search without further restrictions.

Former Yugoslav Republic of Macedonia

In FYR Macedonia the use of movable property as security is governed by the 2003 Law on Contractual Pledge (developed with World Bank support). The Registry of Pledges on Movable Property and Rights is part of a system of electronic registries combined in the Central Registry.

19 <http://www.justice.government.bg/new/Pages/Registers/Default.aspx>.

The Central Registry has a computerized database. Public access to all records is available to users at the registry for a fee. The registry’s main office is in Skopje and it has 31 offices across the country. Registration forms must include all details of parties and security interests, together with supporting documentation, such as notarized copies of the security agreement and loan agreement. In addition, the secured claim and security interest must be exactly described in the security agreement and in the registration statement. A study by the European Bank for Reconstruction and Development (EBRD) stated that economies which require copies of the security agreement or the agreement establishing the underlying secured claim add a considerable burden to the registration process. This is especially a problem due to the tendency in certain regions to include unnecessary information in such agreements. This is the case in Bulgaria, FYR Macedonia, and Romania.²⁰

HYBRID SYSTEM

Guatemala

Guatemala has adopted the Organization of the American States Model Law on secured transactions. The registry in Guatemala was created in 2009.²¹ Online and paper registrations are accepted, but there is skepticism about how the registry operates—especially regarding registration costs.²² The fee to register a security interest is not flat. It is based on a complicated formula and may become quite onerous. The fee is equivalent to about USD19 plus 0.15 percent of the maximum amount of the obligation when the obligation exceeds USD1,118. That might partially explain why there were only 654 registrations in the Guatemala registry in 2009.

The basic information required for registration includes registrant’s contact information (if the registrant is not a party to the security agreement, evidence of authorization

20 Publicity of security rights: setting standards for charges registries, European Bank for Reconstruction and Development (EBRD), January 2008.

21 www.rgm.gob.gt

22 National Law Center for Inter-American Free Trade (NLCIIFT), *Novedades*, Volume 17, Number 3, September 2010.

by the secured party), debtor and secured creditor contact information, general or specific description of the collateral, and maximum amount of the obligation.

Once the information is entered into the database, the system automatically assigns a date and time of registration. Renewals and terminations can also be performed through the electronic system. If the parties do not agree on other terms, registration will be valid for five years, renewable for another three years.

Finally, the system provides broad access of the database to the general public allowing for searches and issuing of a certificate with the data recorded by the registry. There is no need to justify the party's interest in searching.

Registration among jurisdictions surveyed

International standards

Use of a standard form or online template is implicit in notice-based registrations that conform to global best practices.

In modern collateral registries the form usually contains the debtor's name or numeric identifier, the debtor's address, the name and address of the secured party, the

amount secured by the security interest, and a specific or general description of the collateral.

Registrations with the collateral registry generally lapse on expiration of the selected period or a statutory fixed period of registration. Registrations can be renewed before the expiration date. The registry generates a unique number for each registration so that it can be retrieved with certainty.

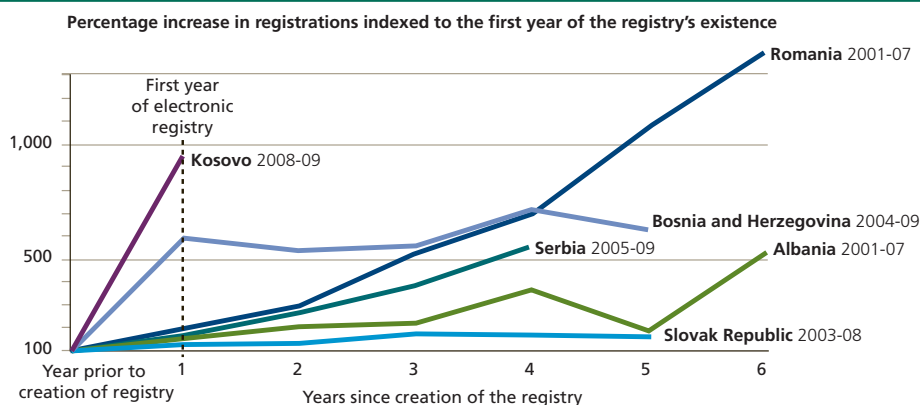
Survey results

Notice registries tend to provide a standard form for registration of a security interest in movable property whereas document registries, such as those in Bulgaria, Kosovo, and FYR Macedonia, might or might not provide a form in addition to requiring documents.

Jurisdictions that adhere to notice registration and global best practices have more registrations than do other jurisdictions of similar size and economic base. Many registrations translate into a significant number of loans granted by creditors. In nearly all cases, online registration is an option.

Even jurisdictions that require document registration might permit online registration in some cases. Spain, for example, introduced electronic registration system

Figure 1: Electronic databases increase the number of registrations and activities in East Europe and Central Asia



Box 1: Amendments and Terminations

Countries with many registrations, such as New Zealand, Romania, and the United States, also had significant terminations and amendments—showing the great dynamism of such registries.

for movable collateral in 2002. But most registrants still submit paper registration because of burdensome documentation requirements, which makes the use of the online system as complex as a paper submission. As a result, fewer online registrations than expected occurred between 2003 and 2009, and the cost borne by government to maintain this feature was extremely high relative to the small number of online registrations.

Number of registrations

There has been an increase in registrations in most jurisdictions with electronic databases (Figure 1).

Though the trend of registrations has risen, other factors may affect numbers in the short term. The global financial crisis of 2008-09 coincided with a dip in the number of registrations in more than 80 percent of responding jurisdictions. (See Annex 2 for more information). Though it is not certain that the financial crisis was the main cause of the decline, the variation across regions and registries suggests that there was some sort of influence on the number of registrations caused by the crisis in some regions.

The number of registrations is a function of many factors, including the functioning of the registry, the robustness of the legal framework, the level of economic activity in the jurisdiction, its population and size, banking practices and customs of lending institutions.

New Zealand has efficient registration and a strong legal framework. It has a modern law that covers all security devices that use movable property, provides for creation and attachment of security interests, sets a clear priority scheme, establishes the registry, and provides for swift enforcement. It also has a modern

collateral registry that covers all types of movable assets other than those covered by international conventions. It permits searching and registration exclusively online, has low fees that cover only the operational costs of the registry, and requires no documentation in support of the registered notice. Such good features and efficient structure, among other factors, are reflected in the numbers of registrations. New Zealand is among the jurisdictions researched—one with the most registrations, having 649,188 registrations in 2005 and 418,938 registrations in 2009. Nevertheless the New Zealand and Canadian registries include liens on vehicles whereas US registries, for example, do not. Further, the China registry surveyed only includes security interests related to receivables. These factors need to be borne in mind when analyzing the underlying data. A meaningful comparison can only be made when taking into account these factors and comparing economies of the same size.

Registration costs

International standards

According to global practices, registration fees²³ should be limited to the level required to cover the costs of operating the registry.²⁴

When fixing flat fees, it is necessary to develop projections of the number of expected transactions and expected revenue. But doing so requires determining the business model adopted. For instance, the registry might share a platform with another service line (i.e. combining the website of the collateral registry with the company's registry), having revenues from different sources.

Because most of the costs of operating an online notice registry are fixed, the volume of registrations is one important factor in determining the fee that must be charged to permit recovery of operating costs of the registry, though other factors may be taken into account by case.

23 Registration fees should be assessed per notice, and should be set to recover only the costs of operation and capital replacement. (Secured Transactions Systems and Collateral Registries, 2010).

24 See recommendation 54 (i) of the UNCITRAL Legislative Guide on Secured Transactions.

A large jurisdiction with a high volume of registrations will need less revenue per registration than a small one with fewer registrations. New Zealand, with 418,938 registrations in 2009, can charge USD2, while the Solomon Islands, with 6,439 registrations, needs to charge USD27. Both have similar fixed costs, with fully electronic registries. But New Zealand has a population of 4.3 million people while the Solomon Islands have about 0.5 million and less economic activity. So New Zealand can charge less to maintain the registry.

Costs of operation of a document registry include many variables other than fixed costs. These include the cost of receiving, handling, and archiving documents, as well as the salaries and training of staff which examine the documents. Costs of operation increase based on the number of registrations and projections.

One additional cost associated with the registration is the cost of preparation and delivery of the registration. This can be significant, for instance, where registries require documents such as the security agreement or loan agreement to be notarized and delivered to the registry. Costs of preparation and presentation can essentially be eliminated by providing for online registration or by simplifying the registration process when on paper or by fax.

Survey results

Among jurisdictions that charge for registration, more than 60 percent use a flat fee. Jurisdictions with flat fees for registration include Albania, Kosovo, and Vanuatu.

Some jurisdictions with notice registries do not charge flat fees, but treat fees more like taxes on transactions based on secured obligations. Fees can be prohibitive, depending on the amount secured.

Other jurisdictions have gradual fee structures that vary by various factors. Serbia bases registration fees on the amount of secured obligations and number of items of collateral. In Bosnia and Herzegovina the fee for registration depends on the duration of the security interest, the number of debtors and secured parties,

and whether the collateral consists of general property or special properties. In Bosnia and Herzegovina and Serbia the fees are reasonable and seem not to have affected registrations.

In Canada registration fees are set at the provincial level. Still, in all provinces, they are calculated based on the duration of the registration. In British Columbia, for instance, the registration fee is about USD5 per year of registration, up to 25 years. In Nova Scotia the registration fee is about USD31 per year of registration.

Registration fees in the United States are also different among states, but the average is about USD10. Because registrations have a fixed duration of five years, there is not much variability, but in some cases variations may occur. In Texas, electronic registration costs USD5; and for paper-based, USD15 for registration up to two pages, and USD30 for three or more pages. Texas had 289,000 registrations in 2007, indicating that the fees are not a significant barrier to registration.

In Senegal, on the other hand, the fee structure seems to be a barrier, as suggested by the low volume of registrations. The registration fee is a percentage of the secured debt that may vary from 1% to 5%. The low number of 1,492 new registrations in 2009 appears to be at least partially attributable to the substantial cost to users of the fees, though the fact that the collateral registry is a paper-based registry may also contribute to the low level of usage.

Centralized registry information

The record of the registry should be centralized and contain all registrations with respect to security interests registered.²⁵ This means that the most efficient registry system will be the one that centralizes information

²⁵ See recommendation 54 (c) of the UNCITRAL Legislative Guide on Secured Transactions and Article 44 of the OAS Model Law on Secured Transactions.

in one place for security interests of different types of collateral and transactions, from different locations and geographical areas and different types of debtors including both individuals and businesses.

By types of assets for which notices of security interest are registered

International standards

A registry structure that is fragmented by type of asset with no centralized database linking them together prevents potential lenders or buyers from relying on a single search when the searcher is interested in more than one type of asset. However, there are some types of assets for which there are legitimate arguments for separate registries. Where there are functional and transparent registries for security interests in major classes of property (e.g. motor vehicles or securities) when a reform is done, it is often less complex and more easily accepted if those classes are carved out and the existing registries are allowed to continue operating.

Motor vehicles are, in many jurisdictions, registered in a separate registry, usually under the control of the Traffic Department or equivalent body. Security interests in aircraft, ships, investment securities and intellectual property are also, due to their specificity and relevant special laws or protocols to international conventions, often registered in separate or special registries.

Survey results

Survey results show that whereas some jurisdictions have fragmented registration systems, with different types of collateral registries for different types of assets (such as separate registries for registrations of security interests in accounts receivable, machinery, vehicles and intellectual property), others have a single collateral registry that accepts registrations of security interests for all or almost all types of assets.

Of the jurisdictions surveyed, one-third permit registration of interests in all or nearly all types of assets. New Zealand, Romania, and Canada are among them.

Registrations of security interests over all present and future assets, when allowed in the specific jurisdiction, are also commonly registered.

China is a classic case of disunity in a registration system. There, registration of security interests in accounts receivable is done at the Credit Reference Center, which is a unit of the People's Bank of China. Interests in other movable assets (except for vehicles, aircraft and ocean-going vessels) are registered in separate and unlinked registries of the Administration of Industry and Commerce at one of four levels of government, the choice of which depends on a number of arcane factors. The result is that searching (except for security interests in receivables) is very difficult and unreliable to the extent that it is virtually never done.

By geographical coverage of collateral registry

International standards

By definition, movable property may be moved from one location to another, including a sale from the owner to a person in a different locale. In order to ensure that a search of the collateral registry includes security interests in all property, regardless of whether it has been moved or sold to a different location, the registry should be geographically unified; that is, there should be one database that includes registrations of security interest for the whole jurisdiction. That may be done either with a single registry office for the jurisdiction or through an electronic database that aggregates input from remote branches.

Survey results

Of the jurisdictions surveyed, a vast majority have an electronic system with a single database for the entire jurisdiction. In some jurisdictions such as the United States and Canada, however, the registries are centralized at the state and provincial level — not ideal, but a vast improvement over the earlier county-level registry approach used in the United States under the earlier version of its uniform law. In the

United States, the common justification of location of registries at the state, rather than the federal level is that states are sovereign entities and that the federal government has not pre-empted this body of law. Also, in the United States and Canada, the problem of decentralization of registries is mitigated through the compilation of the information by private companies which sell multi-state searches to potential secured creditors and buyers of movables.

By types of debtors and types of legal interests

International standards

A collateral registry should permit registration of notice of a security interest by any type of debtor without respect to the particular form of legal interest. Potential lenders or buyers should be able to rely on a single search to find all security interests that identify a debtor, independently of the debtor's legal structure (e.g. natural persons or juridical persons) or the particular form of the secured party's legal interest in the collateral (e.g. chattel mortgage, charge, non-possessory pledge, retained title, etc.).

The most common case of fragmentation according to debtor type happens in the jurisdictions that adopted the traditional common law system wherein security interests in movable collateral of incorporated companies are registered in the Companies Registry, and security interests of unincorporated debtors are either registered in a different registry (e.g. Bill of Sale Registry) or are not registered at all.

According to international best practices, a unified database should exist with complete information relating to any registration effected against the movable property of a debtor regardless if the debtor is a juridical person or a natural person or of the legal form of the security interest. They all should be registered in the general collateral registry. Best practices, furthermore, call for inclusion in the registry of notice of some other type of guarantees that might not be considered security interests because of their legal form. These other types of guarantees, if not published

through registration, might not be apparent to a third party. Such interests include long-term operating leases and the sale of accounts receivable and secured sales contracts.

Survey results

Among the jurisdictions surveyed, about one-third provide for registration of security interests in the movable assets of incorporated debtors in their Companies Registries, including Hong Kong SAR China, Ireland, and Malaysia. In many of these cases, lenders to unincorporated enterprises and individuals have no adequate means of assuring their priority in movable assets due to a lack of a specific registry for security interests granted by them.

In some surveyed jurisdictions, registration of security interests is fragmented according to the legal form of the transaction. That is, they have different publicity rules for different legal mechanisms that secure an obligation (pledge, sale with retained title, enterprise mortgage, etc.). In some other jurisdictions, some legal interests in movable assets are publicized by registration, while other types are not. This is the case of Finland where only security interests over the enterprise are publicized (in the enterprise mortgage registry). In other cases, some types of legal interest in movables are registered (e.g. non-possessory pledges or chattel mortgages), while other types are not registered (e.g. different forms of sale with retained title). This is the case of economies such as Bangladesh and Jamaica.

The search process

International standards

Information in the collateral registry should be accessible to the public, whether directly or through registry staff. Ideally, the registry database should be accessible from any location, including outside the jurisdiction, by users who have internet access and

through access points for individuals who do not have their own means of access to the internet.²⁶

The registry system should be designed to permit the database to be searched according to the debtor's identity (e.g. complete name or national identification number) or by the registration number assigned by the registry to each registration. Some jurisdictions also provide for indexing and searching for registrations of security interest by serial numbered assets (such as vehicles, agricultural or industrial equipment).

The most efficient system would allow for searches based on any of the three criteria mentioned.

The most common and most important search criterion is the identity of the debtor. The options for searching by debtor are the debtor's name or a unique numeric identifier. Though either of these options is viable, a unique numeric identifier is a more precise search criterion than a name, provided that the numeric identifier is unique, permanent and publicly available.²⁷ Different options may be used in the same system for different types of debtors, since some types of debtors may have a viable numeric identifier, while others do not. For example, citizens may have a national identification number on which searches may be done, while registered legal entities may not have a permanent registration number, so must be searched according to name.

The critical factor to a successful search process is to have clear and objective rules that can be applied by an IT system without registry staff intervention to produce absolutely predictable results. Those rules must be published so that searchers know how to search and can rely on the results in every case. The search rules generally call for identifying only exact matches for debtor types that have a unique numeric identifier. Where names must be used, the rules generally provide for searching on

a normalized version of the name. Normalization rules may include steps such as removal of case differences, removal of punctuation and diacriticals, concatenation of free-standing characters, removal of words or abbreviations that indicate the type of legal enterprise, and compression of remaining words into a character string. Searches by name often will produce results that include registrations for more than the targeted debtor, but they will always produce all registrations that include the correct debtor name. Where more than the targeted registrations are returned, the searcher must use other data in the registered notices (such as address or birth date) to eliminate the excess results.

Still regarding the searching process, it should either be free of charge, or fees should be kept to a minimum level to help cover the maintenance of the electronic platform. Excessive fees for searches will significantly deter utilization of the registry.

Survey results

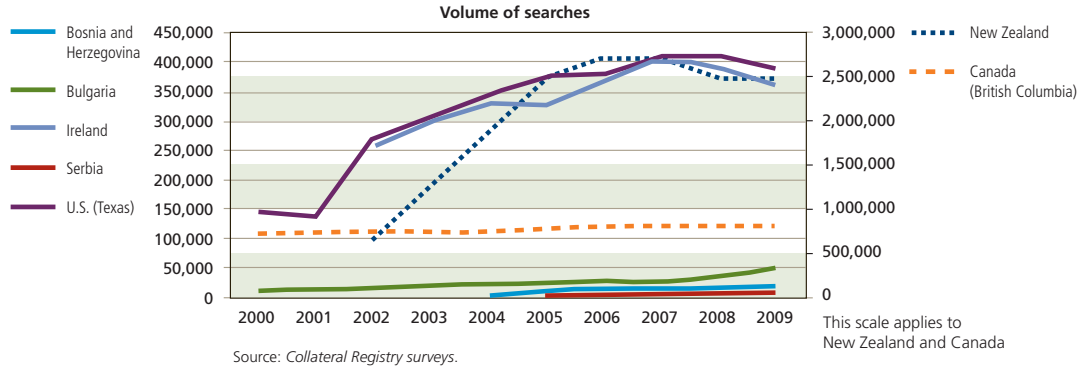
The survey results show an increase in the volume of searches in the majority of the jurisdictions with an electronic database capable of centralizing the information (Figure 2). The volume is also much higher in jurisdictions that count with an electronic database than in those without it. This might imply that potential lenders rely more on such systems for searching since they usually count with much more precise information.

Another interesting aspect regarding the number of searches is the ratio of the number of searches to the number of new registrations. Where there is rough parity in those numbers, it is an indication that users value the registry as a risk management and prudent lending tool to assure priority. It means they are searching before making lending decisions and registering. Where the ratio is low, it is an indication that users register only because it is part of a process. They do not search before making decisions and take more risks than creditors that use the search

²⁶ See Articles 45 and 46 of the OAS Model Law on Secured Transactions.

²⁷ See recommendation 54 (h) of the UNCITRAL Legislative Guide on Secured Transactions.

Figure 2: Registries with electronic database equal high volume of searches

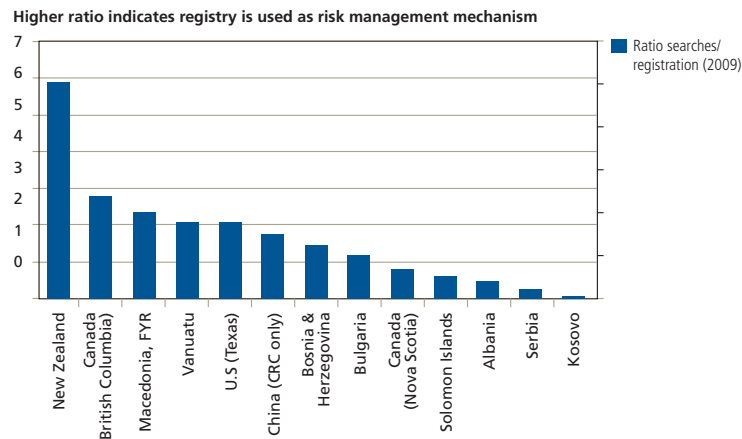


function as a prudent lending technique. Jurisdictions such as New Zealand (almost 6 times more searches than registrations) and British Columbia, Canada (almost 3 times more searches than registrations) present a high ratio of searches to registrations, which means the registry is being used as a risk management mechanism (i.e., to determine if there are prior encumbrances of prospective collateral).

In jurisdictions such as Albania and Kosovo, there are significantly fewer searches than registrations, implying that the registry is not considered an important factor in lending decisions (Figure 3).

Most of the surveyed jurisdictions keep the search costs quite reasonable or free, at least for searches done online by users. New Zealand's registry, for instance,

Figure 3: Ratios of searches to registrations



charges a fee of only USD0.70 per search and Ireland’s registry also has a reasonable fee varying from USD3.40 to USD4.80 per search. In the Solomon Islands and Vanuatu searches are free of charge.

effective to users and governments. The main features that are considered as best practices were selected and compared with the reality of the institutions surveyed. The table below (Table 2) shows which features these are and the following table (Table 3) shows how the surveyed registries conformed or failed to conform to the following best practices.

Summary of the main features of a modern collateral registry

As illustrated in this paper, registries should provide for efficient registration and searching (online searches and payments, instant registration, etc.), and be cost

Table 2: Main features of an efficient movable collateral registry

Feature	Description
1. Notice based system	No documents need to be submitted, and the registry does not verify the legality of the transaction.
2. Electronic database	No paper archive.
3. Online system for registrations, amendments, renewals, cancellations and searching	Functioning 24/7 (except for system updates) and no restrictions on who can do registrations and searches.
4. Indexing and searching according to debtor identity, registration number and serial number	Searchers may search by a unique debtor ID number or debtor name, by a registration number or by a serial number if looking for serial-numbered collateral.
5. Centralized registry	All information is available in one single database for the whole jurisdiction, regardless of the type of asset, type of debtor, type of security interest mechanism used to create the collateral. If a jurisdiction has different branches of the registry, such branches must be linked into one database.
6. All types of assets accepted for registration	The law governing registration should not exclude any types of movable assets from registration.
7. Reasonable fees for registrations and searches	The registry charges a reasonable flat fee (to cover the costs administering the registry only) for registrations and for searches (charging for searches is optional).
8. Registration done by secured creditors or their representatives	Secured creditor or its representative is responsible for registering. No restrictions on who can file.
9. Liability	The registrar is liable only for errors caused by malfunction or unavailability of the registry system.
10. Limited discretion	The registrar should not be in charge of verifying information and rejecting or accepting applications, unless mandatory information is missing.

Table 3: Conformity of the surveyed jurisdictions to best practices

Feature	Albania	Australia	Bangladesh	Bosnia and Herzegovina	Bulgaria	Cambodia	Canada (British Columbia)	Canada (Nova Scotia)	China	Croatia	Finland	France	Guatemala	Hong Kong SAR, China	Ireland	Jamaica	Jordan
1. Notice registration system	N	N	N	Y	N	Y	Y	Y	Y	N	Y	N	N	N	N	N	N
2. Electronic database	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3. Online system for registrations/ searches	N	Y	Y	Y	N	Y	Y	Y	Y	N	N	Y	Y	N	N	N	N
4. Indexing for searches	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y
5. Centralized registry	Y	Y	Y	Y	Y	Y	N	N	Y	Y	N	Y	Y	Y	Y	N	Y
6. Single registry for all type of assets	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N	Y	Y	Y	Y	Y	N
7. Flat and reasonable fees	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N/A	N	Y	Y	Y	N
8. No restrictions to file	Y	Y	N	Y	Y	Y	N	N	N	Y	N	N	N	N	N	N	Y
9. Debtors are legal/natural persons	Y	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	Y
10. No liability of the registrar	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N	Y	N	Y	Y	Y	N
Feature	Kenya	Kosovo	Macedonia, FYR	Macau	Malaysia	Mauritius	New Zealand	Romania	Rwanda	Senegal	Serbia	Singapore	Solomon Islands	Slovakia	Spain	U.S. (Texas)	Vanuatu
1. Notice registration system	N	N	N	N	Y	Y	Y	Y	N	N	N	Y	Y	N	N	Y	Y
2. Electronic database	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
3. Online system for registrations/ searches	N	Y	Y	N	N	N	Y	N	Y	N	N	Y	Y	Y	Y	Y	Y
4. Indexing for searches	N	Y	Y	N	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
5. Centralized registry	Y	Y	Y	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	N	Y
6. Single registry for all type of assets	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
7. Flat and reasonable fees	Y	Y	Y	Y	Y	N	Y	Y	Y	N	Y	Y	Y	Y	Y	N	Y
8. No restrictions to file	N	Y	Y	N	Y	N	Y	N	Y	Y	N	N	N	N	Y	Y	Y
9. Debtors are legal/natural persons	N	Y	Y	Y	N	Y	Y	Y	Y	N/A	Y	N	Y	Y	N	Y	Y
10. No liability of the registrar	N	N	N	Y	N	Y	Y	Y	Y	N/A	Y	Y	Y	Y	N	Y	Y

N/A means no information has been provided by the Registry.

Annex I

Documents/certification needed for filing

The table below refers to jurisdictions that adopted a “document registration system” and the specific documentation required by such registries.

Does the filing of the registry form require added documents/certification?	
Jurisdiction	Required documentation
Albania	Notarization; proof of payment of stamp duty
Australia	Copy of the original loan; Copy of the original security agreement; Proof of payment of stamp duty ^a
Bangladesh	Copy of the original loan; Copy of the original security agreement; Proof of payment of stamp duty
Croatia	Copy of the original loan; Copy of the original security agreement; Notarization; Proof of payment of stamp duty
France	Copy of the original loan; Copy of the original security agreement; Notarization; Proof of payment of stamp duty
Guatemala	Copy of original security agreement
Hong Kong SAR, China	Copy of the original security agreement
Ireland	Copy of the original security agreement
Jamaica	Copy of the original loan; Copy of the original security agreement; Notarization
Jordan	Copy of the original loan; Copy of the original security agreement; Notarization; Proof of payment of stamp duty
Kenya	Copy of the original security agreement; Notarization; Proof of payment of stamp duty
Kosovo	Copy of the original security agreement; Proof of payment of stamp duty
Macau	Copy of the original security agreement; Notarization.
Macedonia, FYR	Copy of the original loan; Copy of the original security agreement; Notarization
Rwanda	Copy of the original security agreement; Notarization
Senegal	Copy of the original security agreement; Copy of the original loan; Notarization
Serbia	Copy of the original security agreement
Slovakia	Copy of the original security agreement
Spain	Copy of the original security agreement; Original loan agreement; Notarization

^a The Personal Property Securities Act 2009 (Cth) (PPS Act), which creates a new and comprehensive regime for personal property securities in Australia, became law on 14 December 2009 and took effect in 2012. The legislation streamlines existing laws relating to security interests and governs the creation of security interests, the priority regime applicable to security interests, the enforcement of security interests and the conflict of law rules applying to security interests.

Source: Collateral Registry Survey.

Annex II

Number of registrations per year

Country	2009			2008			2007			2006			2005		
	F	T	A	F	T	A	F	T	A	F	T	A	F	T	A
Albania	4,105	163	–	5,002	239	–	9,860	99	–	3,550	102	–	7,002	89	–
Australia	159,505	70,681	17,142	160,712	70,505	3,867	165,033	63,350	3,750	146,390	61,972	4,438	130,672	58,903	3,147
Bosnia and Herzegovina	11,973	–	–	13,650	–	–	10,686	–	–	10,225	–	–	11,182	–	–
Bulgaria	40,595	9,096	6,617	39,435	9,276	4,393	40,741	8,812	4,018	36,159	8,529	3,939	31,403	7,839	4,385
Cambodia	237	81	19	953	8	38	–	–	–	–	–	–	–	–	–
Canada (British Columbia)	287,113	249,122	35,354	353,820	225,679	35,643	382,740	221,145	28,751	366,453	213,518	28,872	357,784	218,568	28,813
Canada (Nova Scotia)	72,738	5,575	5,575	84,415	5,948	5,948	87,514	6,469	6,469	82,759	5,520	5,520	84,660	6,368	6,368
China	66,675	7,390	10,920	24,991	2,394	6,384	7,587	205	1,684	–	–	–	–	–	–
Croatia	77,595	4,261	–	141,662	2,649	–	90,272	803	–	18,888	32	–	–	–	–
Finland	3,970	1,167	826	4,679	1,194	873	4,851	1,113	764	4,324	1,097	745	4,251	989	859
Guatemala	654	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Hong Kong SAR, China	31,390	25,995	–	41,822	25,494	–	32,315	22,324	–	31,890	26,572	–	31,892	23,308	–
Ireland	6,996	4,097	–	10,281	4,444	–	12,715	4,467	–	12,539	3,504	–	10,464	2,999	–
Jamaica	758	266	–	839	214	–	947	256	–	810	223	–	648	227	–
Kosovo	16,711	–	–	1,764	–	–	–	–	–	–	–	–	–	–	–
Macau	463	407	–	476	433	–	446	351	–	389	275	–	417	212	–
Macedonia, FYR	4,346	–	–	8,234	–	–	6,549	–	–	4,651	–	–	3,114	–	–
Malaysia	22,947	16,596	–	25,066	14,848	–	22,760	12,764	–	20,814	11,535	–	22,351	10,117	–
New Zealand	418,938	293,675	531,506	480,998	362,087	634,060	574,042	419,323	534,662	612,773	420,808	490,013	649,188	394,504	450,347
Norway	193,345	167,088	762	182,520	171,663	812	193,895	180,786	716	180,133	172,563	799	176,752	169,212	762
Romania	–	114,380	67,628	–	134,320	72,023	–	117,638	57,107	–	78,837	41,492	–	60,642	28,141
Senegal	1,492	–	–	1,438	–	–	1,395	–	–	1,289	–	–	–	–	–
Serbia	24,059	2,518	2,858	16,971	1,980	850	11,801	1,437	296	7,344	688	205	4,346	70	52
Singapore	8,848	7,511	116	11,473	8,144	110	11,588	6,383	79	8,917	5,380	491	8,305	5,769	94
Slovakia	16,050	–	–	24,823	–	–	23,314	–	–	20,462	–	–	15,342	–	–
Solomon Islands	6,439	–	–	–	–	–	–	–	–	–	–	–	–	–	–
U.S. (Texas)	188,629	66,067	32,300	231,724	75,415	34,254	259,225	76,328	35,475	243,707	71,579	39,041	236,132	67,933	31,767
Vanuatu	1,111	–	–	–	–	–	–	–	–	–	–	–	–	–	–

F= Total New Filings/Registrations: New security interest recorded over an asset between the parties to a security agreement

T= Terminations: The security agreement is terminated (e.g. by the enforcement of the security interest by the creditor, payment of the debt by the debtor, etc.)

A= Amendments: Changes (e.g. type of Security, type of asset, etc.) made to a previous registered security interest

Source: Collateral Registry Survey.

Country	2004			2003			2002			2001			2000		
	F	T	A	F	T	A	F	T	A	F	T	A	F	T	A
Albania	4,302	59		4,033	60		2,888	62		1,874	5				
Australia	108,838	52,189	3,629	93,417	45,045	2,823	73,739	42,144	2,288	56,895	36,948	1,735	50,242	34,073	2,299
Bosnia and Herzegovina	1,920														
Bulgaria	26,459	7,730	3,666	23,654	7,325	2,667	18,025	6,291	1,893	17,130	4,659	1,562	12,954	2,967	793
Cambodia															
Canada (British Columbia)	354,744	222,288	31,305	366,224	218,033	31,777	370,355	214,305	31,647	352,370	199,861	31,227	340,836	182,520	24,720
Canada (Nova Scotia)	84,875	8,687	8,687	89,070	6,751	6,751									
China															
Croatia															
Finland	4,282	745	1,029	4,311	776	1,072	4,102	764	884	3,983	689	518	4,365	572	961
Guatemala															
Hong Kong SAR, China		15,569		20,305	16,298		22,441	18,631		22,875	19,512		21,570	19,379	
Ireland	9,616	4,425		8,384	4,221		7,132	3,181		6,906	3,519		8,013	2,433	
Jamaica	623	283		631	211		134	359			43				
Kosovo															
Macau	331	118		300	49		98	17		31	10		6	3	
Macedonia, FYR	2,581			1,444			978			1,376			960		
Malaysia	16,991	7,364		15,455	7,028		13,922	6,254		13,921	6,090			5,385	
New Zealand	493,628	332,003	377,319	469,681	340,714	350,205	350,838	126,681	208,298						
Norway	179,901	169,697	812	171,148	173,192	1,107	188,803	176,785	1,184	182,434	173,239	1,017	170,529	169,428	1,157
Romania		53,207	8,943		65	3,591		5			4				
Senegal															
Serbia															
Singapore	6,917	5,123	105	6,453	4,545	91									
Slovakia	7,464			10,382											
Solomon Islands															
U.S. (Texas)	239,547	62,534	34,352	234,029	61,376	35,783	245,707	60,092	34,823	249,569	54,945	33,172	254,665	53,452	40,274
Vanuatu															

F= Total New Filings/Registrations: New security interest recorded over an asset between the parties to a security agreement

T= Terminations: The security agreement is terminated (e.g.: by the enforcement of the security interest by the creditor, payment of the debt by the debtor, etc.)

A= Amendments: Changes (e.g.: type of Security, type of asset, etc.) made to a previous registered security interest

Source: Collateral Registry Survey.

Annex III

Types of Assets on which a security interest may be registered in each jurisdiction

Type of asset	Albania	Bangladesh	Bosnia	Bulgaria	Cambodia	Canada (British Columbia)	Canada (Nova Scotia)	China	Finland	France	Guatemala	Hong Kong SAR, China	Ireland	Jamaica	Jordan
Universal Security over Present and Future	Y	Y	Y	N	Y	Y	Y	N	Y	N/A	Y	Y	Y	Y	N
Machinery and equipment	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y	N
Motor vehicles	Y	Y	Y	Y	Y	Y	Y	N	N	Y	N	Y	Y	Y	Y
Agricultural products	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	N	Y	Y	N
Crops and other agricultural yields	Y	Y	Y	N	Y	Y	Y	N	N	Y	Y	N	Y	Y	N
Livestock	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	N	Y	Y	N
Investment property	Y	Y	N	N	Y	Y	Y	N	N	Y	N	Y	Y	Y	N
Documents of rights, financial instruments	Y	Y	Y	N	Y	Y	Y	N	N	N	Y	N	Y	Y	N
Intellectual property	Y	Y	Y	N	Y	Y	Y	N	N	N	Y	Y	Y	Y	N
A single account receivable	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y
Multiple accounts receivable	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y
Inventory	Y	Y	Y	Y	Y	Y	Y	N	N	N	Y	Y	Y	Y	Y
Membership and partnership interests	Y	N	Y	N	Y	Y	Y	N	N	Y	Y	N	N	N	Y
Future	Y	Y	Y	Y	Y	Y	Y	N	N	N	Y	N	Y	Y	N

Y=Yes N=No N/A=Not Informed

Source: Collateral Registry Survey.

Type of asset	Kenya	Kosovo	Macedonia, FYR	Malaysia	Mauritius	New Zealand	Norway	Romania	Senegal	Serbia	Singapore	Solomon Islands	Spain	U.S. (Texas)	Vanuatu
Universal Security over Present and Future	Y	N	N	Y	Y	Y	N	Y	N	Y	Y	N/A	N	Y	Y
Machinery and equipment	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y
Motor vehicles	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y
Agricultural products	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Crops and other agricultural yields	Y	Y	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y
Livestock	Y	Y	N	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y
Investment property	Y	Y	Y	Y	Y	Y	N	Y	N	N	Y	Y	N	Y	Y
Documents of rights, financial instruments	Y	N	N	Y	Y	Y	N	Y	N	N	Y	Y	Y	Y	Y
Intellectual property	Y	N	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	N
A single account receivable	Y	N	N	Y	Y	Y	N	Y	N	Y	Y	Y	N	Y	Y
Multiple accounts receivable	Y	N	N	Y	Y	Y	Y	Y	N	Y	Y	Y	N	Y	Y
Inventory	Y	N	N	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y
Membership and partnership interests	N	Y	N	Y	Y	Y	N	Y	Y	Y	Y	N/A	N	Y	N
Future	Y	Y	N	N	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y

Y=Yes N=No N/A=Not Informed

Source: Collateral Registry Survey.

Annex IV

Annual Jurisdiction Report Display – Year 2010

The table below refers to data on some of the collateral registries operating in the different states of the United States of America for informational purposes.

	Number of notices filed	Number (or %) of notices filed electronically	Search requests processed	Number (or %) of searches conducted online by end	Do you currently accept filings electronically?
California	194,974	95,818	223,279	221,429	Yes
Colorado	56,834	56%	5,677	0	Yes
Delaware	89,498	52,719	147,369	147,369	Yes
Florida	81,946	0	Unknown	Unknown	No
Georgia	193,468	4%	9,814	9,814	Yes
Idaho	80,435	82%	42,924	98%	Yes
Indiana	60,937	77.60%	35,240	34,945	Yes
Kansas	40,036	34,000	31,195	29,862	Yes
Massachusetts	38,819	26,344	1,598	0	Yes
Michigan	79,285	56.90%	85,161	98.30%	Yes
Minnesota	98,947	43,079	20,136	20,136	Yes
Missouri	69,761	86.60%	Unknown	Unknown	Yes
Montana	18,883	9,041	23,395	21,734	Yes
Nebraska	100,302	69,164	118,964	117,110	Yes
Nevada	20,695	58.30%	7,756	96.80%	Yes
New York	120,788	75,535	6,180,058	6,169,218	Yes
North Dakota	30,767	1,423	38,616	15,920	Yes
Ohio	70,278	43,274	1,570	0	Yes
Oregon	25,973	0	2,985	0	No
Pennsylvania	59,962	38,206	84,084	82,442	Yes
Rhode Island	6,202	1,768	1,816	369	Yes
Texas	194,736	72.10%	394,965	99.50%	Yes
Utah	15,059	10,099	1,328	1,189	Yes
Virginia	40,491	0	7,509	0	Yes
Washington	44,216	70%	214,301	98%	Yes
Wisconsin	68,710	82%	1,748,940	1,748,880	Yes

Source: International Association of Commercial Administrators (<http://www.iacc.org/iacareg/ARJDisplay.php?year=2010>).

Annex v

Survey

COLLATERAL REGISTRY SURVEY

www.doingbusiness.org

Dear Sir/ Madame,

The World Bank Group is launching a global survey of legally-established registries that register security interests (a.k.a. charges, pledges) in movable property. The goal is to better understand these institutions so that we can improve our advisory services and policy advice related to secured lending.

This project is a joint effort by the IFC's *Global Secured Transactions and Collateral Registries* program and the *Doing Business* project. Since its inception in 2004, *Doing Business* has informed 270 reforms around the world, making it easier for small and medium sized entrepreneurs to do business. In 2008/09, for instance, eight jurisdictions reformed its secured transactions legislation.

Doing Business 2010: Reforming through Difficult Times was launched on September 9, 2009. This year's report received a record number of 2,517 media citations within one month of publication, including coverage from all major global, regional and local media outlets including TV, print, broadcast and web.

The positive feedback from governments around the world who are using the *Doing Business* reports as an input for policy debate about regulatory reform is only possible thanks to the generous contribution of over 8,000 experts, in 183 jurisdictions. For further information about the report, please visit our website on www.doingbusiness.org.

The main IFC's Secured Transactions and Collateral Registries program objective is to increase access to credit to firms, especially SMEs, by developing the appropriate legal and institutional framework to allow and facilitate the use of movable assets as collateral for loans. To achieve this objective, our advisory projects are built on three structural pillars:

1. **Legal Framework:** Advice to governments, law and policy makers, and financial sector players on the necessary improvements to the legal and regulatory infrastructure for secured lending.
2. **Registry:** Provision of technical advice to the government and other stakeholders for the creation of new collateral registries or the improvement of the existing ones.
3. **Capacity Building:** Training and awareness-building among public stakeholders on compliance with new laws and regulations. Awareness-building among creditors on the use of the new system in place and training of creditors on asset based lending techniques.

We have found that global data are extremely useful in developing a consensus around good practices and to support reform efforts in countries trying to strengthen their financial infrastructure, such as the institutional, legal and regulatory environment for movable collateral.

The information you provide will help our reform efforts as well as our research on the secured lending field. Please take a few minutes of your time to respond to this survey. We will aggregate the data that we obtain without mentioning specific countries unless the institution is willing to have the information published. If this is the case, we will mention your contribution in the Doing Business 2011 report as well as on its website.

We would appreciate if you could return the completed survey by April 10th, 2010 to Ms. Betina Tirelli Hennig at bhennig@ifc.org and Ms. Silvia Solidoro at ssolidoro@ifc.org. Please make sure to complete your name and address, so we can mail you a complimentary copy of the report.

If you have any questions, do not hesitate to contact us. Thank you again for your invaluable contribution to the World Bank's work.

With best regards,



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Collateral Registry Survey

Thank you for taking the time to fill out this questionnaire. If you have received this survey but do not feel that you are the correct person to fill it out, we would greatly appreciate if you could provide us with the contact details of someone working at the registry or a person familiar with its procedures.

1. PARTICIPANT CONTACT INFORMATION AT THE REGISTRY

Publish	First Name	Last Name	Position	Agency name	Address	Telephone	E-mail	Website
<input type="checkbox"/>								
<input type="checkbox"/>								
<input type="checkbox"/>								

2. INFORMATION ON THE REGISTRY IN: _____

Note: throughout the survey we are only interested in information relating to transactions performed between a company and a bank or financial institution.

1. Please list the registries for security rights over movable property and indicate whether they are operational (e.g. road vehicles, enterprise charges, universal registry of movable property):

Registry for security rights on movable property (Please list the registries and specify if they only cover specific assets)	Is the registry provided by law?		Is the registry operational?		Have you visited or worked at the registry?	
	Yes	No	Yes	No	Yes	No
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Any clarifications/additional comments:

For the below questions please consider the following registry or “filing office” for notices of security interest granted by companies that approximates the most to a universal registry of movable property:

REGISTRY:

2. Year registry founded and official name of the registry		
3. Number of full-time registry employees		
Specify the number of full-time employees working on security interests in movable property (collateral registry, charges registry, etc.)		
4. The day-to-day operations of the registry are performed by:	An office of the executive branch of the government	<input type="checkbox"/>
	By private parties	<input type="checkbox"/>
	By NGOs	<input type="checkbox"/>
	Courts	<input type="checkbox"/>
5. Which Ministry or Institution in the government has oversight responsibility for the registry?		
6. If the registry is not a government agency, is it independent or owned by another institution or group?	Independent: <i>(name)</i>	<input type="checkbox"/>
	Owned by other: <i>(name)</i>	<input type="checkbox"/>

3. TYPES/CATEGORIES OF MOVABLE PROPERTY RECORDED AS SECURITY INTEREST AT THE REGISTRY.

Please indicate which of the following types of movable collateral **can** be filed with your registry and also indicate the estimate percentage of filings in 2009. For the below, security interest granted by companies that approximates the most to a universal registry of movable property.

Type of collateral	Accepted at registry		% of total number of filings in 2009 (Please round estimated % of filings to nearest 10%)
	Yes	No	
1. Universal security over all present and future assets	<input type="checkbox"/>	<input type="checkbox"/>	
2. Machinery and equipment	<input type="checkbox"/>	<input type="checkbox"/>	
3. Motor vehicles	<input type="checkbox"/>	<input type="checkbox"/>	
4. Agricultural products	<input type="checkbox"/>	<input type="checkbox"/>	
5. Crops and other agricultural yields (plants and trees on land)	<input type="checkbox"/>	<input type="checkbox"/>	
6. Livestock, etc.	<input type="checkbox"/>	<input type="checkbox"/>	
7. Investment property (stocks and securities, options and futures, derivative products, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	
8. Documents of rights, financial instruments (bank notes and drafts, commercial bills, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	
9. Intellectual property (e.g. patent rights, trademarks)	<input type="checkbox"/>	<input type="checkbox"/>	
10. A single account receivable	<input type="checkbox"/>	<input type="checkbox"/>	
11. Multiple accounts receivables	<input type="checkbox"/>	<input type="checkbox"/>	
12. Inventory (i.e., goods for sale)	<input type="checkbox"/>	<input type="checkbox"/>	
13. Membership and partnership interests in business entities and cooperative shares	<input type="checkbox"/>	<input type="checkbox"/>	
14. Future (e.g. future crops, future acquisitions of collateral described in the agreement, and unborn livestock)	<input type="checkbox"/>	<input type="checkbox"/>	
15. Other. Please Specify:	<input type="checkbox"/>	<input type="checkbox"/>	

4. DATA GATHERED AT THE REGISTRY: REGISTRATIONS, AMENDMENTS, EXTENSIONS, SEARCHES AND TERMINATIONS PER YEAR.

Please help us gather current data as provided below from the registry. Please consider the following definitions to help you fill the table:

New filings: New security interest recorded over an asset between the parties to a security agreement.

Amendments: Changes (e.g. type of security, type of asset, etc.) made to a previous registered security interest.

Continuation: A previously recorded security interest is extended beyond the original agreed time for repayment of the debt.

Searches: Made on-line or in person (if recorded by the registry) of the database.

Terminations: The security agreement is terminated (e.g. by the enforcement of the security interest by the creditor, payment of the debt by the debtor, etc.)

Year	Total new filings / registrations	Amendments	Continuation / Extensions	Searches	Terminations / discharges
2009					
2008					
2007					
2006					
2005					
2004					
2003					
2002					
2001					
2000					

5. REGISTRY REGULATIONS

	Yes	No
1. Are there any restrictions on who can register a security interest? If yes, please explain:	<input type="checkbox"/>	<input type="checkbox"/>
2. Does registration require the physical presence of the parties to the security agreement?	<input type="checkbox"/>	<input type="checkbox"/>
3. Does the registry provide a standard form for the registration of a security interest in movable property? If yes, please explain below the basic information needed in the form:	<input type="checkbox"/>	<input type="checkbox"/>
4. Can the registration information include a generic description of collateral or state the nature of encumbered property? If no, please explain:	<input type="checkbox"/>	<input type="checkbox"/>
5. Does the filing of the registry form require added documentation/certification such as: a. Copy of the original security agreement. b. Copy of the original loan c. Notarization d. Stamp taxes	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
6. Is the registry internally computerized? If yes, does this mean that: a. Once the paper-based registration form is accepted, the data is uploaded in an electronic data base? b. Is the database searchable by debtor's (name of legal entity: the company) name? c. All the registry branches in the country are electronically linked? d. Paper-based documents are not stored in the registry once the information is uploaded in the database? e. If there are different registries by type of assets (e.g. vehicles) or interest (e.g. fixed/floating charges), are the databases linked between themselves? Any clarifications/comments:	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

	Yes	No
7. Does the registry accept paper-based registration forms? If yes, can they be delivered:	<input type="checkbox"/>	<input type="checkbox"/>
a. In person	<input type="checkbox"/>	<input type="checkbox"/>
b. By regular mail	<input type="checkbox"/>	<input type="checkbox"/>
c. By fax	<input type="checkbox"/>	<input type="checkbox"/>
8. Does the registry provide for electronic registration? If yes, could you please provide the website address:	<input type="checkbox"/>	<input type="checkbox"/>
9. Can anyone perform a registration search either in person at the registry or on-line? If no, please explain:	<input type="checkbox"/>	<input type="checkbox"/>
10. Is there a fee to register a security interest? If yes, is it:	<input type="checkbox"/>	<input type="checkbox"/>
a. A flat fee? Please indicate the amount:	<input type="checkbox"/>	<input type="checkbox"/>
b. A percentage of the value of the secured debt? Please indicate the percentage:	<input type="checkbox"/>	<input type="checkbox"/>
c. Other? Please explain:	<input type="checkbox"/>	<input type="checkbox"/>
11. Is there a fee to search for a security interest? If yes, is it:	<input type="checkbox"/>	<input type="checkbox"/>
a. A flat fee? Please indicate the amount:	<input type="checkbox"/>	<input type="checkbox"/>
b. A percentage of the value of the secured debt? Please indicate the percentage:	<input type="checkbox"/>	<input type="checkbox"/>
c. Other? Please explain:	<input type="checkbox"/>	<input type="checkbox"/>
12. Is the registry responsible for verifying the authenticity or legality of the security right or registered agreement? If yes, please explain the procedure:	<input type="checkbox"/>	<input type="checkbox"/>
13. Is the registrar liable for misinformation given to the registry regarding a security agreement?	<input type="checkbox"/>	<input type="checkbox"/>
14. Is there a statutory registration period (e.g. registration will be valid for 5 years) regarding security interest over movables that needs to be renewed? If yes, please explain: Any clarifications/comments:	<input type="checkbox"/>	<input type="checkbox"/>

THANK YOU FOR COMPLETING THE SURVEY!



Contact Information

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04/2012



IFC

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Finance Corporation**
World Bank Group