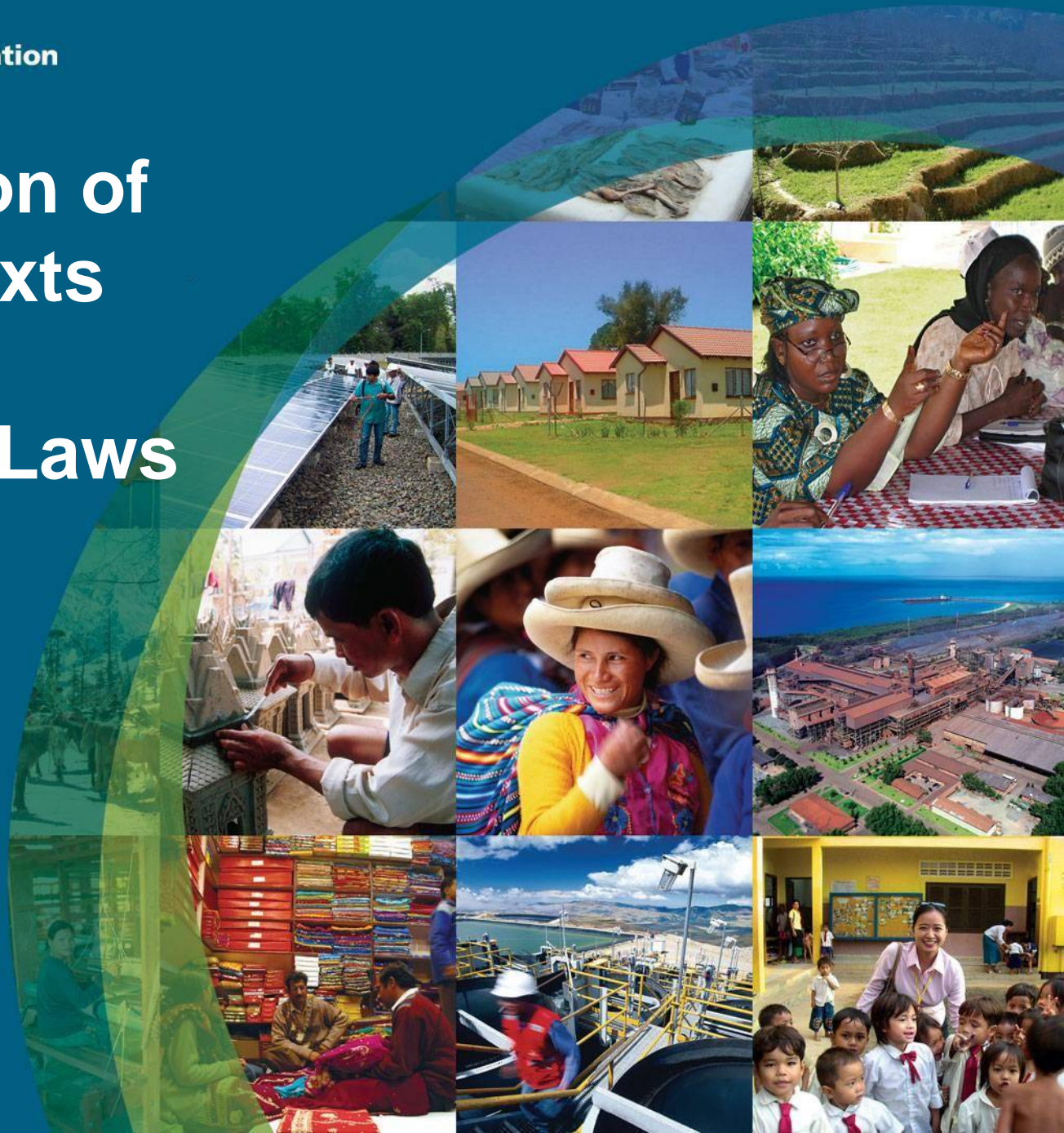




**International  
Finance Corporation**  
World Bank Group

# Implementation of UNCITRAL Texts on Secured Transactions Laws

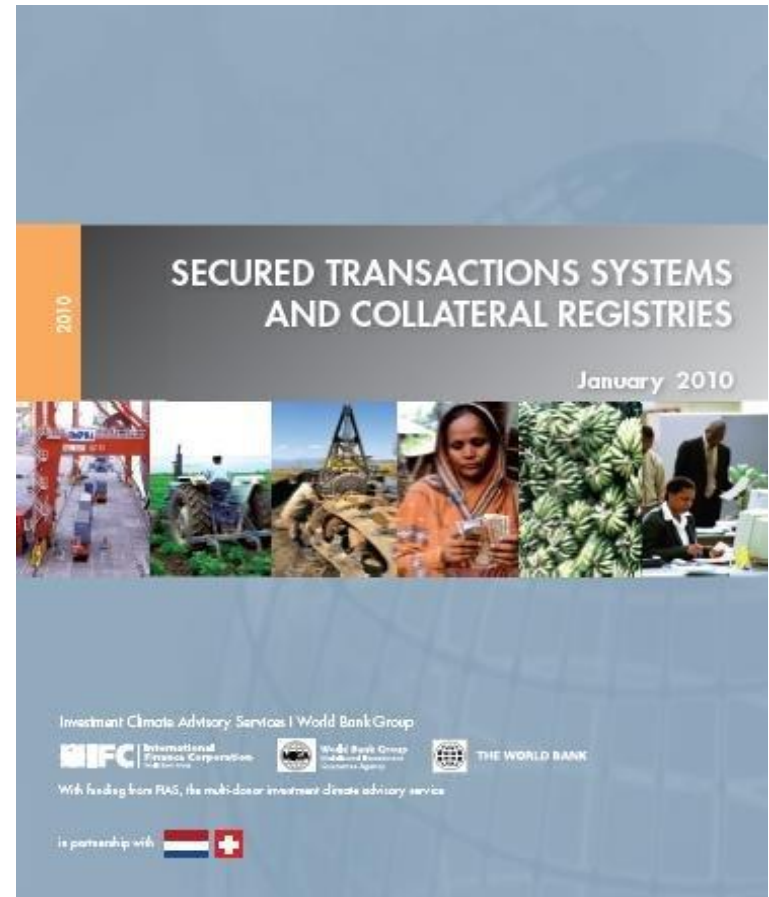
**Alejandro Alvarez  
de la Campa, IFC**  
Vienna, March 1, 2010



# IFCs APPROACH TO SECURED TRANSACTIONS AND COLLATERAL REGISTRIES REFORM

## CONSISTENT APPROACH WITH UNCITRAL LEGISLATIVE GUIDE AND WITH WORLD BANK PRINCIPLES ON INSOLVENCY AND CREDITOR RIGHTS

- Developed a methodology for a holistic reform approach that looks at legal framework, registry development, capacity, and results measurement.
- Although we consider our approach to be based on good practices that have worked in countries with modern secured transactions systems, we tailor each intervention to the particular need of a country.



# BUSINESS & DELIVERY MODEL

Stakeholder Management (client: government + beneficiaries: FIs and NBFIs) + M&E

	<b>DIAGNOSTIC</b> What is wrong?	<b>SOLUTION DESIGN</b> How to fix it?	<b>IMPLEMENTATION</b> Making it happen
<b>LAW</b>	No laws, complex / conflicting laws	Advice on revising, harmonizing the legal framework	Enacting new laws. Intensive consultations to meet legislative agenda
<b>REGISTRY</b>	No registry or paper-based, dysfunctional registry	Creation of new registry or registry redesign, shift to electronic platform	New electronic / web based registry. Study visits, training, live demonstrations of registry, access points
<b>CAPACITY</b>	Little or no movable asset financing	Focus on raising awareness, building partnerships with private and public sector	Training of FIs and NBFIs. Workshops, conferences, media outreach, lending survey

# PRINCIPLES IN WHICH WE FIND SOME RESISTANCE FROM COUNTRIES IN ADOPTING THEM

- **Functional and practical approach:** financial and operational leases, assignment of receivables, secured sales contracts, etc. – OHADA, China, Vietnam
- **Priority scheme of creditors:** taxes and wages are usually superpriorities and not subject to publicity. Most countries
- **Enforcement mechanisms:** out of court enforcement. Most countries allow in paper but not in practice.
- **Registry:** notice based systems, centralization. China, Vietnam



# UNCITRAL PRINCIPLES IN SOME EMERGING MARKET COUNTRIES

UNCITRAL PRINCIPLES	CHINA	VIETNAM	LAO PDR	AFGHANISTAN	RWANDA
1. Comprehensive scope – assets & obligations	YES	YES	YES	YES	YES
2. Integrated & functional approach	NO	NO	YES	YES	YES
3. Security rights in future assets permitted and security rights extend to proceeds	YES BUT..	YES	YES	YES	YES
4. Distinguishes effect between parties from effect against third parties	YES	YES	YES	YES	NO
5. General, centralized, public registry	NO	NO	YES	YES	YES
6. Multiple security rights in same asset permitted	YES	YES BUT..	YES	YES	YES
7. Clear priority rules among secured creditors	YES	YES	YES	YES	NO
8. Priority of secured creditor against other third party claims, e.g. tax claims	NO	NO	NO	YES	NO
9. Extra-judicial enforcement & realization permitted	YES BUT..	YES BUT..	YES BUT..	YES BUT..	YES
10. Equal treatment of creditors	YES BUT..	YES	YES	YES	YES BUT..

# CHINA CASE: OPENING US\$570 BILLION IN CREDIT FOR BUSINESSES



# PRACTICAL LESSONS OF EXPERIENCE

- ❖ **One size does not fit all:** certain principles are key, but flexibility and adaptability are also important
- ❖ **The overall goal of reform is to have an impact:** more access to credit, financial inclusion, economic growth, more investment, etc.
- ❖ **A reform will only have economic impact if three elements are present:**
  - Modern legal and regulatory framework
  - Functioning registry. Modern technology is a must but not always possible.
  - Interest/willingness from Financial Institutions and NBFIs to use the system and lend accepting movable property as collateral
- ❖ **Training and Awareness is Key**