



UNCITRAL

Fourth International Colloquium on Secured Transactions
**To Modernize or Not to Modernize:
Secured Transactions Law in Japan**

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Introduction

1. The characteristics of Japan's markets that would make a modern secured transactions law less beneficial.
2. The characteristics of credit markets that facilitate low-cost credit and easy access to credit even without a modern secured transactions law.

I. Secured Transactions Laws

- a. Title Transfer in general.
- b. Delivery/fictitious delivery
- c. Registration

II. Business Credit/Loans

- a. 9% of business have no outstanding debt.
- b. 23.3% of borrowers provide no collateral.
- c. The loans with collateral or guarantees.
 - i. 1.6 – 2.5% are asset-based loans.
 - ii. 51.9% are secured by real estate collateral.
 - iii. 7.4% by bank deposits collateral.
 - iv. 4.4% by private guarantees.
 - v. 44.6 by public guarantees.

II. Business Credit/Loans (Cont'd)

- CGCs (Credit Guarantee Corporations) are public institutions that support SMEs by serving as public guarantors to facilitate borrowing from financial institutions for business operations.
- When a borrower defaults, the financial institution will receive payment of the secured obligation (as with insurance) by CGCs.

III. The Characteristics of Japan Business Credit markets (1)

- Reducing benefits of modern secured transactions laws and incentives for Japan to adopt such laws.

III. The Characteristics of Japan Business Credit markets (2)

- Facilitating low-cost credit and easy access to credit in the absence of a modern secured transactions law.

IV. Tentative Conclusions

- a. Business credit is available notwithstanding the absence of modern secured transactions law.
- b. Adopting modern secured transactions law principles still could be beneficial, especially if:
 - i. CGC guarantees become less available because of financial burden on government.
 - ii. Japanese lenders become more familiar with ABL.
 - iii. Education of borrowers.

IV. Tentative Conclusions (Cont'd)

The emergence of the UNCITRAL Model Law, reflecting a consensus on principles of modern secured transactions laws, may encourage Japanese acceptance of benefits of those principles.



Yamagata city

Thank you!