

# LATIN AMERICA: CURRENT STATUS AND CHALLENGES

## REFORMED, REFORMING, AND RE-REFORMING

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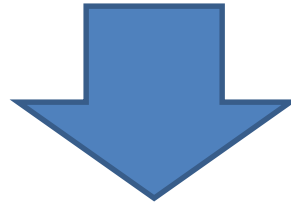
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# NatLaw's 12 Principles of Secured Transactions Law in the Americas

Principle 1: Self-liquidated loan

Principle 3: “...personal property collateral as well as security interests in them are open in number (*numerus apertus*), and these security interests are not limited to preexisting devices...”

Principle 2: “...[a security interest] does not require that the debtor who grants the interest have title to the personal property collateral.”



2002 MODEL INTER-AMERICAN LAW  
ON SECURED TRANSACTIONS

# Caribbean Projects



## Dominican Republic

- Draft Law Prepared for Presentation to Parliament



## Haiti

- Legal and Registry Regulation Adopted · Collateral Registry in Development



## Jamaica

- Triannual Review · Registry Updates · Coffee Financing Pilot Project



## Suriname

- Draft Law Prepared for Presentation to Parliament



## St Lucia

- Draft Law in Process



## Trinidad and Tobago

- Recommendations and Action Plan Adopted by Government



## Belize

- Recommendations and Action Plan Presented



## ECCB / OECS

- Exploring Project for Single Law and Joint Registry for all Eastern Caribbean States

# North, Central, and South America Reform Projects



**Mexico:**

Enacted Law & Established Registry, Judicial Training, Bank Regulation Reform



**Colombia:**

Enacted a Law and Established Registry, New Factoring and Invoice Registry



**Costa Rica:**

Enacted a Law and Established Registry, Reforming Bank Regulations, ABL Pilot



**Honduras:**

Reformed System · Requires Tech Updates · Potential ABL Pilot



**Paraguay:**

Draft Law Prepared for Presentation to Parliament



**Peru:**

Draft Law Prepared by Gov't, Requires Revision



**Brazil:**

Initial Recommendations Adopted



**Argentina:**

Recommendations for Reform & Action Plan Adopted · Drafting in 2017



**Chile:**

Draft Law Prepared for Presentation to Parliament



**Central America:**

Sub-Regional Project for Harmonization and Registry Interconnectivity

# Mexico



- Several amendments over the decade and yet another overhaul
- During first years of RUG, four times more filings were registered compared with previous years.
- Different types of collateral covered as of January 2017:
  - Motor vehicles: 53%
  - Agricultural Products: 20%
  - Rights, including accounts receivable: 14%
  - Machinery and Equipment: 7%
  - Cattle: 4%
  - Inventory: 0.28%

# Related Reforms in Mexico: Negotiable Electronic Warehouse Receipts Project

- Transition from a two-document system (i.e., warehouse receipt & pledge bond) to a single document system (i.e., warehouse receipt).
- Transition to a purely electronic system of warehouse receipts (RUCAM).
- Security interest over Negotiable EWR created by way of a credit (transfer of control) of the EWR to the secured creditor's Pledge Account maintained at RUCAM.
- Streamlined extra-judicial enforcement procedure.
  - Public auction of stored goods when an extra-judicial procedure has not been agreed to by the parties
  - Appropriation of EWR

# Honduras



- Commercial loans
  - Percentage of filings with commercial/agricultural/business collateral = 19% (July 2011).
- Honduran lenders were able to require reliable accounting and business practices from their borrowers

# Colombia



- Registro de Garantías Mobiliarias (RGM) Statistics:
  - 812,622 old filings + 650,000 new filings (2014 – 2016 after law was enacted) = **1,421,198 TOTAL**
  - **Individuals are the debtors in 98.4% of total filings**
  - 84% of total filings correspond to vehicles
  - 2.9% to accounts receivable
  - 0.1% to inventory
  - 1.8% agricultural products
- Last-minute lobby of factoring and leasing industries
- Extra-judicial remedies through chambers of commerce and ODR



# Security Interests in Electronic Invoices: Chile and Peru

- Chile, Peru and others treat electronic invoices as negotiable
- Impact on accounts/inventory creditors
- Which priority rules are appropriate?

# Challenges in Peru



- Resistance of notaries
- Not a unitary registry
- Inadequate Drafting

# THANK YOU

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