HOW TO IMPLEMENT THE UNCITRAL MODEL LAW REGIME IN CIVIL LAW COUNTRIES

THE WORLD BANK PROJECTS

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I. INTRODUCTION

Three countries
- Haiti (2011)
- Burundi (2013)
- Madagascar (2016)
II. THE CONTEXT

- A civil law tradition (Napoleonic Civil Code)
- A secured transactions law based on the French model of possessory pledge
- Recent but limited reforms allowing the creation of a non possessory pledge on a few kind of collateral.
- Useless reforms because of:
  - The ineffectiveness of the registry system
  - The ineffectiveness of the enforcement procedures
III. FUNDAMENTAL CHOICES

- A policy choice
  - Tabula rasa v. tradition?

- A technical choice
  - Unitary v. non unitary?
III. THE TECHNICAL IMPLEMENTATION

- **Three kind of provisions**
  - The “can-be-integrated-as-it-is” provisions
  - The “cannot-be-at-any-price-integrated” provisions
  - The “must-be-acclimated” provisions

- **A - The integration of neutral provisions**
  - Creation
  - Rules of perfections: dispossession and registration
  - Electronic and online registry
  - Notice filing rather document filing
  - Priority rules
III. THE TECHNICAL IMPLEMENTATION (Cont’d)

B – The rejection of unnecessary provisions

- Complexity
- Pure American Nature

C – The acculturation of the instrument

- Acculturation of concepts
- Acculturation of behavior
- Acculturation of style
- Acculturation of legislative structure
CONCLUSION

YES WE CAN ....

YES, WE DID!