

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 !