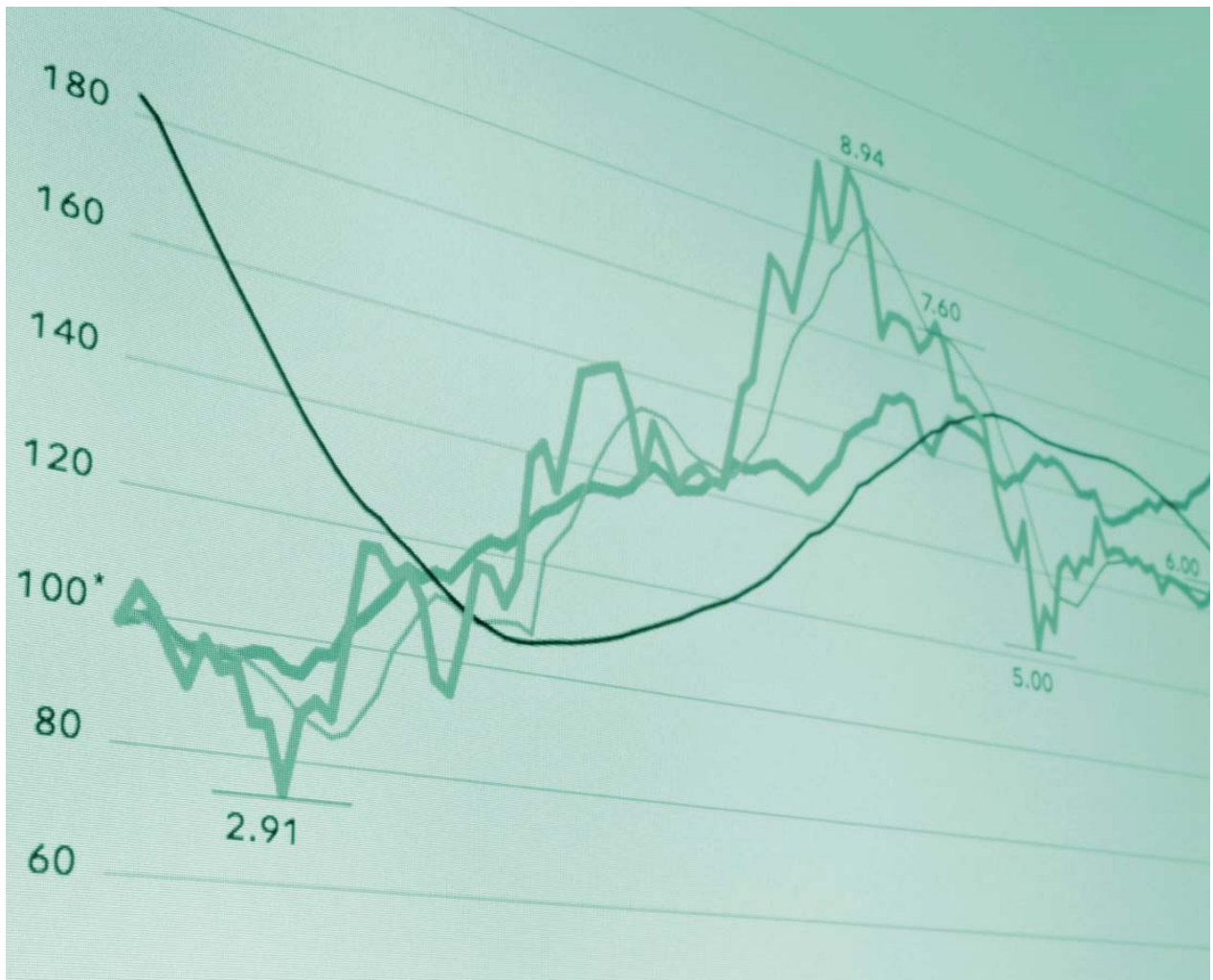


INCREASING ACCESS TO CREDIT

REFORMING SECURED TRANSACTION LAW



INCREASING ACCESS
TO CREDIT

REFORMING SECURED
TRANSACTION LAWS

Abstract for trade information services

ID=41525

2010

F-05.03 INC

International Trade Centre (ITC)
Increasing Access to Credit: Reforming Secured Transaction Laws
Geneva: ITC, 2010. xv, 85 pages (Technical paper)
Doc. No. BE-10-180.E

Study presenting a framework for developing modern secured transaction laws with a view to promoting the availability of secured credit to commercial enterprises - outlines the principles for an efficient secured transaction law, and provides a methodology for reforming such laws; describes the key features of a secured transactions legal framework, covering scope, creation of security rights, priority rules, effectiveness against third parties, development of a security right register, priority needs and enforcement; provides a sample questionnaire which could be used to start a secured transactions law reform project.

Descriptors: **Commercial Law, Trade Financing, Credit.**

For further information on this technical paper, contact Mr Jean-François Bourque, Senior Legal Adviser (Trade Law and Arbitration)

English

The International Trade Centre (ITC) is the joint agency of the World Trade Organization and the United Nations.

ITC, Palais des Nations, 1211 Geneva 10, Switzerland (www.intracen.org)

Views expressed in this paper are those of consultants and do not necessarily coincide with those of ITC, UN or WTO. The designations employed and the presentation of material in this paper do not imply the expression of any opinion whatsoever on the part of the International Trade Centre concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries.

Mention of firms, products and product brands does not imply the endorsement of ITC.

This technical paper has not been formally edited by the International Trade Centre.

Digital image on the cover: © iStockphoto

© International Trade Centre 2010

ITC encourages the reprinting and translation of its publications to achieve wider dissemination. Short extracts of this technical paper may be freely reproduced, with due acknowledgement of the source. Permission should be requested for more extensive reproduction or translation. A copy of the reprinted or translated material should be sent to ITC.

Foreword

This study invites national legislators as well as all those involved in enhancing the national business environment to consider secured financing schemes that will allow an increase in the amount of credit offered to SMEs. The reasoning is simple: allow as collateral property that SMEs usually possess; then build a framework so that banks can secure their loans on these collateral on the basis of priority rights over other creditors. As amounts secured are smaller in size, the system must be smarter/better/cheaper than the traditional security systems.

In the fall of 2008, the world financial system came to a near collapse. Following the various rescue plans there came a realization that changes must be made in national regulatory systems, especially with the view of a stronger oversight of megabanks.

Small and medium-sized enterprises (SMEs) were and are still directly hit by the unavailability and cost of credit. However, as George Affaki hints in his study, this is unjustified, considering the good mix of assets that SMEs can often demonstrate. Why then are SMEs as vulnerable to the consequences of the current crisis as larger companies? There is no stock answer but it seems clear that regulatory frameworks often disregard the particular circumstances in which SMEs operate.

This study could not be more timely. It takes the reader's hand through a secured transactions system for SMEs and provides a very practical needs and impact analysis for a national legal reform project.

Acknowledgements

This technical paper has been written by Georges Affaki, Global Head of Specialized Financing (Energy, Commodities, Export, Project, Aircraft, Shipping and Global Trade Services (ECEP)) Legal Affairs at BNP Paribas, leading a 20 counsel team based in Paris and coordinating the activity of 71 specialized counsel worldwide. Mr. Affaki is also Vice-Chairman of the Banking Commission of the International Chamber of Commerce; Chairman or member of numerous panels in international banking dispute resolution proceedings (DOCDEX) organized under the aegis of the International Chamber of Commerce (ICC); Delegate to the United Nations Commission on International Trade Law (UNCITRAL) for the drafting of a legislative guide on secured transactions; Member of the Expert Panel on the UN Convention on Independent Guarantees and Stand-by Letters of Credit and on the UN Convention on the Assignment of Receivables in International Trade.

Jean-François Bourque, Senior Legal Adviser (Trade Law and Arbitration), supervised the work.

Agnès Barnéoud-Rousset ensured the layout.

Contents

Foreword	iii
Acknowledgements	v
Acronyms	xiii
Executive summary	xv
1. INTRODUCTION	1
1.1. The economic impact of secured transactions	1
1.1.1. Optimizing the use of assets as collateral	3
1.1.2. Benefits to the country of reform	6
1.1.3. Calculating the credit price under an efficient collateral system	7
1.2. Terms of reference to this study – Methodology	9
1.3. Examples of financing practices covered in the study	10
1.3.1. Inventory and equipment acquisition financing	11
1.3.2. Inventory and receivable revolving loan financing	11
1.3.3. Receivable discounting	12
1.3.4. Term loan financing	12
1.3.5. Transfer of title for security purposes	13
1.3.6. Sale and leaseback transactions	13
2. PRINCIPLES FOR AN EFFICIENT SECURED TRANSACTION LAW	14
2.1. The law should allow the utilisation of the full value of as broad a range of assets as possible to support credit in the widest possible array of secured transactions	14
2.2. The law should enable parties to obtain security rights in a simple and efficient manner	14
2.3. The law should seek to provide for equal treatment of diverse sources of credit	14

预览已结束，完整报告链接和二维码如下

https://www.yunbaogao.cn/report/index/report?reportId=5_23061