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## Draft Model Law on Secured Transactions

### Note by the Secretariat

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## Preamble

The purpose of this Law is:

- (a) To promote low-cost credit by enhancing the availability of secured credit;
- (b) To allow grantors to use the full value inherent in their assets to support credit;
- (c) To enable secured creditors to obtain security rights in a simple and efficient manner;
- (d) To provide for equal treatment of diverse sources of credit and of diverse forms of secured transactions;
- (e) To validate non-possessory security rights in all types of asset;
- (f) To enhance certainty and transparency by generally providing for registration of a notice of a security right in a general security rights registry;
- (g) To establish clear and predictable priority rules;
- (h) To facilitate efficient enforcement of a creditor's rights;
- (i) To allow parties maximum flexibility to negotiate the terms of their security agreement;
- (j) To balance the interests of all affected persons; and
- (k) To harmonize laws, including conflict-of-laws rules, relating to secured transactions.

*[Note to the Working Group: The Working Group may wish to consider whether a commentary (or guide to enactment) to the draft Model Law (if the Working Group decides that one should be prepared) should, in line with the mandate given to the Working Group by the Commission (see A/67/17, para. 105), clarify that the draft Model Law is intended to be a simple, short and concise model law based on the recommendations of the UNCITRAL Legislative Guide on Secured Transactions (the "Secured Transactions Guide"), and consistent with all texts prepared by UNCITRAL on secured transactions.]*

## Chapter I. Scope of application and general provisions

### Article 1. Scope of application

1. Subject to paragraph 3 of this article, this Law applies to all rights in movable assets created by agreement that secure payment or other performance of an obligation, regardless of the form of the transaction or the terminology used by the parties, the type of the movable asset, the status of the grantor or secured creditor or the nature of the secured obligation, including:

- (a) Security rights in all types of movable asset, tangible or intangible, present or future, including inventory, equipment and other tangible assets, contractual and non-contractual receivables, and contractual non-monetary claims;

(b) Security rights created or acquired by all legal and natural persons, including consumers, without, however, affecting rights under consumer-protection law;

(c) Security rights securing all types of obligation, present or future, determined or determinable, including fluctuating obligations and obligations described in a generic way; and

(d) All property rights created contractually to secure the payment or other performance of an obligation, including transfers of title to tangible assets for security purposes or assignments of receivables for security purposes, the various forms of retention-of-title sales and financial leases.

2. Subject to the exception provided in chapter VII, section I of this Law with respect to the enforcement of outright transfers of receivables, this Law also applies to outright transfers of receivables despite the fact that such transfers do not secure the payment or other performance of an obligation.

3. Notwithstanding paragraphs 1 and 2 of this article, this Law does not apply to the following types of movable asset:

(a) Rights to receive the proceeds under an independent undertaking;

(b) Aircraft, railway rolling stock, space objects, ships as well as other categories of mobile equipment in so far as such asset is covered by other law and the matters covered by this Law are addressed in that other law;

[(c) Intellectual property in so far as this Law is inconsistent with law relating to intellectual property];<sup>1</sup>

(d) [Intermediated] securities;

(e) Payment rights arising under or from financial contracts governed by netting agreements, except a receivable owed on the termination of all outstanding transactions;

(f) Payment rights arising under or from foreign exchange transactions;

(g) Proceeds of an excluded type of asset even if the proceeds are of a type of asset to which this Law applies, but only to the extent that other law applies; and

(h) [...].<sup>2</sup>

*[Note to the Working Group: The Working Group may wish to note that the functional and comprehensive approach recommended in the Secured Transactions Guide would be undermined if assets used as security in key commercial finance transactions were excluded. In essence, such exclusions would create obstacles to commercial finance practices as one law would apply, for example, to inventory, and another law to receivables from the sale of the inventory or to bank accounts in which the funds received were deposited. In this connection, the Working Group may wish to consider whether: (a) rights to receive the proceeds under an independent undertaking may be excluded from the scope of the draft Model Law as they are not*

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<sup>1</sup> The enacting State will have to adjust this provision to fit its intellectual property law.

<sup>2</sup> If the enacting State decides to introduce any other exception(s), they should be limited and set out in a clear and specific way.

*an indispensable part of a typical commercial finance transaction; (b) the exclusion of intellectual property rights could be retained within square brackets until the Working Group had the opportunity to complete its first reading of the draft Model Law; (c) the exclusion of securities should be limited to intermediated securities covered in other law but not to non-intermediated securities that are typically part of commercial financing transactions, and if so, consider the additional rules that would be required; and (d) proceeds of inventory in the form of land should be covered and, if so, consider the additional rules that would be required. The Working Group may also wish to note that, with respect to subparagraphs 3(b) and (c) of this article, the commentary will clarify that “other law” and “law relating to intellectual property” may mean a national law or an international agreement to which the State enacting the draft Model Law (the enacting State”) is a party.]*

## **Article 2. Definitions**

For the purposes of this Law:

*[Note to the Working Group: The Working Group may wish to note that the definitions of the terms “acquisition secured creditor” and “acquisition security right”, “financial lease right” and “retention-of-title right” have been moved to Annex I on acquisition financing. The Working Group may also wish to note that the references to the unitary and non-unitary approach to secured transactions in the relevant definitions have been deleted as they do not fit in a model law and have been included in Annex I on acquisition financing. The Working Group may also wish to note that, if the Working Group decides that security rights in intellectual property should be covered in the draft Model Law, it may wish to consider whether the definitions included in the Supplement on Security Rights in Intellectual Property (the “Intellectual Property Supplement”) should be added to article 2.]*

(a) “Assignee” means a person to which an assignment of a receivable is made;

(b) “Assignment” means the creation of a security right in a receivable that secures the payment or other performance of an obligation. The term also includes for convenience of reference an outright transfer of a receivable;

(c) “Assignor” means a person that makes an assignment of a receivable;

(d) “Bank account” means an account maintained by a bank, to which funds may be credited. The term includes a checking or other current account, as well as a savings or time deposit account. The term does not include a right against the bank to payment evidenced by a negotiable instrument;

*[Note to the Working Group: The Working Group may wish to note that the definitions of the terms “attachment to a movable asset” and “attachment to immovable property”, as well as the relevant recommendations have been deleted in the interest of addressing in the draft Model Law key issues and referring for the rest to the recommendations of the Secured Transactions Guide. The Working Group may also wish to note that the definitions of terms such as “insolvency court”, “insolvency estate” and “insolvency proceedings”, and the insolvency chapter of the Secured Transactions Guide, have been deleted, as insolvency matters, including definitions, would normally be addressed in insolvency law.]*

(e) “Competing claimant” means a creditor of a grantor that is competing with respect to an encumbered asset with another creditor of the grantor having a security right in the encumbered asset of the grantor and includes:

- (i) Another creditor with a security right in the same encumbered asset (whether as an original encumbered asset or proceeds);
- (ii) The [enacting State to determine whether reference should be made to an acquisition secured creditor only or also to a seller or financial lessor] of the same encumbered asset that has retained title to it;
- (iii) Another creditor of the grantor that has a right in the same encumbered asset;
- (iv) The insolvency representative [and creditors] in the insolvency proceedings in respect of the grantor; or
- (v) Any buyer or other transferee (including a lessee or licensee) of the encumbered asset;

*[Note to the Working Group: The Working Group may wish to consider whether the bracketed text in subparagraph (iv) should be retained, as in some jurisdictions the estate is represented by the insolvency representative, while in other jurisdictions the estate is represented by the mass of creditors (see article 14, para. 1 of the UNIDROIT Convention on Substantive Rules for Intermediated Securities (Geneva, 2009, the “Geneva Securities Convention”).]*

(f) “Consumer goods” means tangible assets that a person uses or intends to use for personal, family or household purposes;

(g) “Debtor” means a person that owes payment or other performance of a secured obligation and includes a secondary obligor such as a guarantor of a secured obligation. The term includes for convenience of reference an assignor in an outright transfer of a receivable. The debtor may or may not necessarily be the grantor;

(h) “Debtor of the receivable” means a person liable for payment of a receivable and includes a guarantor or other person secondarily liable for payment of the receivable;

(i) “Encumbered asset” means a movable, tangible or intangible, asset that is subject to a security right. The term also includes for convenience of reference a receivable that has been the subject of an outright transfer;

(j) “Equipment” means a tangible asset used by a person in the operation of its business;

(k) “Future asset” means a movable asset, which does not exist or which the grantor does not own or have the power to encumber, at the time the security agreement is concluded;

(l) “Grantor” means a person that creates a security right to secure either its own obligation or that of another person, including [the enacting State to determine whether reference should be made also to a retention-of-title buyer and financial lessee]. The term also includes an assignor in an outright transfer of a receivable;

(m) “Insolvency representative” means a person or body, including one appointed on an interim basis, authorized in insolvency proceedings to administer the reorganization or the liquidation of the insolvency estate;

(n) “Intangible asset” means all forms of movable assets other than tangible assets and includes incorporeal rights, receivables and rights to the performance of obligations other than receivables;

(o) “Inventory” means tangible assets held for sale or lease in the ordinary course of a grantor’s business, as well as raw and semi-processed materials (work-in-process);

(p) “Knowledge” means actual rather than constructive knowledge;

(q) “Notice” means a communication in writing;

*[Note to the Working Group: The Working Group may wish to note that the commentary will refer to article 4 for the electronic equivalent of “writing” and “signed writing” and also to the term “notice” in the draft Registry Guide. The Working Group may also wish to consider whether a new term (e.g. “registration notice” or “security right notice” should be introduced and the term notice should be amended to refer to other types of notice (e.g., given in the context of enforcement).]*

(r) “Notification of the assignment” means a notice that reasonably identifies the assigned receivable and the assignee;

*[Note to the Working Group: The Working Group may wish to consider this definition states a substantive rule on the effectiveness of a notification of the assignment that is already addressed in article 82, paragraph 1.]*

(s) “Original contract” means, in the context of a receivable created by contract, the contract between the creditor and the debtor of the receivable from which the receivable arises;

(t) “Possession” means the actual possession only of a tangible asset by a person or an agent or employee of that person, or by an independent person that acknowledges holding it for that person. It does not include non-actual possession described by terms such as constructive, fictive, deemed or symbolic possession;

(u) “Priority” means the right of a person to derive the economic benefit of its security right in preference to a competing claimant;

(v) “Proceeds” means whatever is received in respect of encumbered assets, including what is received as a result of sale or other disposition or collection, lease or licence of an encumbered asset, proceeds of proceeds, civil and natural fruits, dividends, distributions, insurance proceeds and claims arising from defects in, damage to or loss of an encumbered asset;

(w) “Receivable” means a right to payment of a monetary obligation, excluding a right to payment evidenced by a negotiable instrument, a right to receive the proceeds under an independent undertaking and a right to payment of funds credited to a bank account;

(x) “Right to receive the proceeds under an independent undertaking” means the right to receive a payment due, a draft accepted or deferred payment incurred or

another item of value, in each case to be paid or delivered by the guarantor/issuer, confirmer or nominated person giving value for a draw under an independent undertaking. The term also includes the right to receive payment in connection with the purchase by a negotiating bank of a negotiable instrument or a document under a complying presentation. The term does not include:

- (i) The right to draw under an independent undertaking; or
- (ii) What is received upon honour of an independent undertaking;
- (y) “Secured creditor” means a creditor that has a security right. The term also includes for convenience of reference an assignee in an outright transfer of a receivable;
- (z) “Secured obligation” means an obligation secured by a security right;
- (aa) “Secured transaction” means a transaction that creates a security right, including for convenience of reference an outright transfer of a receivable, without re-characterizing it as a secured transaction;
- (bb) “Security agreement” means an agreement, in whatever form or terminology, between a grantor and a secured creditor that creates a security right. The term also includes for convenience of reference an agreement for the outright transfer of a receivable;
- (cc) “Security right” means a property right in a movable asset that is created by agreement and secures payment or other performance of an obligation, regardless of whether the parties have denominated it as a security right; and
- (dd) “Tangible asset” means every form of corporeal movable asset, such as consumer goods, inventory and equipment.

### **Article 3. Party autonomy**

1. Except as otherwise provided in this Law, the secured creditor and the grantor or the debtor may derogate from or vary by agreement its provisions relating to their respective rights and obligations.
2. Such an agreement does not affect the rights of any person that is not a party to the agreement.

*[Note to the Working Group: The Working Group may wish to note that the commentary will refer to the articles of the Law which are not subject to party autonomy.]*

### **Article 4. Electronic communications**

1. Where this Law requires that a communication or a contract should be in writing, or provides consequences for the absence of a writing, that requirement is met by an electronic communication if the information contained therein is accessible so as to be usable for subsequent reference.
2. Where this Law requires that a communication or a contract should be signed by a person, or provides consequences for the absence of a signature, that requirement is met in relation to an electronic communication if:

(a) A method is used to identify the person and to indicate that person's intention in respect of the information contained in the electronic communication; and

(b) The method used is either:

(i) As reliable as appropriate for the purpose for which the electronic communication was generated or communicated, in the light of all the circumstances, including any relevant agreement; or

(ii) Proven in fact to have fulfilled the functions described in subparagraph 2 (a) of this article, by itself or together with further evidence.

*[Note to the Working Group: The Working Group may wish to note that, with respect to the substance of article 4, the commentary will refer to article 9, paragraphs 2 and 3, of the United Nations Convention on the Use of Electronic Communications in International Contracts. The Working Group may wish to consider whether this article should be retained or deleted, while the matter addressed therein left to the law of the enacting State or dealt with in the definitions. In deciding whether to retain or delete this article, the Working Group may wish to note that the draft Model Law does not require that a communication or a contract be signed.]*

## **Chapter II. Creation of a security right and rights and obligations of the parties**

### **Section I. Creation of a security right**

#### **Article 5. Creation of a security right**

1. Except as otherwise provided in other law, a security right in a movable asset is created by a security agreement.
2. Such a security right is effective between the grantor and the secured creditor [and against third parties only as provided in chapter III].
- [3. In the case of a movable asset with respect to which the grantor has rights or the power to encumber at the time of the conclusion of the security agreement, the security right in that asset is created at that time.
4. In the case of a movable asset with respect to which the grantor acquires rights or the power to encumber after the security agreement is entered into, the security right in that asset is created when the grantor acquires rights in the asset or the power to encumber the asset.]

*[Note to the Working Group: The Working Group may wish to consider whether paragraphs 3 and 4 of this article should be placed in a separate article that should follow perhaps article 10.]*

### **Article 6. Minimum content of a security agreement**

A security agreement must:

- (a) Reflect the intent of the parties to create a [a limited right in property] [a right subject to this Law] [security right];
- (b) Identify the secured creditor and the grantor;
- (c) Describe the secured obligation, if any;
- (d) Describe the encumbered assets in a manner that reasonably allows their identification[; and
- (e) Indicate the maximum monetary amount for which the security right may be enforced, if any].<sup>3</sup>

*[Note to the Working Group: The Working Group may wish to consider whether subparagraph (a) should be deleted. The intent of the parties is a matter of contract law and, in any case, is covered in the definition of the security agreement. In addition, subparagraph (a) may be misconstrued and, for example, make it more difficult for a court to re-characterize a title transaction that, irrespective of what the parties intended, objectively serves security purposes. If the Working Group decides to retain subparagraph (a), it may wish to consider revising it along the lines of the alternatives contained in subparagraph (a) within square brackets. The Working Group may also wish to note that the commentary will explain, inter alia, that the words "if any" in subparagraph (c) have been added as the draft Model Law applies to sales of receivables in which there is no secured obligation as such.]*

### **Article 7. Form of a security agreement**

1. Subject to paragraph 2 of this article, the security agreement must be concluded in or evidenced by a writing that, by itself or in conjunction with the course of conduct between the parties, indicates the grantor's intent to create a security right.
2. A security agreement may be oral if accompanied by the secured creditor's possession of the encumbered asset.

*[Note to the Working Group: The Working Group may wish to consider whether paragraph 1 of this article is inconsistent with article 6 subparagraph (a), which requires that the security agreement reflect the intent of the parties.]*

### **Article 8. Obligations secured by a security right**

A security right may secure any type of obligation, whether present or future, determined or determinable, conditional or unconditional, fixed or fluctuating.

*[Note to the Working Group: The Working Group may wish to consider whether: (a) this article should be closely integrated with article 6, subparagraph (c); and (b) whether reference should be made in this article to "legally enforceable obligations" or in the commentary to contract or other law.]*

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<sup>3</sup> If the enacting State determines that an indication would be helpful in order to facilitate lending from another creditor.

### Article 9. Assets subject to a security right

1. With the exception of [any limited and specific exceptions to be set out by the enacting State], a security right may encumber any type of asset, including:
  - (a) Parts of assets and undivided rights in assets;
  - (b) Future assets; and
  - (c) All assets of a grantor.
2. Except as provided in articles 76 and 77, this Law does not [address what type of asset may be transferred or encumbered] override provisions of any other law to the extent that they limit the creation or enforcement of a security right in, or the transferability of, specific types of asset.

*[Note to the Working Group: The Working Group may wish to note that the commentary will clarify that the exceptions meant in paragraph 1 of this article do not refer to assets that are outside the scope of the draft Model Law but rather assets that, based on mandatory law, may not be encumbered at all (e.g. employment benefits). The Working Group may also wish to consider whether subparagraph (c) and paragraph 2 of this article address matters that are so different from the matters addressed in subparagraphs (a) and (b) that should be addressed in a separate article and/or in the definitions. Wherever paragraph 2 is placed, the Working Group may wish to consider the alternative text contained therein within square brackets.]*

### Article 10. Continuation of a security right in proceeds

1. A security right in an encumbered asset extends to its identifiable proceeds, including proceeds of proceeds.
2. Where proceeds have been commingled with other assets of the same kind so that the proceeds are no longer identifiable, the amount of the proceeds immediately before they were commingled is nevertheless to be treated as identifiable proceeds after commingling.
3. If, at any time after commingling, the total amount of the asset is less than the amount of the proceeds, the total amount of the asset at the time that its amount is lowest plus the amount of any proceeds later commingled with the asset is to be treated as identifiable proceeds.

*[Note to the Working Group: The Working Group may wish to note that the commentary will clarify that this is a default rule applicable in the absence of contrary agreement of the parties as long as rights of third parties are not affected (see article 3, para. 1). The Working Group may also wish to consider whether paragraphs 2 and 3 (dealing with commingled proceeds) should be set out in a separate article. The Working Group may also wish to note the draft Model Law does not explicitly address the creation and continuation of a security right in attachments or in masses or products. The commentary may explain that attachments to movable assets are generally covered and that, if States wish to cover also attachments to immovable property, they may wish to consider implementing the relevant recommendations of the Secured Transactions Guide (same approach for masses or products). The Working Group may also wish to note*

*that the generic description of encumbered assets has been covered in article 6, subparagraph (d), and, as a result, article 13 (of document A/CN.9/WG.VI/WP.55/Add.1 (dealing with bulk assignments of receivables), has been deleted.].*

## **Section II. Rights and obligations of the parties to a security agreement**

### **Article 11. Rights and obligations of the parties**

The mutual rights and obligations of the parties are determined by:

- (a) The terms and conditions set forth in the security agreement, including any rules or general conditions referred to therein;
- (b) Any usage to which the parties to the security agreement have agreed; and
- (c) Unless otherwise agreed, any practices the parties to the security agreement have established between themselves.

### **Article 12. Mandatory rules**

1. The party in possession of an encumbered asset must take reasonable steps to preserve the asset and its value.
2. The secured creditor must return an encumbered asset in its possession if, all commitments to extend credit have been terminated and the security right has been extinguished by full payment or otherwise.

*[Note to the Working Group: The Working Group may wish to note that article 38 contained in A.CN.9/WG.VI/WP.57/Add.1 deals with the secured creditor's duty to register a cancellation notice, and consider whether that matter should be addressed instead in article 12 or also in article 12.]*

### **Article 13. Non-mandatory rules**

Unless otherwise agreed, the secured creditor is entitled:

- (a) To be reimbursed for reasonable expenses incurred for the preservation of an encumbered asset in its possession;
- (b) To make reasonable use of an encumbered asset in its possession and to apply the revenues it generates to the payment of the secured obligation; and
- (c) To inspect an encumbered asset in the possession of the grantor.

*[Note to the Working Group: The Working Group may wish to consider whether this and any other non-mandatory rules should be included in the draft Model Law or left to the parties and contract law, and discussed in the commentary.]*

## Chapter III. Effectiveness of a security right against third parties

### Article 14. Achieving third-party effectiveness

1. A security right that is effective as between the grantor and the secured creditor is also effective against third parties, but only insofar as provided in this chapter.
2. A security right that is effective against third parties is effective against the insolvency representative [and creditors in any insolvency proceeding].
3. Paragraph 2 of this article does not affect the application of any substantive or procedural rule of law applicable by virtue of an insolvency proceeding, such as any rule relating to:
  - (a) The ranking of categories of claims;
  - (b) The avoidance of a transaction as a preference or a transfer in fraud of creditors; or
  - (c) The enforcement of rights to property that is under the control or supervision of the insolvency representative.

*[Note to the Working Group: The Working Group may wish to note that the commentary will explain that third-party effectiveness of a security right presupposes effective creation and completion of a third-party effectiveness step. The Working Group may also wish to consider whether paragraphs 2 and 3 of this article, which address the key issue of the effectiveness of a security right in insolvency and are based on article 14 of the UNIDROIT Geneva Securities Convention, should be retained. The Working Group may also wish to consider whether the term “third party” should be defined and include, in any case, the grantor’s insolvency representative and the creditors in insolvency.]*

### Article 15. General method for achieving third-party effectiveness: registration

1. A security right is effective against third parties:
  - (a) If a notice with respect to the security right is registered in the general security rights registry as provided in chapter IV; or
  - (b) As otherwise provided in this chapter.
2. Registration of a notice does not create a security right and is not necessary for the creation of a security right.

*[Note to the Working Group: The Working Group may wish to consider whether paragraph 2 of this article should be deleted and the matter addressed therein explained in the commentary.]*

**Article 16. Different third-party effectiveness  
methods for different types of asset**

Different methods for achieving third-party effectiveness may be used for different types of encumbered asset, whether they are encumbered pursuant to the same security agreement or not.

*[Note to the Working Group: The Working Group may wish to consider whether this article should be deleted and the matter addressed therein explained in the commentary.]*

**Article 17. Third-party effectiveness of a security right  
in a tangible asset by possession**

A security right in a tangible asset may be made effective against third parties by registration of a notice in the general security rights registry or by the secured creditor's possession.

**Article 18. Third-party effectiveness of a security right  
in a movable asset subject to a specialized registration  
or a title certificate system**

A security right in a movable asset that is subject to registration in a specialized registry or notation on a title certificate under other law may be made effective against third parties by registration in the general security rights registry or by:

- (a) Registration in the specialized registry; or
- (b) Notation on the title certificate.

*[Note to the Working Group: The Working Group may wish to consider whether it is enough to refer in this article to "specialized registration" and leave it to States to determine the exact scope of this term. In such a case, it would be up to each enacting State to determine whether registration in a specialized registry only or also notation on a title certificate should be covered, a matter that may be explained in the commentary. The Working Group may also wish to note that the commentary will explain that possession and specialized registration are methods of third-party effectiveness in addition to registration.]*

**Article 19. Automatic third-party effectiveness of  
a security right in proceeds**

1. If a security right in an encumbered asset is effective against third parties, a security right in any proceeds of the encumbered asset (including any proceeds of proceeds) is effective against third parties when the proceeds arise, provided that the proceeds are described in a generic way in a registered notice or that the proceeds consist of money, receivables, negotiable instruments or rights to payment of funds credited to a bank account.

2. If the security right in proceeds is not effective against third parties as provided in paragraph 1 of this article, the security right in the proceeds continues to be effective against third parties for [a short period of time to be specified by the enacting State] days after the proceeds arise.

3. If the security right in such proceeds is made effective against third parties by one of the methods referred to in this chapter before the expiry of the time period provided in paragraph 2 of this article, the security right in the proceeds continues to be effective against third parties thereafter.

**Article 20. Continuity in third-party effectiveness of a security right upon change of method of third-party effectiveness**

Third-party effectiveness of a security right continues notwithstanding a change in the method by which it is made effective against third parties, provided that there is no time when the security right is not effective against third parties.

**Article 21. Lapse in third-party effectiveness or advance registration**

If a security right has been made effective against third parties and subsequently there is a period during which the security right is not effective against third parties or if registration made before the creation of a security right or the conclusion of a security agreement expires, third-party effectiveness may be re-established [, but is effective only from the time when the new registration of a notice with respect to the security right becomes effective].

*[Note to the Working Group: The Working Group may wish to consider whether: (a) the bracketed part of this article is already covered in the part that is not within square brackets; (b) whether this article sets out a priority rule that should be included in the priority chapter.]*

**Article 22. Effect of a transfer of the encumbered asset**

Except as otherwise provided in this Law, a security right does not become ineffective as between the parties or as against third parties solely because the encumbered asset is transferred.

*[Note to the Working Group: The Working Group may wish to note that article 22 has been added to reflect a generally acceptable principle of secured transactions law.]*

**Article 23. Continuity in third-party effectiveness upon change of the governing law**

If the third-party effectiveness of a security right was governed by the law of another State, and the law of this State becomes the governing law, the following rules apply:

(a) The security right continues to be effective against third parties under the law of this State for [a short period of time to be specified by the enacting State] days after the change;

(b) The security right continues to be effective against third parties after the end of that period under the law of this State, if the third-party effectiveness requirements of this law are satisfied prior to the end of that period; and

(c) If the security right continues to be effective against third parties under subparagraph (a) and (b), the time when registration or third-party effectiveness was

achieved for the purposes of the articles on priority is the time when it was achieved under the law of the other State.

*[Note to the Working Group: The Working Group may wish to note that this article is intended to reflect recommendation 45 of the Secured Transactions Guide and consider the drafting changes made.]*

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