



**European Bank**  
for Reconstruction and Development

**The EBRD Secured Transactions Project**  
*Inter-American Development Bank*  
*20 October 2003*

# What is the EBRD?

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- Founded in 1991
- Financial institution investing in public and private sectors
- Multinational shareholding: 60 countries, EIB and EU
- Operates in 27 countries of Central and Eastern Europe and the former Soviet Union)
- Institution with broader mandate: foster transition to market economy

# EBRD Legal Transition Programme

- Legal Transition Team created in 1995 within the Office of the General Counsel – broadening of the Secured Transactions Project set up in 1992
- Mandate: “To assist the Bank’s countries of operations to develop a legal environment which supports the conduct of private sector commercial and financial transactions and assists in fostering the transition towards democratic, open market-oriented economies.”
- Team of five dedicated specialised lawyers and a team leader

# Why is EBRD involved in secured transactions legal reform?

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- General mandate to promote transition to market economy whilst being a commercial bank committed to sound banking principles
- EBRD is mostly lending to the private sector, first hand experience of security law deficiencies
- Constant involvement in the subject since 1992, has built experience and expertise

# State of Secured transactions reform



Source: EBRD Regional Survey of Secured Transactions, 2003

# What is the approach adopted by EBRD?

- **EBRD part of a larger international and national effort on standards-setting**
- **Need to create understanding of economic benefits**
- **Regional approach duplicates results on the ground**
- Drafting is only a small part of the process
- Objective is create situation favourable to introduction of effective security laws
- Help to identify means for implementing the reform

# EBRD Approach: participate to standards-setting

## The Model Law (1994)

- To inspire, not to impose
- Illustrates main components of the law
- Used as a checklist
- Guidance to foreign investors' expectations
- Promote harmonisation of approach to secured transactions law

# EBRD approach: understanding of economic objectives

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## The Core Principles

- More general formulation of goals for successful reform
- Indicate result that should be achieved
- Help build a consensus
- Basis for assessing a country's secured transactions law

# **EBRD approach: learning from neighbours**

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## The Regional Survey (1999 +)

- Tabular analysis of current secured transactions law and practice in 27 countries
- Provide snapshot information to potential investors
- Evaluate provisions against the Core Principles benchmark
- Encourage improvement
- Encourage mutual assistance between countries of the region



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## secured transactions project

The market for secured credit is directly influenced by the laws affecting secured transactions. Equally important are the implementation of those laws as well as the availability and cost of credit. The EBRD's Secured Transactions Project encourages countries to modernise their collateral laws and offers assistance at all stages of the reform process.

- [What's new](#): Slovakia launches one of Europe's most advanced frameworks for secured credit
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# regional survey

The regional survey of secured transactions laws is an analysis of the current secured transactions legislation in the EBRD's countries of operations. [More about the regional survey.](#)

The surveys are best understood if read in conjunction with the [Core principles](#), which specify the basic criteria for a modern secured transactions law and which help users assess each country law. The [Explanatory notes](#) describe the methodological approach to the survey.

## Country surveys and related laws

Country	Laws	Survey
Albania	Law on <a href="#">Securing Charges</a>	<a href="#">Survey</a>
Armenia	<a href="#">Civil Code</a>	<a href="#">Survey</a>
Azerbaijan	<a href="#">Civil Code</a> Law on <a href="#">Mortgage</a>	<a href="#">Survey</a>
Belarus	<a href="#">Civil Code</a> Law on <a href="#">Lien</a>	<a href="#">Survey</a>
Bosnia and Herzegovina		<a href="#">Survey</a>
Bulgaria	Law on <a href="#">Obligations</a> Law on <a href="#">Registered Pledges</a>	<a href="#">Survey</a>
Croatia	Law on <a href="#">Execution</a> Law on <a href="#">Ownership and Real Property Rights</a>	<a href="#">Survey</a>
Czech Republic	<a href="#">Civil Code</a>	<a href="#">Survey</a>
Estonia	Law on <a href="#">Commercial Pledges</a> Law on <a href="#">Property</a>	<a href="#">Survey</a>



## What is the approach adopted by EBRD?

- EBRD part of a larger international and national effort on standards-setting
- Need to create understanding of economic benefits
- Regional approach duplicates results on the ground
- **Objective is to create situation favourable to introduction of effective security laws**
- **Drafting is only a small part of the process**
- **Essential to help to identify means for implementing the reform**

## **EBRD approach: creating the momentum**

- Hungary: Advisory board
- Serbia: Country / SME banking team
- Slovakia: Internal momentum following banking sector reform
- Serbia / Slovakia: co-ordination with World Bank
- Russia: Sector banking team and external interest group

## EBRD approach: drafting is only a small part

- Essential to build a consensus on the main issues from the outset
- Local ownership of the reform: clear counterpart commitment and division of responsibilities
- Drafting of the law by the locals with technical assistance
- Assistance also needed through adoption of the law

## EBRD approach: implementing the reform

- Institution building for practical operation of the law: registry, administrative procedures, regulations, etc
- Law is only good if it is used: getting the potential users to buy in
- Judiciary is the ultimate test
- Not packing up as soon as the law is passed!

# Current trends

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- ☞ Registration system often weak point undermining the reform – standard-setting and assessment work
- ☞ Enforcement - Survey shows delicate balance between reform and existing institutional framework
- ☞ Immovable assets need to be tackled too – not necessarily require separate approach
- ☞ Economic monitoring to ensure real benefit to the country – pilot study in Slovakia

# Conclusion

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Learning from others' experience