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## FOREWORD

Part 1 of this publication is a brief overview of the Asian Development Bank's (ADB) Law Policy Reform (LPR) work in the last year. In 2001 to 2002, LPR activities were focused on an access to justice program in Pakistan that concentrates on helping the poor. LPR activities also included a regional judicial independence project and a technical assistance project to the Philippines to strengthen the independence and define the accountability of the judiciary, regional support for anti-corruption measures and for combating money laundering, cross-border insolvency and secured transactions law reform, support for implementation of the land law in Cambodia, and continuing legal training in various ADB developing member countries.

We are very pleased with the achievements of these projects to date and their continuing contribution to improving and strengthening the legal system of ADB's developing member countries. We remain strongly committed to pursuing such law and policy reform initiatives that are welcomed by ADB developing member countries and to working with them on these critically important issues.

Part 2 of this publication presents a Guide to Movables Registries (the Guide). It follows up an earlier publication in *LPR at the ADB*, Vol. II, 2000 Edition on Secured Transactions Law Reform in Asia: Unleashing the Potential of Collateral.

Since the publication of *LPR at the ADB*, Vol. II 2000 edition, there has been increasing international interest in and commitment to secured transactions law reform. In 2001, two important international conventions were adopted: the Convention on International Interests in Mobile Equipment spearheaded by the International Institute for the Unification on Private Law (UNIDROIT), and the United Nations Convention on the Assignment of Receivables in International Trade developed by United Nations Commission on International Trade Law (UNCITRAL). In 2002, the Organization of American States (OAS) adopted the Inter-American Model Law on Secured Transactions, and UNCITRAL commenced work on a Model Legislative Guide to Secured Transactions. At the national level, there are a growing number of secured transactions reform initiatives underway in the Asian and Pacific region and elsewhere.

These recent initiatives share one common feature. They all contemplate the establishment of a movables registry for giving public notice of secured transactions affecting a debtor's movable property. As the reform momentum in ADB member countries expands and accelerates, the need for general guidelines on the functions, design, operations and scope of such a registry is becoming increasingly evident. Part 2 of this publication seeks to respond to that need by identifying the features and functions of a modern efficient movables registry, and analysing the design, operations, scope and underlying policy issues that must be resolved in the course of the reform process.

The *LPR at the ADB*, 2001 Edition on Legal Empowerment: Advancing Good Governance and Poverty Reduction concluded that the success of development projects depends in part on the creation of opportunities for beneficiaries to advance their interests through informed participation in decision-making processes. On the same basis, this Guide is intended for legislators, policymakers, and system designers in member countries, but also potential users of the system.

The recent surge of interest in secured transactions law reform is partly a result of the information technology revolution. Dramatic advances in the electronic communication, storage and retrieval of digital data mean that movables registries can increasingly operate with greater

efficiency and less cost. The Guide seeks to integrate secured transactions law reform with information technology in a manner that permits the most transparent, efficient and cost-effective registration and searching of charges.

The Guide offers for ADB member countries key features of and reform options for movables registry design and highlights the opportunities provided by technological innovations to enable ADB developing member countries to leapfrog to notice-filing, electronic movables registries. However, the Guide also recognizes the need for policy choices in secured credit legal policy and registry systems design as well as in transition regimes to accommodate the special challenges created by infrastructure constraints, unique demographics, existing registries and commercial practices in some of the region's developing countries. Consequently, the Guide gives due consideration to registry design for a document filing, paper-based movables registry. The Guide is designed to provide a flexible resource to enable interested constituencies in each member country of ADB to play an active role in the registry design process and thus to have their needs and perspectives accommodated and provide for pursuit of a sequenced registry reform process from document-filing to notice-based and paper to digital registry systems.

For movables registry operations, the Guide explores the policy choices among private, public and private-public arrangements, policy determination on liability of movables registries, and costs of movables registries. It also examines the policy choices on the legal effectiveness of registration from the perspective of registry clientele.

The Guide refers to national movables registries, but is fully cognizant of the need to take account of constitutional frameworks and other policy factors that may suggest the need or desirability of choosing provincial or other subnational registries. The Guide explores the rules needed to govern the interlinking of provincial or other subnational registries and the opportunities to participate in special international movables registries with reference to international registry developments.

The Guide is a concrete reflection of ADB's commitment to encourage the development of modern movables registries for publicizing secured transactions in active cooperation with ADB developing member countries.

I would like to thank Mr. Hamid Sharif, Assistant General Counsel, Mr. Arjun Goswami, Senior Counsel, and Mr. Said Zaidansyah, Young Professional, in the Office of the General Counsel for overseeing the production of this publication.

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