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United Nations Convention on the Assignment of Receivables in International Trade

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Thu, Mar 11, 2010 at 6:01 AM

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Dear Mr. Ekedede,

It was good to see you again at our Third International Colloquium on Security Interests last week. I very much appreciate your contribution to its success. If Nigeria is prepared to consider acceding to the United Nations Convention on the Assignment of Receivables in International Trade (signed by the Luxemburg, Madagascar and the US, and ratified by Liberia), we would happy to assist.

You may wish to recall that Ed Smith presented the steps currently being taken in the US for ratification of the Convention in the US by next June. The US will ratify depositing an instrument of ratification with the Treaty Section of the Office of Legal Affairs of the United Nations in New York, and will not need at all internal legislation, as the Convention will be self-executing.

If Nigeria decides to accede to the Convention, it will have to consider whether deposition of an instrument of accession with the UN will be sufficient or whether internal legislation would also be necessary (essentially, the text of the Convention enacted in a law approved by Parliament).

The reason for accession to the Convention is, as Ms. de la Peña noted, to facilitate international receivables financing, that is, Nigerian exporters being able to use their receivables against foreign debtors to obtain financing not only from banks in the countries of their debtors but also from Nigerian banks, and Nigerian importers being able to obtain financing not only from Nigerian banks but also from banks in the countries of their creditors. The Convention has also a number of benefits which I would be happy to explain further. CEAL of course would be the most qualified to explain the economic benefits to be derived from the Convention.

A different question is whether the current law on secured transactions being drafted by Nigerian experts from the Nigerian Investment Promotion

Commission and the Central Bank of Nigeria (to my knowledge, Nigeria has excellent lawyers) with the assistance of CEAL (which has significant experience with secured transactions laws and collateral registries, but also the economic analysis of the law) and the World Bank.

I would agree with Ms. de la Peña that the new law should include provisions on security interests in receivables (and even outright assignments). As you know, this is the approach followed in the UNCITRAL Legislative Guide on Secured Transactions. The Guide does three things with respect to security interests in receivables and the Convention. First, it implements the principles of the Convention into national law. Second, it supplements the Convention addressing issues left by the Convention to national law (e.g. perfection and priority of a security interest). And third, it provides the link between national regimes to facilitate international receivables financing (which a national regime may attempt to address but within the limits of the public policy and the mandatory rules of the forum State).

While the Guide provides guidance as to national receivables financing regime which would be consistent with the Convention, CEAL and the World Bank would provide extremely useful advice and we would also be prepared to cooperate with them and our Nigerian colleagues to assist in achieving the best result possible.

I remain, dear Mr. Ekedede, with kindest regards,

Yours sincerely,

**Spiros V. Bazinas
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SubjectUnited Nations Convention on the Assignment of Receivables in International Trade

Mr. K. L. Ekedede, Minister
Permanent Mission of Nigeria to the United Nations, Vienna

Dear Mr. Ekedede:

Mr. Spiro Bazinas of UNCITRAL advised us that, as Minister at the Nigerian Mission to the UN in Vienna, you are interested in secured transactions and attend the meetings of UNCITRAL's Working Group on Security Interests.

Our foundation, the Center for the Economic Analysis of Law (CEAL), is undertaking a project to reform the Nigerian legal framework for secured finance and leasing. This project is supported by the World Bank. The Nigerian government counterparts are the Nigerian Investment Promotion Commission and the Central Bank of Nigeria. In this project, CEAL is preparing a draft law and a registry for security interests in movable property. I attach, for your consideration, the present outline for the draft law and a short note on the economic benefits of this reform for Nigeria. The registry trial system can be accessed at <http://www.ceal.org> (click on Nigeria project button).

In the draft law outline for the international framework for financing secured by receivables, we are recommending the adoption of the United Nations Convention on the Assignment of Receivables in International Trade. As you know, Nigeria is not yet a party to this convention. A sound system of accounts receivable financing in international trade is a key economic and legal building block in the reform of the secured finance system. A broad consensus has emerged among experts working on CEAL's draft law supporting the adoption of this UNICITRAL convention.

Can you tell us if the government of Nigeria will consider its adoption? If the convention were signed in the near future, perhaps we could coordinate its ratification within the legislative process of the security interest law. Please let us know how we can assist you on this effort.

Additionally, we would greatly value any comments you and your experts might have on the proposed Outline for a Draft Law (attached). We hope to consult with you as this draft law work develops and receive your comments and suggestions. In particular, we would value your views about consistency of the proposed draft law with international conventions to which Nigeria is or would like to become a party. We also welcome your suggestions about who might usefully comment on this law in Nigeria. We are working mainly with the Cental Bank and the Ministry of Justice. CEAL's team in Nigeria is led in Abuja by Samson Sani Ameh and in Lagos by Gbenga Oyebode and Kofo Dosekun of Aluko & Oyebode.

Please do not hesitate to contact me directly if you have any questions or require further information about the secured transactions project in Nigeria. Mr. Bazinas would of course be available as well to assist you on the

Convention steps.

Sincerely,
Nuria de la Peña

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(See attached file: [NigeriaDraftLawOutlineVer18June2009Final.pdf](#))(See attached file:
[NigeriaSTEcLogicEclImpact.pdf](#))

3 attachments



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