

Secured Transactions and Agricultural Credit

UNCTAD Workshop
Nadi, October 2011

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Outline

- What are secured transactions (personal property securities) and why are they important in agriculture?
- Problems with secured transactions systems in the Pacific
- Proposed Solutions, Examples and State of Play

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What are secured transactions?

Loans Backed by Collateral are called SECURED TRANSACTIONS

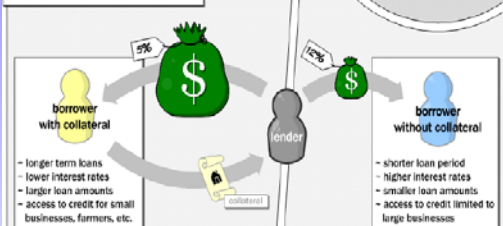
Collateral is:
- property with economic value
- property the lender can take if a borrower does not repay a loan



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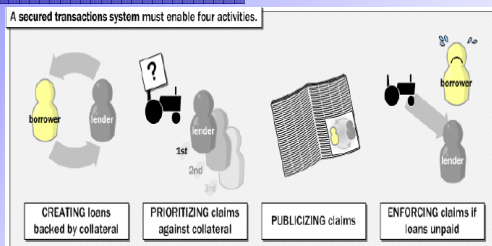
Why are secured loans better?

Secured loans vs. Unsecured loans



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What secured transaction systems do



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Problems with secured transactions in the Pacific

- Few secured transactions laws
- Existing/previous laws ineffective
- Registration
 - Few secured transactions registries
 - Other registries largely ineffective
- Uncertainty over prioritization of security interests
- Enforcement is often a problem

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Solutions

- Promote the use of movable assets as collateral through
 - A secured transactions law
 - A registry (i.e. internet based noticeboard) allows borrowers to assure lenders that no prior security interest over the assets exists
 - Implementation

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Example (1)

- Lender provides funding against the value of borrower's farm machinery so that the borrower can expand her business
- Lender establishes priority of claim over the farm machinery in event of default
- Lender publicizes claim in registry
- In the event of default lender can repossess the farm machinery without going through the courts

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Example (2)

- Cattle
- Timor/Solomon Islands
- Issues arising
 - Description
 - Priority
 - Publication
 - Enforcement

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Secured Transactions Reform

- **FSM**
 - Secured transactions registry online since Nov 2006
- **PNG**
 - Personal Property Securities Bill drafted and consultations underway
- **Marshall Islands**
 - Secured Transactions Act passed in Feb 2007
 - Registry on line 2008
- **Palau**
 - Secured Transactions Bill finalized and currently being considered by the Senate
- **Samoa**
 - Secured Transactions Bill finalized – to be considered by Parliament Dec 2011
- **Solomon Islands**
 - Secured Transactions Act passed in 2008
 - Registry on line September 2009
- **Tonga**
 - Personal Property Securities Act passed September 2010
 - Registry on line April 2011
- **Vanuatu**
 - Secured Transactions Act passed in April 2008
 - Registry on line April 2009

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