

IMPROVEMENT IN THE SECURED TRANSACTIONS FRAMEWORK TO FACILITATE ACCESS TO CREDIT

(TC-03-03-00-3-NI)

EXECUTIVE SUMMARY

Executing agency:	Coordination and Strategy Secretariat, Office of the President (SECEP)
Beneficiaries:	The beneficiaries of this operation are the potential and existing creditors and debtors in secured credit transactions, and small businesses in particular, which will benefit from a standardized institutional system that will improve the possibilities for access to secured financing.
Objectives:	The general objective of the project is to stimulate greater financial intermediation, in particular in the form of transactions secured by personal property. The specific objective is to improve the institutional and legal framework for creating, perfecting, and enforcing security interests in personal property, with a view to reducing credit risks and the associated transaction costs and thereby improving the conditions for access to financing for the private sector as a whole, and small and medium-sized enterprises in particular.
Description:	The legal and institutional framework necessary to secure loans using personal property is still insufficiently developed in Nicaragua, which could severely affect the small and medium enterprise sectors by limiting access to credit. The problems relate to difficulties with and limitations on creating, registering, and enforcing loans secured by personal property. Small borrower access to the credit extended by the formal sector would be improved when credit institutions can, with reasonable ease and at a very low cost, determine the priority of their security interest with respect to the rights of other creditors, register their encumbrance on property which the debtor has pledged, and enforce their guarantees in the event of default. The registry of security interests in Nicaragua does not provide efficient public means whereby it can be determined whether there are prior claims on property. Many complexities reside in the fact that archaic notions persist as regards personal property security. This is an outgrowth of the system applied to real estate property, which requires more painstaking and detailed documentation for a security interest to be created and registered. In addition, pledged items must be documented

individually, with notification to the debtor, which imposes a range of requirements that make modern financing commercially unfeasible. The project will provide assistance to the public authorities for consolidating the legal and administrative system applicable to secured transactions. The operation has been structured in three (3) components: (a) modernization of registry systems and establishment of a centralized registry for such operations; (b) public awareness, training, and dissemination campaigns targeting authorities in the executive and judicial branches as well as private sector stakeholders, including bankers and attorneys, to inform them about the key aspects of commercial law relating to secured transactions; and (c) revision and updating of the draft law on security interests in personal property intended to replace the rules that currently govern this matter in commercial legislation and other provisions relating to secured transactions.

Amount and source:	MIF (Window I)	Nonreimbursable	US\$ 700,000
	Local counterpart:		US\$ 300,000
	Total:		US\$ 1,000,000

Terms:	Execution period:	30 months
	Disbursement period:	36 months

Exceptions to Bank policy: None.

Special contractual clauses: The first disbursement of the financing will be subject to the condition that SECEP present evidence that: (i) presidential decree to designate SECEP as the Executing Agency for the project has been issued; (ii) the Coordinating Unit has been established and staffed as necessary for project execution; and (iii) an interinstitutional cooperation agreement has been signed between the Supreme Court of Justice and SECEP, under which an individual from the judicial branch has been identified to serve as the liaison with the SECEP Coordinating Unit for purposes of the project (paragraph 10.2). The disbursement for Subcomponent 2 of Component II shall be subject to legislative approval of the Law on Security Interests in Personal Property (Paragraph 10.2).

Environmental and social impact: The project was reviewed and approved by CESI on 30 May 2003.