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Addendum

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IX. Rights and obligations of third-party obligors

A. General remarks

1. Introduction

1. The standard example of a secured transaction is where a grantor encumbers a tangible asset, such as equipment or inventory, in favour of a secured creditor. In chapter III, however, the Guide also notes the importance of intangible assets in modern secured transactions. While certain categories of intangible assets may be excluded from the Guide, many other types of intangible asset and, in particular, rights to payment are included (see recommendation 2, subparagraph (a)).

2. When the encumbered asset in a secured transaction consists of a right against a third party, the secured transaction is necessarily more complicated than when the encumbered asset is a simple object such as equipment. Such rights against third parties may include "receivables", "negotiable instruments", "negotiable documents", "rights to receive the proceeds under an independent undertaking" and "rights to payment of funds credited to a bank account" (for the definitions of these terms, see Introduction, section B, Terminology). While these rights against third parties differ from each other in important ways, they have a critical feature in common: the value of the encumbered asset is the right to receive performance from a third-party obligor (that is, a third party who owes an obligation to the grantor). There could be rights against third parties that do not fall into one of these five categories for which the Guide does not provide specific recommendations. The Guide covers these rights as well when they serve as encumbered assets, and the same principles discussed in this chapter for the five specified categories apply to these other rights, except to the extent that their nature requires a different rule that might be found in another body of law that specifically addresses such rights. The remainder of this chapter will focus on the five categories of rights referred to above.

3. Depending on the nature of the right against a third party that is an encumbered asset, the Guide uses varying terminology to describe the third-party obligor. When the right is a receivable, for example, the third-party obligor is referred to as the "debtor of the receivable", and when the obligation is the right to proceeds under an independent undertaking, the third-party obligor is referred to as the "guarantor/issuer, confirmer or other nominated person" (for the definitions of these terms, see Introduction, section B, Terminology).

4. When the encumbered asset is a right against a third-party obligor, the secured transaction affects not only the grantor and the secured creditor but may also affect the third-party obligor. Accordingly, States typically provide appropriate protection against adverse effects on the third-party obligor, especially since that obligor is not a party to the secured transaction. On the other hand, those protections should not unduly burden the creation of security rights in rights against third-party obligors, since security rights facilitate the extension of credit by the secured creditor to the grantor, which may also redound to the benefit of the third-party obligor.

5. The detailed rules governing the mutual rights and obligations of grantors and secured parties where the encumbered asset is a right to payment have been discussed in chapter VIII. This chapter first reviews, in section A.2 (a), a number of

general issues. It then addresses, in sections A.2(b)-A.2(f), the rights and obligations of third-party obligors in the different contexts where they most frequently arise. The chapter concludes, in section B, with a series of recommendations.

2. Effect of a security right on the obligations of a third-party obligor

(a) General

6. It is generally recognized by States that it would be inappropriate for a security right in a right to performance from a third-party obligor to change the nature or magnitude of the third-party obligor's obligation towards its creditor. This basic principle is also present in international instruments. For example, article 15 of the United Nations Assignment Convention permits no change in the obligation, other than the identity of the person to whom payment is owed (and, with some limitations, the address or account to which payment is to be made; see para. 11 below). The principle is general, and equally applies to third-party obligors regardless of how the obligation arises or the manner in which it is expressed (e.g. whether the obligation is a right to payment under a negotiable instrument, a right to payment of funds credited to a bank account, a right to receive the proceeds under an independent undertaking, or a right under a negotiable document).

7. When a negotiable instrument or negotiable document evidences the right against the third-party obligor, this principle is already reflected in law that is well developed in most States and that details the effect of an assignment on the obligation of the obligor. This body of law is generally referred to in the Guide as negotiable instruments law. There is no need for secured transactions law to recreate those rules. Accordingly, the Guide generally defers to those bodies of law for effectuation of this principle. Similar protections exist under the law governing bank accounts and the law and practice governing independent undertakings, and the Guide defers to them as well.

(b) Effect of a security right on the obligations of the debtor of a receivable

8. While the effect of a security right on the obligor of a negotiable instrument or negotiable document is well developed in most States, this is not always the case with respect to a receivable that is the subject of a security right. Accordingly, the Guide addresses in some detail the effect of a security right on the obligation of the debtor of the receivable. For the most part, the Guide draws its policies and recommendations (often verbatim) from the analogous rules in the United Nations Assignment Convention.

9. In many States today, it is not possible to grant a security right in a receivable. The only mechanism by which the debtor of a receivable may use the claim as an asset to secure a loan is to transfer (or assign) the claim to a creditor. Moreover, in some States, it is not possible to assign a claim by way of security (that is, to make the assignee's right to collect the receivable contingent upon the assignor itself continuing to owe an obligation to the assignee). In these States, only outright (or pure) transfers of receivables are possible. Regardless of the type of the transaction (i.e. whether it is an outright assignment, a security arrangement denominated as a security right or a transfer by way of security), the legal mechanisms by which the mutual rights and obligations of the parties, and their rights as against third-party obligors are created are similar. For this reason, and because it is sometimes

difficult to determine exactly the nature of the underlying transaction between the assignor and the assignee, many States treat all forms of transfer of receivables broadly in the same manner.

10. This is also the approach taken by the United Nations Assignment Convention, and consistent with that approach, the Guide covers not only security rights in receivables but also outright transfers and transfers by way of security (see recommendation 3; for the definition of the terms “assignment”, “assignor” and “assignee” and related terms, see Introduction, section B, Terminology). Therefore, the discussion below covers the debtor of the receivable in transactions in which the receivable has been transferred outright or utilized as an encumbered asset (whether in an outright assignment for security purposes or an assignment by way of security), and the term “assignment” is used in this chapter to refer to all three types of transaction, except where otherwise indicated. However, this does not result in converting an outright transfer of a receivable to a secured transaction (see recommendation 3).

11. The United Nations Assignment Convention provides that, with few exceptions, the assignment of a receivable does not affect the rights and obligations of the debtor of the receivable without its consent. A like principle is found in the national law of many States. The only effect that the assignment may have on the debtor of the receivable is to change the person, address or deposit account to which the debtor of the receivable is to make payment. However, so as not to impose hardship on the debtor of the receivable, the United Nations Assignment Convention provides that such changes of the person, address or account of payment may not result in changing the currency of payment or the State in which payment is to be made, unless the change is to the currency of the State in which the debtor of the receivable is located (see United Nations Assignment Convention, article 15, and recommendation 114).

12. When the assignment of a receivable is an outright transfer, the ownership of the right to receive performance from the debtor of the receivable also changes. While some States characterize this type of transaction as involving a change of ownership, others simply provide that the claim reflected by the receivable has been transferred to the patrimony of the assignee. However the transaction is characterized, it does not necessarily mean that the party to whom payment is to be made will also change. This is because, in many cases, the assignee will enter into a servicing or similar arrangement with the assignor pursuant to which the latter continues to collect the receivable on behalf of the assignee.

13. Even when the assignment of a receivable is by way of security, the transaction is sometimes structured as an immediate transfer to the assignee. In these cases, the assignor normally also collects the receivable on behalf of the assignee but, until default, need not remit more than is necessary under the agreement between them. Sometimes, by contrast, the assignment is conditional, and the assignee acquires no rights in the receivable until the occurrence of a default by the assignor. Until this moment, the third-party obligor will continue to pay the assignor under the terms of the original obligation contracted between them.

14. There is typically a like result when the assignment of a receivable involves the creation of a security right. The assignment does not necessarily mean that the party to whom payment is to be made will change. In many cases, the arrangement

between the assignor and the assignee will be that payments are to be made to the assignor (at least before any default by the assignor). Only upon default will the assignee generally seek to receive payment directly from the debtor of the receivable. In other cases, the parties will agree that payments are to be made to the assignee. Under these types of arrangement, the assignee normally holds the money received in a separate account and withdraws from that account only an amount necessary to fulfil the assignor's payment obligation. The balance is held for the assignor, and remitted once the credit has been fully paid.

15. In view of the fact that the obligation of the debtor of the receivable normally will be discharged only to the extent of payment to the party entitled to payment under the law (and may not be discharged if mistakenly made to a different party), it has an obvious interest in knowing the identity of the party to which payment is to be made (which is not necessarily the "owner" of the receivable). Thus, many States protect the debtor of the receivable by providing that the debtor of the receivable is discharged by paying in accordance with the original contract until such time as it receives notification of the assignment and of any change in the person or address to which payment should be made. This principle provides important protection to the debtor of the receivable since it avoids the possibility that a payment will be found not to discharge the debtor of the receivable because the payment was made to a party that was no longer the creditor of the receivable, even though the debtor of the receivable was unaware of the change in the creditor of the receivable (see United Nations Assignment Convention, article 17, paragraph 1, and recommendation 115, subparagraph (a)).

16. Once the debtor of the receivable has been notified of the assignment and any new payment instructions, however, it is appropriate to require it to pay in accordance with the assignment and instructions (subject to the limitation described in para. 10 above that the instructions may not change the currency of payment or the State in which payment is to be made unless the change is to the State in which the debtor of the receivable is located). This principle is critical to the economic viability of secured transactions where the encumbered asset being relied upon by the secured creditor is a receivable. If the debtor of the receivable were to continue to be able to pay the assignor, this would deprive the assignee of the value of the assignment. The value of the receivable is reduced because every payment made by the debtor of the receivable reduces the outstanding balance of the receivable. Being able to obtain payment directly from the debtor of the receivable once instructions have been given is especially important when the assignor is in financial distress (see United Nations Assignment Convention, article 17, paragraph 2, and recommendation 115, subparagraph (b)).

17. As noted above, it would be inappropriate for an assignment of a receivable to change the nature or magnitude of the obligation of the debtor of the receivable. One implication of that principle is that the assignment should not, without the consent of the debtor of the receivable, deprive it of defences arising out of the original contract or rights of set-off arising prior to the receipt of notification of an assignment (see United Nations Assignment Convention, article 18, and recommendation 116).

18. This principle should not, however, prevent the debtor of the receivable from agreeing that it may not raise against an assignee defences or rights of set-off that it could otherwise raise against the assignor. The effect of such an agreement is to

confer on the receivable the same sort of "negotiability" that enables negotiable instruments to be enforced by "holders in due course" or "protected purchasers" without regard to defences or rights of set-off (for the meaning of the term "protected holder", see, for example, article 29 of the United Nations Convention on International Bills of Exchange and International Promissory Notes[1] (the "United Nations Bills and Notes Convention"). As the receivable could have been embodied in a negotiable promissory note or similar negotiable instrument with the agreement of the debtor of the receivable, there is no reason to prevent the debtor of the receivable from agreeing to the same result as would have been achieved by the use of a negotiable promissory note or similar negotiable instrument (see recommendation 117, subparagraph (a)). However, in most States, as in the United Nations Bills and Notes Convention, there are certain defences that can be raised even against a holder in due course or other protected purchaser (see, for example, paragraph 1 of article 30 of the United Nations Bills and Notes Convention). In principle, the same result should follow when the debtor of a receivable agrees not to raise defences against the assignee of a receivable (see United Nations Assignment Convention, article 19, paragraph 2, and recommendation 117, subparagraph (b)).

19. When a receivable is created by contract, it is always possible that the debtor of the receivable and its original creditor might modify the terms of the obligation at a later time. If such a receivable is assigned, the effect of that modification on the rights of the assignee must be determined. If the modification occurs before the assignment, the right actually assigned to the assignee is the original receivable as so modified. Most States also take the position that a debtor of the receivable is not affected by an assignment of which it has no knowledge. So, for example, if the modification occurs after the assignment, but before the debtor of the receivable has become aware that the creditor has assigned the receivable, it is understandable that the debtor of the receivable would believe that the agreement of modification was entered into with the creditor of the receivable and, thus, would be effective. Accordingly, States generally provide that such a modification is effective as against the assignee (see, e.g., United Nations Assignment Convention, article 20, paragraph 1, and recommendation 118, subparagraph (a)).

20. If the agreement to modify the terms of the receivable is entered into after the assignment has already occurred and after the debtor has been notified of it, such a modification is usually not effective unless the assignee consents to it. The reason is that, at this point, the assignee's right in the receivable has already been established and such a modification would change the assignee's rights without its consent. Some States, however, provide limited exceptions to this rule. For example, if the right to be paid on the receivable has not yet been fully earned by performance by the original creditor of the receivable (the assignor), and the original contract provides for the possibility of its modification, the modification may be effective against the assignee. In certain cases, the original contract need not even expressly provide for modification. The usual example would be where the original contract governs a long-term relationship between the debtor and the creditor of the receivable, and the relationship is of the sort that is frequently the subject of modification. In this situation, the assignee might anticipate that reasonable modifications might be made in the ordinary course of business even after the

[1] Ibid., Sales No. E.95.V.16.

assignment. As a result, some States provide that a modification to which a reasonable assignee would consent is effective against the assignee, even if made after the debtor of the receivable is aware of the assignment, so long as the receivable has not yet been fully earned by performance (see United Nations Assignment Convention, article 20, paragraph 2, and recommendation 118, subparagraph (b)).

21. As a general rule, the assignor's right to receive payment from the debtor of the receivable arises because the assignor has performed the obligation for which payment is to be made (e.g. the sale of a vehicle, the performance of a service). Sometimes the debtor of the receivable may make a down-payment, or may pay part of the price in advance of the asset being delivered or the service being rendered. This payment may well end up in the hands of the assignee (either because the assignor has remitted it to the assignee or because the assignee has given notice to the debtor of the receivable and has obtained payment directly). Normally, contract law provides that, if one party does not perform, the other party may have the contract annulled or seek damages for the breach. However, once the payment has passed into the hands of the assignee, many States provide that the only recourse of the debtor of the receivable is against the assignor, and sums received by the assignee cannot be recovered. The policy behind this rule flows from the general law of obligations. Absent fraud, creditors of a party in default under a contract are not permitted to reclaim money that may have been paid in good faith to other creditors. Hence, if payment is made to the assignor, which then transfers the payment to the assignee, or if payment is made directly to the assignee, the assignee stands in the same position as any other creditor that has been paid by the assignor, and should not be required to disgorge the payment received to the debtor of the receivable simply because the assignor has not performed its correlative obligation. In essence, this means that the debtor of the receivable bears the insolvency risk of its contractual partner. The Guide recommends adoption of a rule reflecting this general principle (see recommendation 119).

(c) Effect of a security right on the obligations of the obligor on a negotiable instrument

22. In most States, the law governing negotiable instruments (for the meaning of this expression, see Introduction, section B, Terminology, para. 6) is well developed and contains clear rules as to the effect of a transfer of an instrument on the obligations of parties to the instrument. In principle, those rules continue to apply in the context of security rights in negotiable instruments (see recommendation 120).

23. Thus, for example, a secured creditor with a security right in a negotiable instrument is not able to collect on the instrument except in accordance with its terms. Even if the grantor has defaulted on its obligation under the security agreement, the secured creditor cannot enforce the negotiable instrument against an obligor except when payment is due under that instrument. For example, if a negotiable instrument is payable only at maturity, a secured creditor is not permitted to require payment prior to its maturity (even if the grantor of the security right, as opposed to the obligor on the instrument, is in default), except in accordance with the terms of the negotiable instrument itself.

24. In addition, unless otherwise agreed by the obligor, the secured creditor cannot collect on the negotiable instrument except in accordance with the law governing

negotiable instruments. Typically, as a matter of the law governing negotiable instruments, the secured creditor may only collect on the negotiable instrument if it is a holder (that is, is in possession of the instrument and has obtained any necessary endorsement) or has acquired the rights of a holder. Accordingly, in order to be assured of obtaining a discharge, the obligor is often permitted to insist, under the law governing negotiable instruments, on paying only the holder of the instrument. However, in some States, a transferee of an instrument from a holder can enforce the instrument if the transferee has possession of the instrument.

25. Under the law governing negotiable instruments, the secured creditor may or may not be subject to the claims and defences of an obligor on the instrument. If the secured creditor is a "protected" holder of the negotiable instrument, the secured creditor is entitled to enforce the negotiable instrument free of certain claims and defences of the obligor. These claims and defences are the so-called "personal" claims and defences, such as normal contract claims and defences, which the obligor could have asserted against the prior holder. However, the secured creditor, even as a protected purchaser, remains subject to so-called "real" defences of the obligor, such as lack of legal capacity, fraud in the inducement or discharge in insolvency proceedings.

26. If the secured creditor is a holder of the negotiable instrument but not a "protected" holder, it is nonetheless entitled to collect on the negotiable instrument, but will usually be subject to the claims and defences that the obligor could have asserted against a prior holder of the negotiable instrument. These claims and defences include all "personal" claims and defences unless the party liable on the negotiable instrument has effectively waived its right to assert such claims and defences in the negotiable instrument itself or by separate agreement.

(d) Effect of a security right on the obligations of the depositary bank

27. In States in which a security right in a right to payment of funds credited to a bank account may be created only with the consent of the depositary bank, the bank has no duty to give its consent. In these States, the result is that, even as between the secured creditor and the grantor, a security right may not be created in a right to payment of funds credited to the bank account without the agreement of the bank. By contrast, other States do not require the consent of the depositary bank for the creation of the security right. Nonetheless, even in these States the rights and obligations of the depositary bank itself may not be affected without its consent (see recommendation 121, subparagraph (a)). In both cases, the main reason lies in the critical role of banks in the payment system and the need to avoid interfering with banking law and practice (see also para. 28).

28. The reason for not imposing duties on a depositary bank or changing the rights and duties of the depositary bank without its consent is that this may subject the bank to undue risks that it is not in a position to manage without having appropriate safeguards in place. The depositary bank is subject to significant operational risks, with funds being debited or credited to bank accounts on a daily basis, often with credits being made on a provisional basis, and sometimes involving other transactions with its customers. These risks are compounded by the legal risk to the depositary bank of failing to comply with laws dealing with negotiable instruments, credit transfers and other payment system rules in its day-to-day operations. The bank is also exposed to the further risk of not complying with certain duties

imposed on the depositary bank by other law, such as laws requiring it to maintain the confidentiality of its dealings with its customers. In addition, the depositary bank is typically subject to regulatory risk under laws and regulations of the State designed to ensure the safety and soundness of the depositary bank. Finally, the depositary bank is subject to reputational risk in choosing the customers with which it agrees to enter into transactions.

29. The experience in those States where the depositary bank's consent to new or changed duties is required suggests that the parties are often able to negotiate satisfactory arrangements so that the depositary bank is comfortable that it is managing the risks involved, given the nature of the transaction and the bank's customer. In particular, to avoid any interference with the depositary bank's rights of set-off against the account holder, legal systems that permit the depositary bank to obtain a security right in the right to payment of funds credited to a bank account held with the bank, provide that the bank retains any rights of set-off it might have under law other than the secured transactions law (see recommendation 121, subparagraph (b)).

30. The same principles apply with respect to the third-party effectiveness, priority and enforcement of a security right in a right to payment of funds credited to a bank account. For example, in States that prescribe "control" as the method for achieving third-party effectiveness of a security right in a right to payment of funds credited to a bank account, there are appropriate rules to safeguard the confidentiality of the relationship of a bank and its client (for the definition of "control", see Introduction, section B, Terminology). Such rules provide, for example, that the bank has no obligation to respond to requests for information about whether a control agreement exists or whether the account holder retains the right to dispose of funds credited to its bank account (see recommendation 122, subparagraph (b)).

31. In States in which the security right in a right to payment of funds credited to a bank account is made effective against third parties by registration of a notice in a public registry or by acknowledgment on the part of the depositary bank, the notice or acknowledgement may or may not impose duties on the depositary bank to follow instructions from the secured creditor as to the funds in the account. If such duties are not imposed on the depositary bank under the laws of a particular State, the secured creditor's right to obtain the funds in the bank account upon enforcement of the security right would usually depend upon whether the customer-grantor has instructed the depositary bank to follow the secured creditor's instructions as to the funds or the depositary bank has agreed with the secured creditor to do so. In the absence of such instructions or agreement, the secured creditor may need to enforce the security right in the bank account by using judicial process to obtain a court order requiring the depositary bank to turn over the funds credited to the bank account to the secured creditor.

32. In States in which the depositary bank is permitted to subordinate its priority position, the bank has no duty to subordinate its rights to a security right being asserted by another creditor of the account holder. Even if, in order to facilitate the creation, effectiveness against third parties, priority and enforcement of a security right in a right to payment of funds credited to a bank account, the secured creditor is willing to become the depositary bank's customer with respect to the bank account, the depositary bank has no duty to accept the secured creditor as the bank's customer. This result is consistent with the general position taken in the Guide that

any mechanisms by which secured transactions law aims to facilitate the grant of security over funds credited to a bank account should not impair national regulatory laws or other laws designed to assure the safety and soundness of the banking system.

(e) Effect of a security right on the obligations of the guarantor/issuer, confirmer or nominated person under an independent undertaking

33. The rights and duties of the guarantor/issuer, confirmer or nominated person with respect to an independent undertaking are quite well developed under the law and practice governing independent undertakings (for the definitions of these terms, see Introduction, section B, Terminology). This highly specialized law and practice has facilitated the usefulness of independent undertakings, particularly in international trade. Accordingly, when developing a secured transactions law with respect to independent undertakings, great care should be taken to avoid interfering with these useful commercial mechanisms.

34. In order to avoid such interference, it is helpful to distinguish between the independent undertaking itself and the right to draw, on the one hand, and the right of a beneficiary of such an undertaking to receive a payment (or another item of value) due from the guarantor/issuer or nominated person, on the other hand. While providing for a security right in the former without interference with the usefulness of the independent undertaking is a delicate task (usually done by an agreed-upon transfer of the undertaking itself), a security right in the latter carries fewer risks because it relates only to the right of the beneficiary to receive whatever may become due and would not have an effect on the guarantor/issuer, confirmer or a nominated person. For this reason, the Guide recommends rules facilitating the use as security of the right to receive the proceeds under an independent undertaking (a carefully defined term that refers to the right to receive the proceeds as contrasted with the cash and other assets that actually constitute the proceeds of the independent undertaking, as that term is commonly used in independent undertaking practice), but with strict conditions designed to avoid compromising the usefulness of independent undertakings. The basic rules that should govern the interaction of the law relating to independent undertakings and secured transactions law are described below.

35. A cardinal principle is that a secured creditor's rights in the right to receive the proceeds under an independent undertaking should be subject to the rights, under the law and practice governing independent undertakings, of the guarantor/issuer, confirmer or nominated person. Thus, a secured creditor may not assert a right to payment of the proceeds otherwise not payable to the secured creditor's grantor. For the same reason, a transferee-beneficiary normally takes the undertaking (including both the right to draw and the right to receive payment of the proceeds) without being affected by a security right in the proceeds of the independent undertaking granted by the transferor (see recommendation 123, subparagraphs (a) and (b)). For the same reason, if the guarantor/issuer, confirmer or nominated person has a security right in the proceeds under an independent undertaking, their independent rights are not adversely affected (see recommendation 123, subparagraph (c)).

36. Equally important is the principle that a guarantor/issuer, confirmer or nominated person should not be obligated to pay any person other than a confirmer, a nominated person, a named beneficiary, an acknowledged transferee of the

independent undertaking or an acknowledged assignee of the proceeds under an independent undertaking (see recommendation 124). The reason for this rule is that the usefulness of independent undertakings as a low-cost and efficient method for facilitating the flow of commerce would be compromised if the guarantor/issuer, confirmer or nominated person had to verify the background transaction by which the right was purportedly transferred and to which it had not consented. If, however, the guarantor/issuer, confirmer or nominated person acknowledges a secured creditor or transferee of the proceeds under an independent undertaking, the secured creditor or transferee may enforce its rights against the person that made the acknowledgement (see recommendation 125).

(f) Effect of a security right on the obligations of the issuer or other obligor under a negotiable document

37. In most States, the law governing negotiable documents is well developed and contains clear rules as to the effect of a transfer of a document on the obligations of parties to the document. In principle, those rules continue to apply in the context of security rights in negotiable documents (see recommendation 126).

38. This means, among other things, that the right of a secured creditor to enforce a security right in a negotiable document and, thus, in the tangible assets covered by it, is limited by the law governing negotiable documents. The limit is that the assets covered by the negotiable document are in the hands of the issuer or other obligor under that document, and the issuer's or other obligor's obligation to deliver the assets typically runs only to the consignee or to any subsequent holder. Thus, if the negotiable document was not transferred to the secured creditor in accordance with the law governing negotiable documents, the issuer or other obligor will have no obligation to deliver the assets to the secured creditor. For example, if under negotiable documents law, the document must bear an endorsement at the time it is transferred in order for the transferee to be entitled to receive the assets covered by the document, and the transferee holds a document without such an endorsement, the obligor need not deliver the assets covered by the document. In such a case, the secured creditor may need to obtain an order from a court or other tribunal in order to obtain possession. The court order would either require transfer of the document (or its transfer and endorsement) to the secured creditor or to a person designated by the secured creditor, or require the issuer or other obligor to deliver the assets to the secured creditor or other person designated by the secured creditor.

B. Recommendations

[*Note to the Commission: The Commission may wish to note that, as document A/CN.9/637 includes a consolidated set of the recommendations of the draft legislative guide on secured transactions, the recommendations are not reproduced here. Once the recommendations are finalized, they will be reproduced at the end of each chapter*.]