

Policy Paper

April 2016

1. Introduction

1.1 The secured transactions regime under English law needs to be ‘best in class’ if we are to compete in today’s global markets. This means that the regime needs to be modern, efficient and as forward-looking as possible. The aim of the Secured Transactions Law Reform Project (STR) is to formulate reform proposals based on this ideal. Its current approach, as explained in this policy paper, is to identify the irreducible core aspects of a modern secured transactions law: these form the agreed basis of the STR’s proposals. The parameters for debate in relation to other (non-core) aspects of the law are then set out and considered. Papers exploring the non-core issues will be produced later in the year, which will build on [papers which are already available on the project website](#).

1.2 An ideal secured transactions law is one that is clear, certain and easily accessible. A creditor should be able to obtain a security interest over any asset, including future assets, as cheaply as possible. There should be transparency, to enable others to know about the existence of a security interest, and the system’s rules should enable a creditor to know with certainty the priority position of his interest. It should also be possible to enforce a security interest effectively whether or not the borrower is insolvent. Lastly, although it should be possible for creditors to contract out of most default rules in relation to priority and enforcement, that default position should be the one most likely to be required in general, so as to minimise transaction costs.

1.3 The core aspects of a modern secured transactions law have been determined in light of these principles and as a result of consideration of the common features of reform of secured transactions law in other jurisdictions around the world. These aspects are:

- a. A simplified and codified law of secured transactions.
- b. Adoption of a single concept of a (consensual) security interest.
- c. A regime of secured transactions which enables security to be taken over any asset, present and future.
- d. A regime of secured transactions, including registration, which covers security interests granted by all debtors (whether corporate or non-corporate), although there could be different rules for consumers.

- e. A fully electronic system of registration, where registration takes effect without human intervention.
- f. A set of clear priority rules based on rational distinctions, and, at its core, a rule that priority between registered interests is by date of registration.

1.4 These are the main aspects in which the core regime varies from current English law. However, it is necessary to examine how the reforms to achieve such a regime would interact with current English law. This entails consideration of a number of areas:

- a. Creation of security interests
- b. The manner in which security interests are made effective against third parties ("perfection")
- c. The details of the registration system
- d. The details of the priority rules
- e. Enforcement of security interests
- f. Interaction with insolvency law
- g. Whether other interests, not presently treated as security interests, should be included within the regime
- h. Whether security interests created by consumers should be included in the same regime as those created for business purposes.
- i. Financing of particular assets

1.5 Within these areas, there is room for a number of choices to be made. In making the choices it is important not to detract from the flexibility that the current law provides, and many of the proposed changes are to default rules out of which parties can contract in particular situations. This paper will explain how it is proposed that the core aspects can be introduced into English law, and will identify the choices that remain to be made. It will also set out various alternatives and summarises the arguments in favour and against each one. A more detailed paper will be produced in due course.

2. The core of a modern secured transactions law

These important features form the agreed basis of the STR's proposals.

- a. A simplified and codified law of secured transactions.

2.1 The current English law of secured transactions can be justifiably criticised as being complex and fragmented. Reform must therefore result in a simpler and more logical system. It is also important that the law is accessible and understandable to those who use it. Codification is a means to achieve this.

- b. Adoption of a single concept of a (consensual) security interest.

2.2 One important area of simplification is the adoption of a single concept of a security interest. At present, there are a number of types of consensual security interest in English law: the pledge, the contractual lien, the mortgage (legal and equitable) and the charge (fixed and floating). It is proposed that there should be one concept of a 'security interest' to which a common set of rules apply. Of course, the rules may vary according to circumstances (for example, the rules

relating to security over financial collateral are different from the general rules) but, by adopting the concept of a single security interest, differences are based on easily recognised functional distinctions, rather than concept-based legal distinctions, which are often fine and have developed over time in an ad hoc way. One result of the adoption of this concept is that the priority rules would not depend on whether an interest was legal or equitable, but on the rules of the secured transaction system. These are discussed in more detail below.

- c. A regime of secured transaction which enables security to be taken over any asset, present and future.

2.3 It is very important for the availability of finance that any asset can be used to secure borrowing. English law already enables all types of asset, present and future, to be used as security by companies and LLPs. A security interest can be granted which enables the borrower to dispose of the assets used as security in the ordinary course of business (the floating charge). The STR does not propose to restrict any of this at all, and it is likely to recommend removing rules that currently prevent unincorporated businesses from creating floating charges over goods. In relation to security granted by businesses, it is proposed that a security interest can be granted over any asset, present or future, and, indeed, over all the assets of a business. It is further proposed that if the assets are of a particular type (for example, inventory, receivables, money), those assets which are the subject of a security interest can be disposed of in the ordinary course of business. All that would disappear is the notion that a charge must be either fixed or floating, and the label 'floating charge'. The insolvency consequences of this proposed change are dealt with later in this paper.

- d. A regime of secured transactions, including registration, which covers security interests granted by all debtors (whether corporate or non-corporate), although there could be different rules for consumers.

2.4 There seems no real justification for a secured transactions regime to differentiate between whether a business is incorporated or not. The difference in regimes in English law is largely historical, and driven by the fact that the main security interests register grew out of registration by individual companies. Security interests granted by individuals over tangible property (whether for business or consumer purposes) are governed by the Bills of Sale Acts, which are very limited in scope and involve an antiquated registration regime. This area of the law is clearly ripe for reform and is the subject of consideration by the Law Commission. Reformed regimes around the world do not make the distinction between corporate and non-corporate businesses.

2.5 The STR [proposes](#) that the same legal regime should apply to all security interests created to secure business finance, whether by a company, an unincorporated business or an individual (such as to support a guarantee of a business debt). The regime should apply to security over all types of assets, and not just tangible property (although an exception would probably need to be made for financial collateral: this is a matter for debate). The extent to which consumer transactions should be governed by the same legal regime is a matter for debate, and is discussed later in this paper.

- e. A fully electronic system of registration, where registration takes effect without human intervention

2.6 Transparency is an important part of a modern secured transactions regime, and registration is the best way to achieve this. Another advantage of a robust registration system is that it can be used to determine and record priority between security interests.

2.7 The developments in electronic registration now mean that it is possible to have a system whereby a security interest can be registered online and the registration can be instantaneously available to those searching the register. This obviates the need for human intervention, and also means that registration can occur, if desired, at, or almost at, the same time as creation. The STR does consider that there are benefits in permitting registration in advance of creation of an interest, however, and these are discussed below along with other details of the proposed registration scheme.

2.8 A wholly electronic system enables both registration and searching the register to be carried out very cheaply and easily. It also enables the registry itself to be run cheaply, and minimises the possibility of human error on the part of registry staff. Furthermore, where relevant, registration can be made both against the name of the borrower (debtor based registration) and an identifier of the asset (asset based registration). This can either be in the same register, or, where different electronic registers exist, information can be shared between them, so that a searcher only needs to search once.

- f. A set of clear priority rules based on rational distinctions, and, at its core, a rule that priority between registered interests is by date of registration.

2.9 One of the greatest causes of complexity and opacity in the current English law of secured transactions is the plethora of complicated priority rules. While this can be overcome by the making of priority agreements, this is unsatisfactory and expensive, particularly in relation to small scale transactions. The STR proposes that the priority rules be simplified. The principle rule proposed is that priority between registered interests should be determined by the date of registration. This is a logical result when registration can be made instantaneously and is wholly electronic. A secured creditor who searches the register (and finds it clean) and then registers its interest will know that it has priority over any other existing and subsequent secured creditor.

2.10 Although the details are subject to some debate (see later in this paper), it is proposed that a secured creditor who takes possession of at least some assets used as security will not be required to register its interest. Possession thus functions as a means of 'perfection' (making the security interest enforceable against third parties). Where this is the case, priority between competing interests will be determined by the earliest of registration and perfection by another means. Different rules may apply to financial collateral: these are also considered below.

3. Non-core areas.

3.1 This section has two purposes, which are interlinked. One is to set out the areas on which more debate is required, and to establish the parameters for that debate. The other is to set out the areas where it is not proposed to change English law and to indicate how it is proposed that these will fit within a reformed regime.

- a. Creation of security interests

3.2 At present, generally, no particular formalities are required for a business to create a security interest, although many are created by deed, and most involve a written instrument. The Law of Property Act s 53(1)(c) may require some mortgages or charges of equitable interests to be made in writing, financial collateral security arrangements must be evidenced in writing and security interests created by non-corporate businesses must comply with the formality requirements of the Bills of Sale Acts. Although it is good practice to evidence such an important arrangement in writing, there are benefits in having the flexibility given by writing not being required. Unless serving a useful purpose, formality requirements can be a trap for the unwary leading to invalidity. The STR's preliminary proposal, therefore, is that there should be no formality requirements for the creation of a security interest by a business, except as required by the FCARs.

b. The manner in which security interests are made effective against third parties

3.3 Most modern secured transactions regime stipulate methods by which security interests are made effective against third parties ('perfected'): usually registration or the taking of possession or control by the secured creditor. English law has reached a similar position, but by a different conceptual route. Pledges and liens are created by the taking of possession by the secured creditor, but are not required to be registered. Security interests over financial collateral are not required to be registered if the secured creditor has 'possession or control' of the collateral (although the details vary, this is, broadly speaking, the equivalent of 'control' under many regimes). All other security interests created by companies are required to be registered, as are bills of sale created by non-corporate businesses. Unregistered corporate security interests are void against any other secured creditor, and against unsecured creditors (represented by the liquidator or administrator) on insolvency. Unregistered bills of sale are wholly void.

3.4 The STR proposal largely regularises this situation, rather than changing the actual rules (although some improvements are suggested and some matters for debate remain). The proposal is that there is only one type of security interest. This interest can be perfected in different ways. First, by registration, before or after creation (see below). Second, where the secured assets are financial collateral (securities, cash in bank or 'credit claims') by the taking of 'control' by the secured creditor (again, this can be before or after creation of the interest). Precisely what does (and should) amount to control is a matter for debate, and is being examined by the [working group covering financial collateral \(WGD\)](#). Third, where the secured assets are tangible, by the taking of possession by the secured creditor. Again, it is a matter for debate whether this should apply to all tangible assets, or only to those tangibles (such as documents of title and negotiable instruments) which have traditionally been the subject of pledges. This debate is the subject of a [paper produced by the STR](#).

3.5 Another area for debate is the extent to which a security interest in an asset extends to the income derived from, the proceeds of sale of, and assets produced from, that asset.

c. The details of the registration system

3.6 As mentioned above, the STR proposal is for a wholly electronic registration system, with no human intervention in the registration process. The STR is also convinced of the advantages of a system permitting registration in advance of creation: this enables a potential secured party to fix its priority point while still negotiating the details of a complex secured transaction.

3.7 In the light of these agreed principles, there are still a number of matters for debate. The first relates to the purpose of the registration in terms of giving information to searchers. One possibility is that the registration merely alerts a searcher to the possibility of there being a security interest affecting the relevant asset(s), so that if the searcher wants accurate information he has to contact the secured creditor (or, if he trusts him, the borrower) for more details. Another possibility is that the registration gives the searcher reasonably accurate information as to the existence and scope of a registered security interest. Of course, registration which is always completely up to date and requires no checking with the secured creditor is nearly impossible to attain, since this would entail compulsory updating of the registration every time an element changed, and, put at its highest, would require registration and constant updating of the amount secured by the security interest.

3.8 The second matter for debate relates to amount of information that is registered. There is a spectrum of possibilities, ranging from a very sparse notice to the registration of the entire charge document (with or without particulars).

3.9 The third matter for debate is how much updating of the register is required, and what the sanctions are for failure to update.

3.10 The outcome of the debates on each of these matters may vary, but there appear to be two main models for advance registration, which can incorporate variations of policy on each of these points. These are (a) a notice filing system (used in Article 9 UCC and the PPSAs) and (b) a priority notice system. The STR is currently working on a paper analysing both models (taking into account developments in modern technology) so that the debate can be properly informed.

3.11 One other possibility, which could be combined with either model, is the inclusion of asset-based registration in the registration system. Work on this, and on the allied topic of interrelationship between registers, is continuing.

c. The details of the priority rules

3.12 Given the desire to reduce complexity, the proposal that there be a single security interest, and that the basic rule is priority by date of registration, it is necessary to reformulate the rules of priority. In many situations, the results will be the same as under the present system, but it will be easier to discover them, and the position will be more logical. The rules proposed are default rules, and can be altered by agreement between all interested parties, although an unregistered subordination agreement would not be valid against a transferee of the subordinated interest. Priority between security and other interests in financial collateral is being looked at separately and will not be considered in this section.

3.13 In relation to a priority contest between security interests, the basic rule proposed is that the first to register or to take possession of the secured asset has priority, irrespective of the order in which the competing security interests were created. If one security is registered and the other is not perfected by registration or another means, the former will take priority. Where neither security interest is registered or is in the possession of the secured creditor, the first to be created has priority. This proposal applies to all security interests, whether or not the security provider has the power to dispose of assets in the ordinary course of business. It is a matter for debate whether

a security interest over an asset for the acquisition of which by the borrower the secured creditor has provided the finance (a purchase money security interest) should have priority over previously registered security interests. If a PMSI priority rule is adopted, consideration needs to be given to whether and how a previously registered secured creditor should be notified of the existence of the PMSI.

3.14 It is proposed that these priority rules apply to all advances made by the secured creditor, whether at the time of taking the security interest or later, and whether or not the secured creditor has notice of a subsequent security interest. Thus, the rule against tacking would be abolished.

3.15 Rules governing the situation where an asset subject to a security interest is disposed of by sale or by lease are also proposed, although the detail of these rules is the subject of some debate. (In what follows only the case of a sale is referred to, for clarity.) Where an asset subject to an unregistered non-possessory security interest is sold, the buyer should take free of that interest if he is not aware of it, but whether he should take free if he is aware is a matter for debate. Where an asset subject to a registered security is sold a buyer in the ordinary course of business takes free of the security interest if the asset is inventory (goods of a type the security provider usually sells). A similar rule applies to dispositions of money. Whether this is the case where the buyer knows that the sale is in breach of the security agreement is also a matter for debate, as are, in relation to other types of assets, the circumstances in which a buyer will take free of a registered security interest. A discussion paper on these priority rules and their relationship with the existing law is being prepared.

d. Enforcement of security interests

3.16 With the introduction of a single security interest, the remedies available to a secured creditor on default will be rationalised, and will probably need, therefore, to be part of the codified system. Given that most security agreements make specific provision for enforcement rights, the precise scope of a statutory statement of remedies is a matter for debate, as is the balance between secured creditor rights and protection for the defaulting borrower.

e. Interaction with insolvency law

3.17 There are a number of areas in which a reformed secured transactions law will interact with insolvency law, including enforcement and the validity of unregistered interests. One particularly difficult area relates to the parties who presently have priority over floating charge holders in relation to floating charge assets (expenses, preferential creditors and the prescribed part). The distinction between fixed and floating charges is a troublesome one, which causes considerable uncertainty in the structuring of transactions. The introduction of a single security interest will have the effect of abolishing this distinction, while preserving the functional advantages of a floating charge. One of [the working groups of the STR](#) is looking in detail at how the priority on insolvency of the parties mentioned above can be reformed, with particular focus on a comparative study on the funding of insolvencies.

f. Whether other interests, not presently treated as security interests, should be included within the regime

3.18 There are various structures which are used for financing purposes which are not treated as security interests under English law. Whether, and the extent to which, such structures are included within a reformed secured transactions law is a matter for debate. This section breaks down the issues for debate by type of transaction. The STR is preparing full papers on each of these.

Assignments of receivables

3.19 Receivables financing structures usually operate primarily by way of absolute assignment rather than security interest. At present, such transactions are not registrable, which means that there is no publicity of the assignment, and that the applicable priority rule is that in *Dearle v Hall*. However, many receivables financiers also take a fixed charge over the receivables financed (to cover non-vesting debts) and this is currently registered. Further, general assignments of book debts by unincorporated businesses are already registrable in the Bills of Sale register. Given the ease of registration in a fully electronic register, the STR proposes that assignments of receivables should be included in the scheme of registration for priority purposes. They would not be recharacterised as security interests, so that the rules on enforcement would not apply.

3.20 There are, however, two areas which remain the subject of debate. The first is whether registration should be voluntary (that is, unregistered assignments are not void in the insolvency of the assignor, but lose priority to registered assignments) or 'compulsory' (unregistered assignments are void in the insolvency of the assignor). The second is the scope of inclusion: should it be limited to assignments of 'trade' receivables (that is, the equivalent of 'book debts') or include assignments of all types of receivables, perhaps with some exceptions such as assignments which take place on the sale of a business.

Asset finance

3.21 The term 'asset finance' here covers retention of title devices which are used in the financing of the acquisition of equipment by businesses, such as finance leases, hire purchase and conditional sale agreements. The last two devices are also used extensively in consumer financing (see below as to the inclusion of consumer finance in the reformed scheme). The lessor or seller in an asset finance transaction is typically a financier, rather than a manufacturer or wholesaler, and payment is typically by instalments. Retention of title devices used by suppliers of inventory (stock in trade) are considered separately below.

3.22 Currently, such devices are not registrable, and the interest created by retention of title (the title interest) has 'priority' over all security interests which would potentially attach to the asset acquired, since the asset is not owned by the business acquiring it. The title interest, therefore, is not public and its discoverability by potential secured creditors and buyers involves costs. If title interests were registrable (as they are in many jurisdictions) they would be more easily and cheaply discoverable; and the normal priority rules would apply, including the 'superpriority' of a purchase money security interest. Thus, the priority position would remain the same as under the existing law. In many jurisdictions, title interests are also treated for all purposes (including enforcement) as security interests, so that any surplus value on enforcement must be returned to the defaulting acquirer.

3.23 There are a number of issues for debate in relation to asset finance. First, should such devices be included in a reformed scheme at all? It would be possible to include them for clarity without changing the law at all, but this might be seen as unnecessary. Second, if they are to be included, should they be included in the registration scheme for the purposes of priority in relation to other interests? If they are to be so included, should an unregistered title interest be void in the insolvency of the acquiring business ('compulsory' registration) or not ('voluntary' registration)? Third, even if registration is compulsory, should title interests be treated as security interests for all purposes (that is, the enforcement regime applicable to security interests would apply to them) or should the rules on enforcement be inapplicable to them? Fourth, should the inclusion be limited to devices with a security or financing purpose, or extended to all such devices (except short term hire)? Many jurisdictions include long term leases within their registration and priority schemes, although they are not treated as security interests for other purposes.

Retention of title clauses

3.24 This section deals with the interest resulting from a clause in a sale agreement retaining title until payment (ROT interests). The goods sold are usually inventory (that is, goods which are to be consumed, used in manufacturing other goods or resold by the buyer). Typically, the price is payable in one payment, and a period of credit is given. At present, such clauses are not treated as creating a security interest if they relate only to the goods sold, but if they purport to cover products or proceeds they are usually treated as a registrable charge. Such a charge is not usually registered, and is therefore void in the insolvency of the buyer.

3.25 Many jurisdictions include ROT interests in the registration and priority scheme, and also treat them as security interests for all purposes. While the issues for debate are largely the same as in relation to asset finance (with the exception of the fourth), the policy imperatives may be different. For example, sellers of goods are not financiers, and might not be expected to know about registration requirements. Also, sellers typically enter into a large number of sale contracts, and registration of each one could be onerous. This problem would be overcome by a notice filing system, where one notice could cover all sales made by the seller to a particular buyer. Further, if registrable (and therefore valid) ROT interests could extend to products or proceeds, priority rules would be needed to deal with conflicts between different sellers who had contributed to a mixed or manufactured product. A difficult policy question also arises in relation to proceeds: if a seller has a PMSI in proceeds, this will be in conflict with the interest of a receivables financier. At present, a receivables financier invariably wins such a conflict, and a reformed policy rule would require considerable debate.

g. Whether security interests created by consumers should be included in the same regime as those created for business purposes.

3.26 While the STR considers that there is a compelling case for the same secured transactions regime to apply to all businesses, whether consumers should be included within the scheme is less clear. This is partly because consumer finance is, rightly, subject to a great deal of protective legislation, and partly because the value of consumer finance transactions is generally low. One possibility is to exclude consumers entirely from a reformed scheme. Another is that they should be included, but that the registration scheme should not apply to them, or should only apply in a

limited way (for example, just in relation to asset-based registration of interests over vehicles and other uniquely identifiable goods).

3.27 The inclusion of non-corporate debtors within a reformed scheme also raises the issue of how such debtors should be identified on the register: this has already been discussed by [Working Group A](#). This issue also arises in relations to consumers, if they are to be part of a debtor-based registration system.

3.28 The STR is preparing a paper setting out the arguments for and against the inclusion of consumers in the proposed reformed scheme.

h. Financing of particular assets

3.29 At present, secured financing of particular types of assets is governed by separate regimes. Examples are financial collateral, ships, aircraft, land, some forms of intellectual property. Some of these regimes are very satisfactory (for example, the regime for aircraft finance is governed by the Cape Town Convention) and it is not proposed to change these, merely to make sure that the proposed reformed scheme interacts properly with the regime. Other regimes, such as that governing security interests over IP, are ripe for reform, and will be the subject of separate papers by the STR. Working Group D is looking at the financial collateral regime: it is considering particular questions causing difficulties and also how a proposed reformed regime would fit with the regime contained in the Financial Collateral Directive. The rules relating to security interests in financial collateral granted by non-corporate businesses would also need to be examined.

4. Conclusion

4.1 This conclusion sets out, in short form, the proposals on which the STR is already agreed and those which require more debate. It also indicates where the current law would be changed and where it would not.

4.2 Agreed proposals

- a. A simplified and codified law of secured transactions.
 - i. This would require legislation and would include both changed and existing law.
- b. Adoption of a single concept of a (consensual) security interest.
 - i. This would involve terminological change, and some change of substance as a result of the removal of differences.
- c. A regime of secured transactions which enables security to be taken over any asset, present and future.
 - i. While the terminology would change, there would be no change in substance in relation to company security interests.
 - ii. In relation to security interests granted by unincorporated businesses, it is proposed to widen the scope to enable floating charges to be granted (see 4.2 d).
- d. A regime of secured transactions, including registration, which covers security interests granted by all debtors (whether corporate or non-corporate), although there could be different rules for consumers.

- i. The registration system for non-corporate businesses would change, so that there was only one system for all business finance applying to security over all types of assets (with possible links to asset-based registers).
- e. A fully electronic system of registration, where registration takes effect without human intervention.
 - i. This would entail some changes to the existing law, see 4.3 d. below.
- f. A set of clear priority rules based on rational distinctions, and, at its core, a rule that priority between registered interests is by date of registration.
 - i. The 'first to register or perfect' rule would entail a change in the law, and would result in the abolition of the 21 day invisibility period.
- g. There should be no formality requirements for the creation of a security interest by a business (except as required by the FCARs).
 - i. This would require the disapplication of LPA s53(1)(c).
- h. Perfection can be achieved by registration, possession or control.
 - i. The sanction for non-registration would not change (but see debate about 'other interests' at 4.3 l., m. and n.)
 - ii. The ability to perfect by taking possession could change (see 4.3 a.)
 - iii. The precise scope of 'control' could be better defined (see 4.3 q.)
- i. There should be provision for registration in advance of creation.
- j. Priority rules
 - i. The basic rule would be as in f. above.
 - ii. The basic rule would apply to all interests, including what would formerly have been a floating charge. There is little change in the law, since virtually all floating charges include a registered negative pledge clause.
 - iii. A registered interest will take priority over one that is not registered or otherwise perfected (the law will not change in this regard).
 - iv. The rule against tacking should be abolished.
 - v. A buyer/lessee should take free of an unregistered security interest if not aware of it. This replicates the existing law to the extent that the buyer/lessee obtains a legal interest and the security interest is equitable.
 - vi. Buyer/lessee of inventory and transferee of money normally takes free of security interest (see 4.3g). No change to existing law if security interest is floating charge.
- k. Outright assignments of receivables should be included in the scheme of registration for priority purposes
 - i. This entails a change in the law, though many receivables financiers already register fixed charges over the receivables they finance. The extent of the change depends on 4.3(l).
- l. Some specialist registration regimes should remain unchanged, eg land, ships, aircraft.

4.3 Matters for debate

- a. To what extent should perfection by possession be permitted?
- b. Precisely what amounts to 'control' (WGD)
- c. The extent to which a security interest in an asset extends to its proceeds
- d. The registration system
 - i. The purpose of the system

- ii. The amount of information registered
 - iii. How much updating is required
 - iv. Paper to be written on 2 models: notice filing and priority notice systems.
 - v. The extent of asset-based registration included
- e. Whether the priority rules should include a PMSI. If so, whether and how a previously registered secured creditor should be notified of the PMSI.
- f. Whether buyer/lessee should take free of an unregistered interest if aware of it.
- g. Whether buyer/lessee of inventory or transferee of money should take free of a registered security interest if he knows that the sale etc is in breach of the security agreement.
- h. The circumstances in which a buyer/lessee will take free of a registered security interest over non-inventory.
- i. Precise scope of a statutory statement of remedies.
- j. Balance between secured creditor rights on enforcement and protection for the borrower.
- k. Priority on insolvency of persons who presently have priority over floating chargees (WGC)
- l. Whether registration of assignments of receivables is voluntary or compulsory, and whether the inclusion of assignments of receivables is limited (eg to trade receivables).
- m. Asset finance
 - i. Whether asset finance devices are included in the scheme.
 - ii. If included, should they be included in the registration scheme for the purposes of priority in relation to other interests?
 - iii. If they are to be so included, should registration be voluntary or compulsory?
 - iv. If registration is compulsory, should title interests be treated as security interests for all purposes or should the rules on enforcement be inapplicable to them?
- n. ROT clauses
 - i. Whether ROT devices are included in the scheme.
 - ii. If included, should they be included in the registration scheme for the purposes of priority in relation to other interests?
 - iii. If they are to be so included, should registration be voluntary or compulsory?
 - iv. If registration is compulsory, should title interests be treated as security interests for all purposes or should the rules on enforcement be inapplicable to them?
- o. Whether security interests created by consumers should be included in the same regime as those created for business purposes.
- p. Reform of law relating to security over IP.
- q. Various issues in relation to security over financial collateral.