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INTER-COUNTRY ROAD TRANSPORT FACILITATION

Issues in Bilateral and Multilateral Arrangements on Road Transport Facilitation in Asia and the Pacific
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Ariadne Abel

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Dr. Pritam Banerjee

CONTENTS

Introductory Note i

Issues in Bilateral and Multilateral Arrangements on Road Transport Facilitation in Asia and the Pacific 1
Virginia Tanase, Sandeep Raj Jain, Edouard Chong, Bekhzod Rakhmatov

Cross Border Transport Facilitation in the Context of the United Nations General Assembly Resolution 70/197: Prospects for the TIR and the Harmonisation Conventions 15
Tarcísio Hardman Reis

The TIR Convention and Benefits of Seamless Movement of Vehicles in the Bangladesh, Bhutan, India and Nepal (BBIN) Sub-Region 31
Ariadne Abel

Elements of a Motor Vehicle Agreement 51
Satish Kumar. Reddy

Operationalizing Connectivity and Trade Facilitation: Role of BBIN Motor Vehicles Agreement 72
Dr. Pritam Banerjee

Attachment-I: Outcome of the Regional Workshop on International Conventions on Land Transport Facilitation 90

Attachment-II: Motor Vehicles Agreement for the Regulation of Passenger, Personal and Cargo Vehicular Traffic between Bangladesh, Bhutan, India, and Nepal 94

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ASIAN INSTITUTE OF TRANSPORT DEVELOPMENT

The Institute is an independent, not-for-profit, inter-disciplinary organisation devoted to non-partisan research, education and training in the area of infrastructure with special focus on transport and logistics sectors. Its principal purpose is to promote balanced, equitable and sustainable development for enhancing overall welfare of the community.

The Institute has been granted special consultative status with United Nations Economic and Social Council. It also has a collaborative agreement with UNESCAP for undertaking joint activities. The Institute's membership from south and south-east Asian countries facilitates its well-defined mandate of promoting regional cooperation.

The Institute provides substantive support to various regional initiatives – BIMSTEC, SAARC, Mekong-Ganga Cooperation, etc. It promotes human resource development by organizing training courses for operational personnel from member countries of these groupings.

It also fosters research in universities by awarding scholarships to students pursuing M. Phil, Doctoral or post-Doctoral research. This programme is in the process of expansion with a long-term support of adequate corpus.

Introductory Note

Concordia res parvae crescent. Work together to achieve more. This Latin maxim for encouraging cooperation between people has never been more relevant for human betterment than it is today. And nowhere is this truer than in the matter of international trade; nor is the urgency greater than in the matter of fostering greater cooperation in economic affairs, especially in South Asia, where fourth-fifths of the world's poor live.

One of the determinants of international trade is the state of transport and trade facilitation between countries. Its importance can never be overstated because poor transport facilities and restrictive policy regime impose very high costs on trade. In South Asia, these costs tend to range between 13 and 14 per cent of the commodity value, compared to 7 and 8 per cent in developed countries. Clearly, there is a very strong case for a massive reduction in these costs.

International road transport between countries is mainly governed by three types of legal instruments – international conventions, bilateral agreements and multilateral agreements. These agreements and conventions broadly aim at harmonising the legal and regulatory framework for smooth and efficient cross-border movement of passenger and cargo vehicles. A set of international conventions and agreements which facilitate cross-border movements by different modes of transport have evolved over the past 50 years and have been operationally tested in Europe and other member countries of the United Nations.

The Asian Institute of Transport Development (AITD) had earlier organised a regional workshop on international conventions on land transport. During the workshop, issue of transport facilitation at subregional level was also discussed. The outcome of the workshop is still relevant and is included in this issue of the Journal. The papers in this issue also highlight the benefits of acceding to international conventions such as TIR Convention.

At the sub-regional level in South Asia, motor vehicles agreement between Bangladesh, Bhutan, India and Nepal (BBIN) was recently signed. The text of the Agreement is included in the Journal. Protocols to the Agreement are still under negotiation. Papers included in the issue bring out the complexities related to the finalisation of protocols. At the same time, they highlight the advantages of adopting readily available templates.

I hope this volume of the Asian Journal will add to the richness of the discourse on the subject of inter-country road transport facilitation. The paper contributors are eminent practitioners in this area. I thank Absar Alam for his editorial coordination.

K. L. Thapar
Chairman

Issues in Bilateral and Multilateral Arrangements on Road Transport Facilitation in Asia and the Pacific

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About United Nations Economic and Social Commission for Asia and the Pacific

United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) is the regional development arm of the United Nations for the Asia-Pacific region. Established in 1947 and composed of 53 Member States and 9 Associate Members, ESCAP works to overcome some of the region's greatest challenges by providing results oriented projects, technical assistance and capacity building to member States in various areas, with transport being one of the most important.

Status of Facilitation in the Region

The demand for transport in the Asia-Pacific region has grown rapidly due to high economic growth in many countries, a trend that is likely to continue. Increasing demand is placing unprecedented requirements for investment in transport infrastructure and in facilitation measures, ensuring that goods and people seamlessly move across borders. This, however, has come at a time when adverse impact of climate change and the transport's contribution to it has become a matter of concern for international community.

The Asia-Pacific has made efforts to strengthen transport connectivity in the region for many decades by improving both transport infrastructure and facilitation. Despite significant progress made, the region still has a long way to go in realising seamless regional connectivity infrastructure and operational facilitation.

Member countries have made efforts to open more international routes on the Asian Highway Network and enhance the efficiency of border crossings, aiming to enable goods to move unhampered across the region. To name a few, China, Mongolia and the Russian Federation recently finalised negotiations of an Intergovernmental Agreement on International Road Transport along the Asian Highway Network. Once in force, the Agreement will be open for accession to all the members of Asian Highway Network. ESCAP has supported the formulation of the Agreement by providing

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assistance for the negotiation, undertaking relevant research support and drafting of the Agreement.

With finalisation of Protocol 7 to the ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT) on Customs Transit System in 2015, the pilot implementation of ASEAN Customs Transit System (ACTS) in Malaysia, Singapore and Thailand is being undertaken during 2016. It is expected that the implementation of ACTS will significantly facilitate transport among ASEAN member countries and support the objectives of the ASEAN Economic Community.

The member States of the Shanghai Cooperation Organisation (SCO) signed the Intergovernmental Agreement on the Facilitation of International Road Transport in September 2014. This subregional road transport facilitation agreement is expected to significantly promote regional and subregional connectivity and integration connecting China, Russian Federation and the Central Asian countries. ESCAP supported the formulation of the Agreement since its initiation in 2004 by providing technical and financial assistance for the negotiation, undertaking relevant research support and drafting of the Agreement and its annexes.

Despite these initiatives international road transport in the region continues to face challenges because of limited road transport permits and traffic rights arrangements. In many countries, notably in South Asia transshipment of goods at the borders continues to be common practice due to absence of legal arrangements, implying that the countries concerned do not grant each other traffic rights (including international transport and transit) allowing goods to move in the same vehicle from origin to destination. For example, Myanmar has not yet concluded bilateral transport agreements[1] with its neighbouring countries and all cargo going in and out is transshipped.

Bhutan and Nepal respectively have concluded bilateral agreements with India on trade and transit which cover transport-related issues to a limited extent. Landlocked developing countries like Bhutan and Nepal have no other alternative for access to seaports than to rely heavily on their road transport links with neighbouring India as the bulk of their exports and transit cargo go to/through this country. Exports originating from Bhutan and Nepal must be transported to the nearest ports of Kolkata and Haldia, located on the east coast of India, in order to be shipped overseas. Similarly, imported goods from overseas markets must enter these two gateway ports before being transported to their final destinations in Bhutan or Nepal.

1. All the information on bilateral and multilateral agreements is collected in ESCAP database at https://tadb.unescap.org

In terms of transit to third countries geography makes India the most convenient transit country for Nepal, hence Nepal's trade with and through Bangladesh also transits through India. Nepal and Bangladesh do not have border with each other and have to rely on Indian corridors for transit traffic. India has extended Nepal transit routes to Bangladesh for bilateral and third country traffic based on India-Nepal bilateral agreements for trade and transit - the Treaty of Trade, the Treaty of Transit, and Agreement of Cooperation to Control Unauthorised Transit.

Under these circumstances, the initiative of Bangladesh, Bhutan, India and Nepal to enter into a multilateral transport agreement facilitating cross border and transit transport by road should be welcomed. The four countries signed a Motor Vehicles Agreement (MVA) in June 2015 and, currently, the protocols for the agreement are being finalised. Once in force, this agreement will open a number of routes for international road transport in South Asia.

In another subregion, namely in Southeast Asia, countries have progressed significantly in terms of cross border transport facilitation. Cambodia, Lao People's Democratic Republic, Thailand and Viet Nam have bilateral road transport agreements, thus enabling more efficient movement of goods and people. For example, cargo trucks of Thailand and Lao People's Democratic Republic can run to Vietnam and back without transshipment due to an agreement under which 500 licences have been issued by each country for operating cross border transport of goods. This reduces transshipment time and transport costs, thus contributing to regional economic development. Certainly, the existence of quantitative restrictions is still limiting the movement of transport between these countries, but the current progress creates hopes for further improvement.

Russian Federation and countries in Central Asia have achieved notable progress in terms of bilateral road transport arrangements except for Tajikistan and Uzbekistan which do not so far have any bilateral road transport agreement between them. The provisions of bilateral agreements between these countries are relatively well harmonised. For bilateral transport between Russian Federation, Kazakhstan, Kyrgyzstan and Uzbekistan, no permit is required for inter-state, bilateral or transit transport. Except the agreement between Kazakhstan and Uzbekistan, no permit is required for transit transport from or to a third country.

In addition, Armenia, Kazakhstan, Kyrgyzstan and Russian Federation are members of the Eurasian Economic Union (EAEU) and completely lifted Customs control for the carriage of goods by road transport on the internal borders between themselves. All types of Customs control were moved to the external border of the Union.

Given the dynamic nature of globalisation and emergence of new challenges for border agencies (e.g. related to security) facilitation of international road transport is a long-term endeavour for the region and member countries will need to make coherent, consistent and tenacious efforts to optimise facilitation of transport while implementing control/regulatory measures.

ESCAP Transport Facilitation Efforts

In order to remove the complex non-physical barriers, the countries may use the ESCAP comprehensive transport facilitation tools to effectively address facilitation issues. These tools include the regional strategic framework for facilitation of international road transport and a set of operational models with support of a regional network of legal and technical experts.

Regional Strategic Frameworks for the Facilitation of International Road Transport[2]

International road transport is a major mode of transport in the region for intra-regional trade. However, transport by road faces considerable challenges due to existence of numerous non-physical barriers.

Lack of a long-term vision and comprehensive approach for the transport facilitation in the region, hitherto, led to many facilitation efforts in relative isolation. These efforts yielded fragmented results and even created new barriers due to conflicting agreements, projects and measures leading to minimal impact on transport facilitation in the region.

Keeping in view the need to provide a strategic vision and common approach to address challenges to international road transport in the region, member states adopted the Regional Strategic Framework for the Facilitation of International Road Transport (RSF) at the ESCAP Ministerial Conference on Transport held in Bangkok in March 2012.

The RSF identifies six fundamental issues for the facilitation of international road transport and provides long-term targets along with the process to achieve them. It also provides for seven modalities for addressing the challenges to smooth and efficient transport by road in the region.

The RSF serves as a primary policy document on transport facilitation initiatives for member countries and their development partners to increase coordination among different facilitation agreements, projects and measures to avoid inconsistency and conflicts in planning, formulation and implementation, and thereby increase the

2. Available at http://www.unescap.org/resources/regional-strategic-framework-facilitation-international-road-transport

effectiveness of facilitation efforts. This will provide synergistic effect of facilitation measures benefiting member countries and their development partners.

Road transport permits and traffic rights are identified as one of the fundamental issues in international road transport in the Regional Framework adopted by the ESCAP member States. The suggested target indicated in the Framework is to apply multiple-entry transport permits, valid for one year for use on multiple routes or road networks for interstate and transit transport operations. Experience suggests that there is need for a substantive progress in this direction. As a fundamental premise, no international road transport can exist without traffic rights arrangements in place.

Visas for professional drivers and crews of road vehicles continue to be barriers for the smooth movement of goods and passengers across borders as professional drivers and crews of road vehicles are mostly treated like any other applicant for visa. In this regard, the suggested target indicated in the RSF - multiple-entry visas valid for one year for professional drivers along with harmonised set of documents and basic procedures – has not been attained, although it could ease visa issuance process for professional drivers and crew.

The minimum regional standard recommended in the Framework, regarding the temporary importation of road vehicles, is the application of relevant international conventions. However, no tangible progress has been noticed since the adoption of the RSF in 2012.

Insurance for vehicles engaged in international road transport is another challenge that impedes efficient road transport operations. Insurance continues to be commonly required to be purchased at each border crossing throughout the region. Only one ESCAP member State, Azerbaijan, acceded to the Green Card system or to any similar subregional system since the adoption of the RSF with only four countries from the ESCAP region being members of this system. Hence third party insurance of vehicles as a minimum regional standard remains a target to be attained.

The harmonisation of standards for vehicle weights and dimensions is paramount for improving the efficiency of regional road transport operations. Many ESCAP member States have harmonised their vehicle weight standards; however more needs to be done at regional level.

Divergent national vehicle weight standards oblige complying transport operators to load their vehicles sub-optimally when undertaking transportation of goods. Non-complying transport operators are fined, or make informal payments to continue their trip that is often delayed with potential financial implications. Lack of harmonisation

adversely affects the efficiency of transport operations and has a negative impact on the environment.

Less-than-efficient practices combined with lack of traffic rights, cumbersome documentation and procedures, including multiple inspections of goods and vehicles at the borders have resulted in facilitation of international road transport continuing to be a challenge for the region.

Full implementation of the RSF would significantly contribute to achievement of regional and subregional transport connectivity; while doing so, it will help improve road safety, transport security and transport efficiency. In addition, it will also help reduce transport cost, inordinate delays in transport process including at the border crossings, and help in controlling pollution as well as vehicle emissions caused by long waiting and transit time and large number of empty runs.

Models for Efficient Operations of International Transport

Many countries in the region and their development partners have been trying various ways to improve efficiency of cross-border transport by road and rail. However, overall progress is slow. The four models developed by ESCAP as a complete package can help address non-physical barriers through more flexible and practical arrangements for transport movement en-route and at border crossings, and also for identification and monitoring of bottlenecks. The four models together provide a comprehensive package of solutions for cross-border and transit transport among countries. The brief introduction of the models is presented in the following sections.

Secure Cross-Border Transport Model[3]

The Secure Cross-Border Transport Model provides a conceptual and standard basis for design of a cross-border vehicle monitoring system using new technologies, including ICT, satellite positioning and electronic seals. The model prescribes standardised components, their interaction and institutional requirements for its application in the cross-border transport.

It demonstrates how the use of these technologies can secure and facilitate trade and transport, while taking care of the concerns of controlling authorities, giving them the confidence they need, to open up more international land routes for international trade and transport. It also allows transport operators to manage safe and efficient operation.

3. Available at http://www.unescap.org/resources/secure-cross-border-transport-model

***Efficient Cross-Border Transport Models*[4]**

The Efficient Cross-Border Transport Models provide practical solutions to the difficulties in cross-border operations of land transport. With limited requirements of inter-governmental arrangements or absence of such arrangements, goods and passengers can be more efficiently moved across borders and for onward carriage based on the models.

With recent developments of trucking industry and technologies, the models use prime mover-trailer system and commercial cooperation to overcome institutional barriers and conflicts of commercial interest in international land transport. It can also largely reduce concerns on safety and security with entry of foreign vehicles in the region. It can minimise the need for difficult cross-border arrangements, such as visa for driver, driving licence, vehicle insurance, temporary importation of vehicles, standards of vehicles and transport permits. Similarly, the models also provide good practices for efficient inter-country railway operations.

***Model on Integrated Control at Border Crossing*[5]**

The Model on Integrated Control at Border Crossing provides more efficient information flow and sharing among various agencies at border crossings by application of modern technologies (including ICT as a centre) and streamlined process of documentation and procedures. It can help minimise interventions in the process of crossing borders by various border agencies while maintaining good controls.

The model promotes optimised use of modern equipment by different agencies and multiple usage of the results of inspections. It also helps streamline and simplify formalities and procedures for crossing border with re-aligned integrated scheme for a border crossing rather than different schemes for different agencies at the same border crossing.

***Time/Cost-Distance Methodology*[6]**

The Time/Cost-Distance Methodology is based on the graphical representation of data collected with respect to the cost and time associated with the transport process. The vertical axis of the model represents the time and cost incurred while the horizontal axis represents the distance travelled from origin to destination. The methodology enables easy comparison and evaluation of competing modes of transport operating on the same route and comparison of alternate transport routes.

4. Available at http://www.unescap.org/resources/efficient-cross-border-transport-models
5. Available at http://www.unescap.org/resources/model-integrated-controls-border-crossings
6. Available at http://www.unescap.org/resources/timecost-distance-methodology

The methodology is based on the premise that the unit costs of transport may vary between modes, with the steepness of the cost/time curves reflecting the actual cost, price or time. At border crossings, ports and inland terminals, delays occur and freight/document-handling charges and other fees are usually levied without any material progress or movement of the goods being made along the transport route. This is represented by a vertical step in the cost curve. The height of the step is proportional to the level of the charge or time delay.

The purpose of the methodology is to identify inefficiencies and isolate bottlenecks along a particular transport route and monitor the improvement of transport processes with facilitation measures.

The methodology allows further refinement to break down to a greater level of detail the contributory costs and time, for example, associated with border crossings. This may be particularly useful to policy makers in focusing their policy approaches on the most critical issues. Similarly, the inclusion in the methodology of data on inventory costs for particular commodities, demurrage charges and other indirect costs may be useful to specific export/import industries in evaluating their logistics performance.

ESCAP continues to work together with experts from member countries to complement these models, with a view to provide countries with a full set of tools for their use in achieving transport operational connectivity across the region and beyond. Selected forthcoming additional models are briefly presented hereafter. These new models will be submitted for adoption at the forthcoming Ministerial Conference on Transport (to be held in the fourth quarter of 2016).

Draft Model Bilateral Agreement on International Road Transport

A model bilateral agreement on international road transport has been elaborated on the basis of comparative studies of the existing bilateral agreements concluded between the countries of Asia and the Pacific region.

Within the scope of the study about thirty bilateral agreements on international road transport concluded between the countries of the region were analysed with the purpose to identify their common elements and propose ways to harmonise their provisions on the basis of the model bilateral agreement which ESCAP member countries could follow in the future while negotiating new bilateral agreements or trying to amend the existing ones.

The countries of the ESCAP region use quite different approaches to regulate international road transport operations, especially in respect of traffic rights. The level of their liberalisation ranges from limiting the geographical scope to routes in border areas

only to granting right of undertaking international road transport operations throughout the territory of a given country without permits.

In long-term perspective, liberalisation of international road transport operations and abolishment of transport permits should be considered as a target to follow. More specifically, although quantitative restrictions (such as permit quota) are acceptable and are still common practice, introduction of qualitative criteria for access to their markets could be considered instead.

However, it may take a long period of time before all countries of the region could accept such an approach, hence the Secretariat proposed three options for the model bilateral agreement on international road transport. These three options can also be used as suggested steps for a gradual opening of international transport markets between the parties concerned.

The first option of the model agreement is addressed to countries which currently are not prepared to grant general access to their territories for international road transport operations and prefer limiting their scope to designated routes and border crossings. This option of the model agreement also provides for permits for most types of transport operations.

The second option of the model agreement has no reference to designated routes and border crossings, but provides for permits with quotas in respect of most types of international transport operations. This approach is very common in the region.

The third option of the model agreement provides for permit-free legal regime for occasional transport of passengers and for bilateral and transit transport of goods. The permits are kept only for regular transport of passengers and for third-country transport of goods. A number of countries of the region currently follow similar approach in their bilateral agreements on international road transport.

Other provisions of the proposed model agreement are kept uniform to the possible extent to provide the countries with reference guide that could be followed during negotiations on bilateral agreements or amendments to them.

Gradual harmonisation of the provisions of bilateral agreements on international road transport throughout the region can ease their uniform interpretation by executing government agencies and the compliance by private sector in different countries and ensure their more efficient implementation for the benefit of international road transport, which is an important component of enhancing regional connectivity in Asia and the Pacific.

Regional Network of Legal and Technical Experts on Transport Facilitation

The Regional Network was formally launched in February 2014 as a key modality for building an effective legal regime and technical capacity for international transport facilitation in the region. It aims to assist member countries in upgrading the professional level of their officials and experts involved in transport facilitation, providing legal support for the formulation of relevant agreements, measures and projects and promoting the harmonisation and coordination of different legal instruments on transport facilitation.

In the region, valuable experience has been gained and a wealth of knowledge exists at the national, subregional and regional levels with respect to successful approaches to both the formulation and subsequent implementation of transport agreements.

Through the network, experts from the member countries, international, regional and subregional organisations and institutions may:

- Exchange information;
- Share experience;
- Coordinate with each other;
- Provide legal/technical support for accession to international conventions;
- Pinpoint areas of legal conflict between different subregional agreements and identify their implications;
- Suggest solutions for legal conflicts between different agreements in geographically overlapped countries;
- Suggest ways to connect the countries in different subregions under different subregional agreements;
- Study emerging issues in the field of transport facilitation; and
- Explore ways for regional harmonisation of legal instruments.

Negotiators of agreements, legal and technical experts from governments, international, regional and subregional organisations/institutions, transport professional associations and academic institutions, as well as legal practitioners from transport and transport-related industry can join the network.

The network will help implement facilitation initiatives in countries and provide legal and technical support for regional and subregional harmonisation of documentation and procedures for cross-border and transit transport.

Logistics in Asia and the Pacific

Participation in the globalisation process and rapid economic growth demands that countries not only have a comparative advantage in producing the goods and services

that they export but also that their supply chains be efficient, smooth and cost-effective. Without the right logistics systems to ensure such supply chains, comparative advantages in the production and distribution processes are diminished and countries get less benefits. Improving competitiveness of products and services by efficient, reliable, and low-cost logistics services make a notable contribution to the economy and to people's well-being.

In many countries of the region, the logistics industry faces challenges associated with high costs and poor performance. While some countries in the region rank among the best by international standards, the logistics performance of many of the least developed countries, landlocked developing countries and small island developing states still lag behind. As a result, logistics costs in many ESCAP member and associate member countries account for a significant proportion of gross domestic product (GDP). Existing research points to overall higher logistics cost for the ESCAP region in comparison to North America and Western Europe.

Logistics cost in emerging economies like China and Thailand amounted to 18 per cent of the GDP, and 12 per cent for the Republic of Korea. Logistics cost in Japan is one of the lowest in the region (8.9 per cent), slightly higher than the United States and the European average[7]. It is worth noting that comparison should be referred to with prudence as research methodology and statistical definitions may vary across studies.

ESCAP analysis shows that logistics cost differs widely in its region. Infrastructure quality, geographical location, human resource capacity, transport policies, tariffs and relevant regulations are among factors that affect logistics cost.

According to World Bank's Logistics Performance Index (LPI)[8], logistics performance in the ESCAP region has improved in recent years and is more or less on par with world average in 2016, scoring 2.9 points out of 5.[9]

Comparing to other regions, LPI score for the ESCAP region in 2016 is considerably lower than North America (4.0) and EU28 (3.6). Within the ESCAP region, there is considerable variance in country and subregional performance. For example, Australia, Japan, Singapore and Hong Kong, China were ranked among the top twenty best logistics performers, according to the World Bank LPI 2016. Meanwhile, some ESCAP

7. https://www.oecd.org/tad/events/global-forum-trade-2012-reliability-measuring-logistics-costs.pdf
8. The World Bank's Logistics Performance Index (LPI) is the weighted average of key elements such as efficiency of border clearance process, quality of infrastructure, professionalism of logistics service providers, timeliness of shipments, ability to track and trace etc.
9. https://lpi.worldbank.org/international/scorecard/radar/255/C/DEU/2016/R/EAP/2016/R/ECA/2016/R/LAC/2016/R/MNA/2016/R/SAS/2016/R/SSA/2016#chartarea

member states were ranked among the twenty worst logistics performers. Northeast Asia subregion scored 3.6, followed by Southeast Asia (3.0) and South and West Asia (2.7). North and Central Asia, comprising several landlocked developing countries (LLDCs), scored an average of 2.3 due to weak infrastructure and regulatory environment.

Logistics Information Systems

Countries within the ESCAP region are increasingly using information and communications technology (ICT) solutions to improve the performance of their transport and logistics sectors through the development and establishment of logistics information systems. Logistics information systems may serve as interfaces for fast, accurate and reliable data and information exchange and use. Such systems speed up service through reducing documentation preparation time through automation, increases transparency and traceability of cargo, simplify performance evaluation and may also reduce fraud and theft especially within a long and complex supply chain. In addition, logistics information system should also be linked to relevant authorities and organisations such as Customs, inland revenues, etc. to better facilitate cross border trade, reduce opportunities for corruption and increase State revenue. Increase in logistics efficiency will translate in lower logistics cost.

It is no coincidence that countries with good LPI scores have established logistics information systems. Examples of major logistics information systems within the ESCAP region include LOGINK[10] and e-PORT in China, NACCS[11] and COLINS[12] in Japan, PORT-MIS and SP-IDC[13] in Republic of Korea and TradeXchange in Singapore. Furthermore, to improve international transport and logistics connectivity, countries within Northeast Asia subregion: China, Japan and the Republic of Korea have taken the initiative to establish Northeast Asia Logistics Information Service Network (NEAL-NET), a transnational logistics information platform. NEAL-NET allows for efficient and effective exchange of logistics information and services to facilitate increasing trade and economic exchanges among the three respective countries.

In recognising the importance of Logistics Information Systems and their potential contribution to improve logistics performance, ESCAP has published a Regional Study on "The use of Logistics Information Systems for increased efficiency and effectiveness"[14] to promote the use of logistics information systems. The Study reviews the technical aspects

10. Logistics E-Hub
11. Nippon Automated Cargo and Port Consolidated System
12. Container Logistics Information System
13. Shipping and Port Internet Data Center
14. Available at http://www.unescap.org/sites/default/files/Regional%20Study%20-%20The%20use%20of%20Logistics%20Information%20Systems%20for%20increased%20efficiency%26effectiveness.pdf

of selected existing national and transnational logistics information systems, identifies good practices, provides general and technical recommendations, and proposes a Standard Model of Logistics Information System, in the establishment and operation of such systems. The Model will be submitted for adoption at the forthcoming Ministerial Conference on Transport.

To support the development of logistics policy in member countries, ESCAP has provided a regional platform for sharing best practices and know-how through the organisation of annual regional forum and meeting of CEOs of national associations of freight forwarders, multimodal transport operators and logistics service providers since 2007 and prepared guidelines on logistics policy. Guidelines have also been prepared for the establishment of minimum standards for freight forwarders, non-vessel operating common carriers and multimodal transport operators.

Also, recognising the strong human capacity aspect of the logistics industry, ESCAP is working with national associations to enhance skills and professionalism, including through logistics training material for foundation level and specific topic modules. Upon request by member countries, ESCAP conducts training-of-trainers workshops to help create a pool of local trainers and establish the basis for sustainable training in the industry. To further assist in the development of long-term and regular training programmes, ESCAP has developed an accredited training system for freight forwarders, multimodal transport operators and logistics service providers. The aim is to establish a regional framework for vocational training to help bridge the gap between introductory courses currently common in the region and advanced training, and promote the regional recognition of qualifications.

Summary

All of the above require consistent and comprehensive work aiming at strengthening transport connectivity, harmonising policies and standards, and increase the level of integration between the countries. Recognising the vital role of transport in social and economic development, personal welfare and regional integration, ESCAP assists its members and associate member countries by offering advice and support on tackling non-physical barriers to cross-border and transit transport. It promotes: unhindered safe and efficient movement of vehicles, goods and people across borders through the establishment of regional facilitation frameworks and standards, provision of facilitation tools and the harmonisation of documentation and procedures. ESCAP also assists countries in developing transport logistics policies and in enhancing the professionalism of logistics service providers.

With ESCAP assistance, some tangible results have enhanced national capabilities and helped to improve efficiency and make the movement of people and goods faster. Significant progress has been made towards the formulation of intra- and interregional transport linkages through the Asian Highway, the Trans-Asian Railway. Progress is being made in the area of integrated intermodal transport and attempts are being made to introduce environments that are conducive to the formation of partnerships with the private sector. The agenda is unfinished, however, and persistent efforts are required if transport is to make its essential contribution to economic and social development. ESCAP will continue with analytical and policy work, norm setting, and elaborating good practices for the benefit of its member and associate member countries. It will also continue to promote knowledge sharing, including through providing technical assistance to member States in the design and implementation of policies and measures leading to enhanced transport connectivity within the region and beyond.

Cross Border Transport Facilitation in the Context of the United Nations General Assembly Resolution 70/197: Prospects for the TIR and the Harmonisation Conventions

Tarcísio Hardman Reis*

Abstract

From early 1950s a number of international conventions have been adopted under the auspices of the United Nations Inland Transport Committee (ITC) in order to provide an international legal framework aimed at facilitating the movement of goods by road and rail. In particular, two of these conventions have been successful in providing a common ground for countries to implement concrete measures at borders. These include the Customs Convention on the International Transport of Goods under Cover of TIR Carnets, 1975 and the International Convention on the Harmonisation of Frontier Controls of Goods, 1982.

Decades later, the question remains whether cross border transport facilitation and, specifically, the TIR Convention and the Harmonisation Convention are contemporary concepts. The objective of this article is to provide an analysis of specific aspects related to cross border transport facilitation (i.e., the Agreement on Trade Facilitation, the Sustainable Development Goals, and the Vienna Programme of Action for Landlocked Developing Countries) in light of the recently adopted resolution 70/197 of the United Nations General Assembly. The paper identifies trends and opportunities or prospects in the field of cross border transport facilitation.

Introduction

Borders are an essential component of international relations. Along the years, frontiers have been clearly defined and procedures have been put into place with a view to allowing safe crossing of sovereign territories. After the Second World War, a lot of work has been done by the United Nations Economic Commission (UNEC) for Europe and, particularly, within the framework of the Inland Transport Committee (ITC), which

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was established in 1947 as a forum for representatives of the national ministries of transport in the region. ITC attained a particular significance for the standardisation in transport, as members included countries from both Eastern and Western Europe. This ensured a basic pan-European standardisation of infrastructure despite the climate of the cold war.[1]

Among other things, ITC produced a body of sixteen international instruments designed to facilitate the crossing of frontiers[2].This was supported by a multi-stakeholder collaboration aimed at developing international standards and procedures to facilitate border crossing and transit, which was formed by a number of organisations including the International Road Transport Union (IRU). While some of these instruments have lost their purpose or relevance, and others have not entered into force, the Working Party on Customs Questions affecting Transport – WP30 – remains a forum of predilection for discussions related to cross border transport facilitation.

As mentioned in the opening paragraph, among the instruments that were put into place, two have been particularly successful in providing a legal framework on border crossing related issues: the TIR Convention and the Harmonisation Convention.

The Customs Convention on the International Transport of Goods under Cover of TIR Carnets of 1975[3], which replaced and further developed the system created by the homonymous convention of 1959, is aimed at establishing an international customs transit system. Provisions under the TIR Convention include mutual recognition of customs controls, internationally recognised transit document – the TIR Carnet – controlled access for operators, a system of international guarantees and detailed descriptions on secured vehicles and containers that can be used under the TIR system. Although the TIR system was originally designed for European countries, the Convention was open for ratification by all members of the United Nations (UN)[4] and today it includes 69 Contracting Parties from different regions.

The idea of the TIR Convention is to put into place a legal framework providing an international transit regime applicable to the transport of goods under secured vehicles and containers. In fact, the term "transit regime" refers to the set of procedures under which goods are transported through countries from one customs office between one or more customs office(s) of departure to one or more customs office(s) of destination to

1. G Ambrosius, Christian Henrich-Franke "Integration of Infrastructures in Europe in Historical Comparison" Springer, Switzerland, p. 80.
2. http://www.unece.org/transport/international-agreements/transconventnlegalinst/list-of-agreements-for-tabs/border-crossing-facilitation-agreements-and-conventions.html
3. Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention) (Geneva, 14 November 1975) United Nations Treaty Series V. 1079, p. 89
4. See Resolution 1984/79 of the Economic and Social Council of the United Nations (ECOSOC).

another without payment of duties, domestic consumption taxes, or other charges normally due on imports and exports. These procedures were instituted to prevent goods intended for transit from 'leaking' into the domestic market, thus protecting transit countries from loss of fiscal revenue. Transit procedures should be simple, transparent, and efficient, to avoid unnecessary delays and extra costs. A poor transit regime is a major obstacle to trade.[5]

The second instrument is the International Convention on the Harmonisation of Frontier of Goods[6], known as the Harmonisation Convention of 1982, aimed at the international coordination of control procedures and their methods of application. Similar to the TIR system, it provides for a mutual recognition of customs controls and intends to facilitate border crossing procedures. In addition it sets an international framework for medico-sanitary, veterinary, phyto-sanitary, quality and technical inspections and establishes procedures for goods transportation by rail and road.

As noted, "where one or more of the countries involved are not eager to engage in either harmonisation, mutual recognition, or extraterritorial application and enforcement cooperation, regulatory authorities may resort to a unilateral tightening of border control. Border control can substitute for harmonisation as a mean of ensuring regulatory effectiveness. As border control does not require cooperation with another country, it is a politically lower-cost approach than the other means considered so far. However, the administrative costs it imposes are very high, and its regulatory effectiveness is uncertain. Furthermore, it raises the cost to corporations of exporting goods or services to the regulating country and may thus hinder the promotion of liberalisation"[7].

While the two conventions are very distinct, together they cover two topics that are crucial to faster border controls, which are transit and the harmonisation of procedures. Within this aim, each of the two conventions contains detailed provisions and practical requirements for the cooperation of border authorities. The TIR and the Harmonisation Conventions offer a number of international agreed provisions to assist countries in establishing closer cooperation in transport facilitation.

If the two conventions might be perceived as sets of detailed international requirements for cooperation among border authorities, a number of recent international developments placed cross border transport facilitation in the centre of international discussions. The most prominent of these international discussions are outlined in the

5. J-F Arvis et al, Connecting Landlocked Developing Countries to Markets: Trade Corridors in the 21st Century, The World Bank, 2011, p 58
6. International Convention on the Harmonisation of Frontier Controls of Goods (Harmonisation Convention) (Geneva, 21 October 1982) United Nations Treaty Series V. 1409, p. 3
7. J. Nakagawa, "International Harmonisation of Economic Regulation", Oxford University Press, 2011, p.9

United Nations General Assembly Resolution "Towards comprehensive cooperation among all modes of transport for promoting sustainable multimodal transit corridors"[8]. In the next pages we will examine in detail the relation between borders and some of the topics highlighted in the resolution, for example, Sustainable Development Goals, Trade Facilitation and the Vienna Programme of Action for Landlocked Developing Countries (VpA).

Cross Border Transport Facilitation and the Sustainable Development Goals

The Sustainable Development Goals were adopted by the UN General Assembly through its resolution 70/1, entitled "Transforming our World: The 2030 Agenda for Sustainable Development"[9], and was adopted on 25 September 2015. The document establishes 17 goals and 169 targets. Each goal announces an outcome expected by 2030 on a specific topic and is followed by a number of related targets[10]. Although no specific goal is directly related to transport, it is possible to highlight areas of direct convergence between transport and the Sustainable Development Goals, for example, Goal 7 on affordable and clean energy is related to the regulation of vehicles, and Goal 3 on good health and well-being is related to transport safety.

Resolution 70/197 reaffirms the 2030 Agenda for Sustainable Development and recognises "the important role of environmentally sound, safe, efficient, reliable and affordable multimodal transport and transit corridors for the efficient movement of goods and people in supporting sustainable economic growth, improving the social welfare of people and enhancing international cooperation and trade among countries"[11]. Based on the Resolution, it is possible to underline three of the sustainable development goals that are more closely associated with this topic, which deserve to be analysed one by one: Goal 9 "Build resilient infrastructure, promote inclusive and sustainable industrialisation and foster innovation", Goal 12 "Ensure sustainable consumption and production patterns", and Goal 17 "Strengthen the means of implementation and revitalise the global partnership for sustainable development".

Goal 9 – Infrastructure: Build resilient Infrastructure, Promote Inclusive and Sustainable Industrialisation and Foster Innovation

Goal 9 addresses industry innovation and infrastructure and it is possibly the one that most traditionally relates to international transport facilitation, as borders are

8. UNGA Resolution 70/197 "Toward comprehensive cooperation among all modes of transport for promoting sustainable multimodal transit corridors", 22 December 2015, UN Doc. A/RES/70/197.
9. United Nations General Assembly, 70th session, Resolution 70/1 "Transforming our world: the 2030 Agenda for Sustainable Development" UN Doc. A/RES/70/1 (21 October 2015).
10. For an overview of the Millennium Development Goals : http://www.unmillenniumproject.org/goals
11. UNGA Resolution 70/197 "Toward comprehensive cooperation among all modes of transport for promoting sustainable multimodal transit corridors", 22 December 2015, UN Doc. A/RES/70/197.

typically viewed as part of transport infrastructure. More specifically, targets 9.1 and 9.a deserve a closer analysis.

Target 9.1 aims at developing "quality, reliable, sustainable and resilient infrastructure, including regional and transborder infrastructure, to support economic development and human well-being, with a focus on affordable and equitable access for all", which is closely related to the scope of cross border transport facilitation instruments.

The Harmonisation Convention, for example, requests Parties to make efforts towards the development of appropriate facilities in a number of border controls, including facilities for veterinary inspections (Annex 3, Article 4), facilities for appropriate phytosanitary inspection, storage, and disinfestation facilities (Annex 4, Article 4), stations for the control of compliance with technical standards (Annex 5, Article 4) and quality control stations (Annex 6, Article 3). In addition, the Harmonisation Convention also sets up minimum requirements for border crossing points for road (Annex 8, Article 6) and rail (Annex 9, Article 4), as well as road vehicles weighing stations (Annex 8, Appendix 2).

As has been observed, "Implementation of regional transit regimes and, in many cases, improving current national ones may require capacity-building of the implementation agency to adequately manage the data on goods in transit. Information technology transit modules that automate the transit declaration or TIR Carnet would serve this purpose"[12]. In this regard, activities have been carried out to develop infrastructure in the context of cross border transport facilitation instruments.

An important example is the TIR IT risk management tools, namely, Real-Time Safe TIR and TIR-EPD, intended to both secure and facilitate the transport in transit performed under TIR. Real-Time Safe TIR ensures automatic real-time check of the validity of TIR Carnet and allows Customs to automatically send the data on the termination of a TIR operation. TIR-EPD, once integrated in the Customs system, allows Customs authorities to receive the advance information on transported cargo and to perform advance risk assessment in line with the WCO SAFE Framework of Standards, which, in turn, makes it possible to make a decision on the extent of control required in advance. These tools serve as a basis for more advanced border-crossing facilitation instruments and projects, such as TIR-EPD Green Lanes and the eTIR Project.

The objective of the eTIR project is to make the TIR System fully paperless and, thus, more flexible and secure at the same time. Within this aim, the Contracting parties

12. J-F Arvis et al, Connecting Landlocked Developing Countries to Markets: Trade Corridors in the 21st Century, The World Bank, 2011, p 187

to the TIR Convention have been working on the eTIR Project since 2003 with a view to developing an exchange platform for all actors involved in the TIR system. The eTIR international system is aimed at ensuring the secure exchange of data between national customs systems related to the international transit of goods, vehicles or containers according to the provisions of the TIR Convention and to allow customs to manage the data on guarantees, issued by guarantee chains to holders authorised to use the TIR system.

Figure 1: Operation of the e-TIR Project

While the Contracting Parties to the TIR Convention have been working on a computerisation project (laid down in a Reference Model) since 2003, Iran, Turkey, UNECE and IRU agreed to turn the project into reality by launching the eTIR Pilot project in 2015. The first phase of this project was successfully completed at the end of 2015 and proved that, based on existing TIR IT risk management tools, fully paperless TIR operations are possible between one customs office of departure and one customs office of destination of two neighbouring countries.

Currently, the second phase of the pilot project is underway, which includes more complicated scenarios, namely, the involvement of multiple places of loading and unloading. At the same time, the Group of Experts on Legal Aspects of Computerisation of the TIR procedure is currently reviewing various options to provide the eTIR system with the adequate legal framework.

Cross border transport facilitation is also a relevant concept for follow-up actions related to target 9.a, which is aimed at facilitating "sustainable and resilient infrastructure development in developing countries through enhanced financial technological and technical support to African countries, least developed countries, landlocked developing countries and small island developing states". Cross border transport facilitations, in particular as it relates to transit, is of upmost importance to landlocked countries and this is reflected in the Vienna Programme of Action for Landlocked Developing Countries for the Decade 2014-2024[13], which will be analysed later in this article.

Goal 12 – Consumption: Ensure Sustainable Consumption and Production Patterns

Consumption is addressed under the Sustainable Development Goals in a way that it also covers waste minimisation, production and generation. Since 2014, the Food and Agriculture Organisation (FAO) and the United Nations Environment Programme (UNEP) have launched a global campaign called "think-eat-save"[14] in order to promote coordinated action to reduce, among other things, the loss of food that gets spilled, spoilt or lost during its process [when processed] in the food supply chain before it reaches its final product stage.

Within these purposes, one of the areas of action is to strengthen the supply chain through the direct support of farmers and investments in infrastructure and transportation, and this has been reflected under target 12.3 of the Sustainable Development Goal which aims to "by 2030, halve per capita global food waste at the retail and consumer levels and reduce food losses along production and supply chains, including post-harvest losses".

The food supply chain comprises production, post-harvest processing and distribution stages. As most of the food is considered as perishable goods, transport time is key in order to prevent food loss. In fact, during international transport, a significant amount of time is spent at border crossing points[15].

In this regard, the system established by the TIR Convention improves the distribution of food by ensuring that cargo is transported across borders in a faster and more secured manner. In addition, it also allows the transit of food to be safer and more

13. UN, Vienna Programme of Action for Landlocked Developing Countries for the Decade 2014-2024, 3 November 2014, UN Doc.: A/CONF.225/L.1
14. www.thinkeatsave.org
15. According to the IRU New Eurasian Land Transport Initiative (NELTI), in which over 200,000 border crossings were monitored since September 2008, up to 57 per cent of transport time is lost at border crossings.

reliable by making simplified border procedures through the use of internationally recognised transit documents and guarantees.

The issue of food supply chain is also covered by other conventions, for example, the Harmonisation Convention improves efficiency and reliability in the distribution of food by incorporating a number of provisions aimed at encouraging Contracting Parties to reduce physical controls and promote cooperation at the border to expedite the passage of perishable goods. Another key instrument responding to the needs of secured food supply chain is the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for such Carriage (ATP)[16], which sets standards for the international transport of perishable food. The ATP agreement has been ratified by 50 countries.

Goal 17 – Partnership: Strengthen the means of Implementation and Revitalise the Global Partnership for Sustainable Development

A significant contribution has been made in order to coordinate international efforts towards the implementation of the Sustainable Development Goals. Goal 17 lists a number of targets in this direction and it is clear that cross border transport facilitation supports two of the targets under this goal.

Target 17.1 aims at "strengthening domestic resource mobilisation, including through international support to developing countries, to improve domestic capacity for tax and other revenue collection". The TIR Convention supports this approach by setting up a system aimed at ensuring that customs duties and taxes during transit operations are covered by an internationally recognised guarantee which is currently limited to 50,000 USD or 60,000 Euros per TIR Carnet.

According to Article 4 of the TIR Convention, goods transported under the TIR procedure are not subjected to the payment or deposit of import or export duties and taxes at customs offices *en route*. In fact, customs duties and taxes at risk are covered by an international guarantee organised by an international organisation, i.e. The International Road Transport Union[17]. This guarantee system relies on national guaranteeing associations that, in cooperation with the customs authorities, are responsible for resolving any irregularity in the context of a TIR transport.

16. Accord relatif aux transports internationaux de denréespérissables et aux enginsspéciaux à utiliser pour ces transports (ATP) (Geneva, 1 September 1970) United Nations Treaty Series v. 1028, p 122.
17. TIR Convention, Article 6.2bis

Figure 2: The TIR Guarantee

As a result, the TIR Convention, through its guarantee system, allows for improved security in the collection of duties and taxes by its Contracting Parties, as it relies on an international guarantee chain, applicable to goods in transit.

Target 17.10 covers a different aspect under the same goal, as it aims to "Promote a universal, rules-based, open, non-discriminatory and equitable multilateral trading system under the World Trade Organisation (WTO), including through the conclusion of negotiations under its Doha Development Agenda".

The TIR system promotes access to trade by creating transparent and internationally recognised requirements for operators, without unnecessary burdens for the private sector, which prevents non-trade barriers, such as technical requirements for transport companies, trucks and containers. Furthermore, the TIR Carnet provides a simplified document for transit, which is recognised by all TIR Contracting Parties and allows for less cumbersome administrative procedures.

The linkages between trade and border crossing were highlighted in the General Assembly resolution that recognises the "importance of transport and transit corridors in facilitating transport linkages on domestic routes and promoting urban-rural connectivity in order to boost economic growth at the local and regional levels, promote

interconnections between cities, peoples and resources and facilitate intra-regional and inter-regional trade".[18] A more detailed examination of the linkages between trade and cross border transport facilitation is presented in the ensuing sections.

Cross Border Transport Facilitation and Trade

Major difficulties in the smooth flow of trade across borders come in the form of administrative and procedural deficiencies. Such deficiencies include lack of transparency leading to discretionary practices by authorities; insufficient access to information on trade and customs laws, regulations and procedures; complicated and non-standardised procedures for customs clearance and inspections; absence of effective coordination among stakeholders at the national level; lack of coordination with neighbouring countries with regard to the harmonisation of procedures and documentary requirements; underdeveloped logistics services and multimodal transport; insufficient application of ICT; and lack of trained and competent human resources as well as institutional capacities[19].

In order to address that, the members of the WTO concluded negotiations on a landmark Trade Facilitation Agreement[20] (TFA) at its Ministerial Conference, organised in Bali, Indonesia, in 2013. TFA contains provisions for expediting the movement, release and clearance of goods, including goods in transit. It also sets out measures for effective cooperation between customs and other appropriate authorities on trade facilitation and customs compliance issues. It further contains provisions for technical assistance and facility building in this area.[21] In particular, Section I of TFA contains 12 articles that bring clarity to Articles V, VIII and X of the General Agreement on Tariffs and Trade (GATT) of 1994. It is expected that TFA will help improving transparency and participation in global value chains.

With the aim to providing a comparative overview of the relation between TFA and a number of instruments,WP30 adopted a document outlining the relation between TFA and three other conventions: The TIR Convention, the Harmonisation Convention and, following a specific request from the Parties, the Revised Kyoto Convention[22].

18. UNGA Resolution 70/197 "Toward comprehensive cooperation among all modes of transport for promoting sustainable multimodal transit corridors", 22 December 2015, UN Doc. A/RES/70/197.
19. UNESCAP, Trade Facilitation in Selected Landlocked Countries in Asia, 2006, p 17
20. WTO, Agreement on Trade Facilitation, WT/L/931, 15 July 2014
21. For more information: http://www.tfafacility.org/
22. UNECE Working Party on Customs Questions affecting Transport (WP.30), 142nd Session, Geneva, Switzerland, 9-12 February 2016: « Relation Between the WTO Trade Facilitation Agreement, the TIR Convention and other Legal Instruments » UN Doc ECE/TRANS/WP.30/2016/4.

The comparative table served to highlight that the TIR Convention, the Harmonisation Convention and Revised Kyoto Convention of the World Customs Organisation (WCO) do not pose any obstacles to the implementation of TFA. In fact, the comparison served to underline that a number of provisions under the TIR Convention and the Harmonisation Convention serve to instrumentalise certain obligations under TFA.

For example, Article 11(9) of TFA establishes that "members shall allow and provide for advance filling and processing of transit documentation and data prior to the arrival of goods". In comparison, the Harmonisation Convention poses a similar obligation in its Annex 9 in relation to international rail freight: Article 8 "the Contracting Parties shall endeavour to provide the customs authorities in advance with information on goods arriving at border (interchange) station (…)". It is noteworthy that TIR IT tools, namely, TIR-EPD present a real mechanism, allowing Customs authorities and transport operators to comply with the mentioned provisions.

Another example, Article 7 (4.3) of TFA requires that "each member shall concentrate customs control and, to the extent possible, other relevant border controls on high-risk consignments and expedite the release of low-risk consignments". The TIR Convention allows for the expedition of low-risk consignments, for example, under its Article 5 "goods carried under the TIR procedure in sealed vehicles, combinations of vehicles or containers shall not as a general rule be subject to examination at Customs offices en route (…)". The Harmonisation Convention indicates a similar aim, established under its Article 2 "In order to facilitate the international movement of goods, this Convention aims at reducing the requirements for completing formalities as well as the number and duration of controls…".

With years of negotiations, Contracting Parties to the TIR Convention have established a detailed system for cooperation in relation to the border control of goods, which includes a number of topics related to TFA. For example, risk management, authorised operators, financial guarantees, perishable goods, customs cooperation, coordination of border controls, etc. The TIR Convention is particularly relevant when it comes to the implementation of Article 11 of TFA on the Freedom of Transit as it provides a collaborative system for cooperation between countries on most of the provisions under that article.

The Harmonisation Convention also contains a significant number of provisions allowing for the implementation of TFA. It determines, for example, the exchange of information on goods subject to specific types of inspections and provides for particular circumstances calling for emergency border controls. The particular relevance of the Harmonisation Convention is that it contains detailed provisions directly related to

border controls such as detention of goods, urgent consignments, post-clearance audit, perishable goods, coordination of border controls, simplified document requirements, goods in transit, etc.

Together the TIR and the Harmonisation Conventions contain important provisions related to the implementation of the following articles of TFA on specific transport modalities: Article 1 - Publication and availability of information; Article 5 – Other measures to enhance impartiality, non-discrimination and transparency; Article 7 – Clearance of goods; Article 8 – Border agency cooperation; Article 9: Movement of goods intended for import under customs control; Article 10: Formalities connected with importation, exportation and transit; Article 11 – Freedom of transit, and Article 12 – Customs cooperation.

Having received the ratification of a large part of the developed and emerging economies such as the United States, Japan, China, the European Union, Brazil, India and the Russian Federation, it is expected that TFA will enter into force very soon. Having assumed a number of commitments in this topic, the Parties to TFA are expected to develop strategies related to cross border transport facilitation. The TIR and the Harmonisation Conventions allow for the coordinated implementation of such commitments and open the way for a multi-stakeholder cooperation on border related aspects.

Cross Border Transport Facilitation and Landlocked Developing Countries

Resolution 70/197 also emphasises the importance of cross border transport facilitation for landlocked developing countries[23] and recognises the importance of the framework of decisions related to landlocked countries which includes the recent Vienna Programme of Action for Landlocked Developing Countries for the Decade 2014-2024[24]. The VpA was adopted by the Second United Nations Conference on Landlocked Developing Countries in November 2014. It substitutes the Almaty Declaration and Programme of Action and provides for an extended framework for coordinated action in relation to landlocked developing countries until 2024.

A landlocked state is a term used to designate countries that are entirely enclosed by land, or whose coastlines lie on closed seas. The lack of access to the sea is not a purely geographic phenomenon as a majority of landlocked developing countries also face important economic challenges. Consider, for example, that about 44 out of 193 Member

23. UNGA Resolution 70/197 "Toward comprehensive cooperation among all modes of transport for promoting sustainable multimodal transit corridors", 22 December 2015, UN Doc. A/RES/70/197.
24. UN, Vienna Programme of Action for Landlocked Developing Countries for the Decade 2014-2024, 3 November 2014, UN Doc.: A/CONF.225/L.1

States of the UN are landlocked and that 20 out of 54 low-income economies are landlocked. This despite the fact that a number of landlocked countries are well-developed economies (e.g. Switzerland, Austria, Hungary, etc.).

In order to address the economic challenges of landlocked countries, VpA proposes a holistic approach to ensure coherence with existing global processes related to landlocked countries in order to help achieving sustained and sustainable economic growth and ensure their meaningful integration into the global economy. It calls for genuine partnerships between landlocked and transit developing countries and their development partners at the national, bilateral, sub-regional, regional and global levels.

Traditionally, the approach that has been used to address the limitations faced by landlocked countries consists of (1) facilitating the signing of regional or multilateral conventions aiming at ensuring freedom of transit, and (2) developing regional transport infrastructure.[25] VpA goes further, as it contains six priorities for action which are fundamental transit policy issues, infrastructure development and maintenance, international trade and trade facilitation, regional integration and cooperation, structural economic transformation and means of implementation. Thus, the approach of VpA incorporates concrete steps towards the structural transformation of national economies and infrastructure development, to improving international trade and bolstering regional integration and cooperation.

It is noted that "the establishment of a secure, reliable and efficient transit transport system remains critical for landlocked developing countries to be able to reduce transport costs and enhance the competitiveness of their exports to regional and global markets"[26]. In this regard, VpA has defined three specific objectives: (a) to reduce travel time along corridors with the aim of allowing transit cargo to move 300-400 kilometres per 24 hours, (b) to significantly reduce the time spent at land borders, and (c) to significantly improve intermodal connectivity with the aim of ensuring efficient transfers from rail to road and vice versa and from port to rail and/or road and vice versa.

In order to address this, VpA encourages landlocked developing countries to undertake a number of actions, including the ratification of legal instruments related to transit transport and trade facilitation, to enhance coordination and cooperation of national agencies responsible for border and customs related controls and procedures. It also aims at promoting simplification, transparency and harmonisation of legal and

25. J-F Arvis, G Raballand, J-F Marteau "The Cost of Being Landlocked: Logistics, Costs, and Supply Chain Reliability", The World Bank, 2010, p 2.
26. VpA, para 8, page 4.

administrative regulations related to transit system and the formulation of national transit policies.

The reference to international legal instruments on cross border transport facilitation indicates that improved international coordination in relation to transit systems is necessary, if not fundamental, to improve the economic situation of landlocked developing countries. The ratification of international legal instruments related to transit should be considered as the first step to be taken by landlocked developing countries towards the implementation of VpA.

As of priority 2 of VpA, the development of regional transport infrastructure generally requires a substantial financial effort. It has also been noted that infrastructure has a limited impact on trade of landlocked developing countries[27].

Perhaps the most important aspect of VpA in relation to cross border transport facilitation is the fact that it incorporated specific objectives related to trade facilitation that are in line with some of the provisions of TFA, such as to "significantly simplify and streamline border crossing procedures with the aim of reducing port and border delays" and to "effectively implement integrated border management systems and strive to establish one-stop border posts that allow for joint processing of legal and regulatory requirements, with a view to reducing clearance times at borders".

The fact that VpA established closer linkages between border management and trade is significant to promote the idea of cross border transport facilitation as going beyond customs regulations. In the particular case of landlocked developing countries, cross border transport facilitation is a strategic component with significant economic and political implications. As it has been observed "This geographical remoteness makes them dependent on neighbouring transit countries for their external trade. They depend on neighbouring countries' transit infrastructure, political stability, administrative procedures and practices in addition to good cross-border political relations"[28].

It is, therefore, surprising that 65 per cent of landlocked countries have not yet ratified the TIR and the Harmonisation Conventions. Moreover, there has been slow progress in the ratification of the TIR and the Harmonisation Conventions by landlocked countries. In fact, the Harmonisation Convention received only one ratification from a

27. "Infrastructure improvement mostly impacts direct transport costs, which are only a portion of the total transport costs faced by exporters and importers in LLDCs. Its impact may be further diluted if one takes a broader view of logistics costs, incorporating overheads and supply chain efficiency". J-F Arvis, G Raballand, J-F Marteau "The Cost of Being Landlocked: Logistics, Costs, and Supply Chain Reliability", The World Bank, 2010, p 22.
28. UNESCAP, Trade Facilitation in Selected Landlocked Countries in Asia, 2006

landlocked country since 2006. As for the TIR Convention, no additional landlocked country has ratified the Convention since 2001[29].

Conclusion

A momentum has been built to reinforce the linkage between border management and a number of international efforts. This appears to be the main purpose of the UN Resolution 70/197, which underlined the connection between border and development issues.

At foremost comes the fact that borders are the entry point to trade and, as a consequence, efficient borders are an important development objective. By improving border management, countries are likely to increase tax revenues, improve the local offer for products and transport services and strengthen regional cooperation. When it comes to promoting trade, intelligent borders are as important as infrastructure, trade promotion mechanisms and incentives to industry.

In this regard, the UN Resolution 70/197 focuses on the need for further cooperation to address the issues relating to transport and transit corridors as an important element of sustainable development and invites, in paragraph 11 of the Resolution, all States that have not yet done so to consider signing, ratifying or acceding to the UN conventions and agreements on transport and transit facilitation, including the TIR and the Harmonisation Conventions.

There is no doubt that the ratification of UN conventions on cross border transport facilitation are the first and crucial step that developing countries can do towards the rationalisation of border controls and improved cooperation between governmental authorities in this field. This is particularly important for landlocked developing countries, whose economy relies on consistent transit mechanisms and efficient border controls.

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29. Nonetheless, a special reference must be made to Afghanistan, a Contracting Party since 1982, which reactivated the TIR system in 2013 aiming to ensure the operation of the TIR system in the country.

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The TIR Convention and Benefits of Seamless Movement of Vehicles in the Bangladesh, Bhutan, India and Nepal (BBIN) Sub-Region

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Abstract

Impediments in international transport facilitation between countries has multiple negative impacts. It leads to increase in costs of trade due to lengthy administrative and customs procedures causing delays. To eliminate such procedural delays and provide seamless transport between countries by road, international transit facilitation arrangements have been negotiated at bilateral, regional and multilateral levels. TIR Carnets, 1975 is one of the important such initiatives that have proved successful. The present paper highlights the importance of TIR Carnet in South Asia, particularly against the background of Bangladesh, Bhutan, India and Nepal (BBIN) finalising protocols for implementing the Motor Vehicles Agreement (MVA) signed in 2015.

Introduction

"Customs requirements and lengthy administrative procedures can increase costs by 2 to 24 per cent of the value of traded goods. Revenue losses from inefficient border procedures may exceed 5 per cent of GDP, and a one day decrease in time spent during transport could increase trade by 4.5 per cent".[1]

Taking the above as a point of reference, the first half of this paper will present the development and codification of the principle of freedom of transit, the legal framework that has formed the basis of customs transit systems, the role of customs transit systems for international trade and economic growth, as well as the main elements that comprise a functional transit system. From there, the paper will continue with exploring the details of the TIR system as codified by the Customs Convention on the International Transport of Goods under cover of TIR Carnets, 1975[2], as well as outline the potential benefits of this system for the BBIN sub-region, against the background of the BBIN Motor Vehicles

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1. Paraphrased from OECD Policy Paper No.150: "Trade costs – What have we learned?" A synthesis report
2. Hereinafter:"the TIR Convention".

Agreement (MVA)[3]. The paper will include detailed information on the requirements for accession to and implementation of the TIR Convention.

The Principle of Freedom of Transit as the Basis for the Evolution of Customs Transit Systems

Customs transit systems are not a modern world phenomenon. They can be found in their original, primitive form already in pre-industrial Europe of the twelfth and thirteenth century.[4] However, modern international customs transit, as a concept and in the form of systems that have developed, is based on the legal principle of freedom of transit. Freedom of transit for commercial purposes is an acquired right under international law; at the same time, however, transit States have the right to regulate transit traffic in their territory. A transit system is a measure devised to facilitate the exercise of freedom of transit while still respecting the desire of sovereign States to set requirements for traffic and transit. Consequently, freedom of transit is required but ease of transit and border-crossing is what facilitates trade and, in turn, leads to economic progress.

Freedom of transit was first codified in the Barcelona Statute on Freedom of Transit of 1921[5]. Freedom of transit is also guaranteed under later international conventions and agreements such as the General Agreement on Tariffs and Trade (GATT)[6] 1947 and 1994, the New York Convention on Transit Trade of Landlocked Countries (1965) and the United Nations Convention on the Law of the Sea (UNCLOS 1982). Each of these legal instruments addresses issues of a different nature. There are, therefore, identifiable differences in the definition and conditions of transit. For example, GATT, in its Article V, and the Convention on Transit Trade of Landlocked States only include goods (including baggage) in the definitions of transit, but the Convention and Statute on Freedom of Transit and the UN Convention on the Law of the Sea also include passengers[7].

It is worth noting that while freedom of transit is only a single article in the GATT, it is utterly inseparable from the system that regulates international trade. From its inception, the GATT and the World Trade Organisation (WTO) has recognised, in GATT Article V, the principle of freedom of transit for goods moving through different territories for international trade. This fundamental principle has been so widely and consistently implemented that there has been almost no controversy about it in the

3. Motor Vehicles Agreement for the Regulation of Passenger, Personal and Cargo Vehicular Traffic between Bangladesh, Bhutan, India, and Nepal (hereinafter referred to as "BBIN MVA").
4. See Customs Modernisation Handbook, The World Bank, ed. Luc De Wulf and Jose B. Sokol (pg.246).
5. Convention and Statute on Freedom of Transit, 1921 (entry into force 31 October 1922).
6. General Agreement on Tariffs and Trade 1947 and 1994.
7. UNCTAD, 'Regional cooperation in transit transport: Solutions for landlocked and transit developing countries', (Note by the UNCTAD secretariat, TD/B/COM.3/EM.30/2, 2007), 5.

history of the GATT/WTO, despite the fact that goods are constantly moving in transit through its members. It is well established in international trade law that the customs authorities of a country do not seize or detain goods passing through their territory en route to foreign destinations without a good reason, such as suspicion of irregularities or criminal activity.[8]

Even though transit States retain a large measure of control over the access to their territory, freedom of transit cannot be absolutely restricted. Absolute restrictions are only considered lawful if they are applied in temporary and exceptional circumstances, such as war and civil unrest. It is, nonetheless, possible to restrict access for certain categories of goods if such restriction serves to protect public health and security, in cases of plant and animal diseases as well as weapons and drugs[9].

Therefore, it can be contended that, in a nutshell, the obligation in GATT Article V is that goods in transit are not to be unduly interfered with, nor discriminated against, by the transit State. It is considered the fundamental basis for the development of customs transit systems. Although Article V of GATT commits the Contracting Parties to facilitating transit traffic individually, in practice, and since a large volume of goods in transit cross more than one national border, regional or sub-regional cooperation has become the main vehicle for achieving the aims set forth in Article V of GATT. It is on this basis, among others, that the WTO Trade Facilitation Agreement was developed[10], which further elaborates the essential GATT provisions for expediting the movement, release and clearance of goods, including goods in transit.[11]

Transit Facilitation and Trade Facilitation

At the outset, it is worth noting that there is no single agreed definition of trade facilitation. International organisations dealing with trade or related aspects tend to define trade facilitation based on their mandate and objectives. Generally, trade facilitation refers to the simplification and harmonisation of international trade procedures.[12] Trade procedures are the activities, practices and formalities involved in

8. Frederick M. Abbott, "Seizure of Generic Pharmaceuticals in Transit Based on Allegations of Patent Infringement: A Threat to International Trade, Development and Public Welfare", the WIPO Journal, issue 1, 2009, pg.45 – 46.
9. For a complete analysis of the meaning and implementation of GATT article V, see Interpretative Note by the WTO on Article V, Freedom of Transit at https://www.wto.org/english/res_e/booksp_e/gatt_ai_e/art5_e.pdf.
10. For more information on the WTO-TFA see Hardman-Reis, T, "Border Crossing Facilitation in the Context of the United Nations General Assembly Resolution 70/197: Prospects for the TIR and the Harmonisation Conventions", in the present volume.
11. See WTO Trade Facilitation Agreement, article 11 "Freedom of Transit"(available at https://www.wto.org/english/tratop_e/tradfa_e/tradfa_e.htm)
12. Definition is according to the World Trade Organisation.

collecting, presenting, communicating and processing data required for the movement of goods in international trade.

Essentially, this can cover a broad range of issues such as the reform and standardisation of physical infrastructure and facilities, including customs and transport facilities, the use of international standards and best practices to rationalise, simplify and harmonise customs procedures, formalities, documents, regulations and laws related to import, export and transit of goods so as to ensure transparency, efficiency and predictability and, finally, automation and use of cutting edge information and communication technology to exchange trade related information.[13] The overarching objective of trade facilitation is, ultimately, to expedite the movement, clearance and release of goods while optimising necessary controls and revenue collection. It is, thus, clear that trade facilitation cuts across a wide range of issues and sectors, from government regulations and controls, business efficiency, transport, information and communication technology to the financial sector. Not only is it a technical, but also an economic, business, administrative and political issue[14].

It follows that inefficient, inadequate or expensive customs transit procedures constitute an impediment to the development of trading potential and overall economic growth. However, transit is equally important for all countries irrespective of their geographical location, as it is often the case that the most cost-effective way of exporting goods to their final destination may be by crossing through the territory of a neighbouring country. For example, goods transported to the North-eastern part of India from other parts of the country, often transit Bangladesh, as all alternative Indian routes are much longer.[15] Countries of transit also benefit from allowing traders to move cargo through their territory, as an efficient and seamless transit system increases logistics competitiveness and economic activity. The efficiency of such systems depends not only on customs authorities and administration, but most crucially, on governments and their commitment to allowing goods to transit through their territories, on the existence of appropriate infrastructure, banking, insurance, information and communications technology.[16]

Fundamentals of Customs Transit Systems

The purpose of transit legislation is to facilitate the transport of goods without payment of duties and taxes in the transit countries. This practice reflects the destination principle of taxation stipulated by the GATT/WTO, according to which consumption

13. GainmoreZanamwe, "Trade facilitation & the WTO: a critical analysis of proposals on trade facilitation & their implications .for African countries", Tralac Working paper, No.5/2005, September 2005.
14. As above.
15. See Customs Modernisation Handbook, World Bank, on "Costs of Transit Operations" pg 244.
16. See the report by the World Customs Organisation, "A Secure and Efficient Transit System", 2004

taxes are levied where products are consumed. The rates of VAT and excise applied are those of the country of final consumption, and the entire revenue accrues to the budget of that country. This system ensures production neutrality, since indirect taxes do not discriminate between foreign and domestic producers, and exports are exempt from domestic taxation.[17] The disadvantage is the need for monitoring cross-border trade flows.

Traditionally, when goods crossed the territory of one or more States in the course of an international transport of goods by road, the customs authorities in each State applied national controls and procedures. These varied from State to State, but frequently involved the inspection of the load at each national frontier and the imposition of national security requirements (guarantee, bond, deposit of duty, etc.) to cover the potential duties and taxes at risk while the goods were in transit through each territory. These measures, applied in each country of transit, led to considerable expenses, delays and interferences with international transport.[18]

The need to reduce these difficulties drove the development of regional or international customs transit systems; they aim to facilitate to the greatest possible extent the movement of goods under customs seals in international trade and to offer customs administrations a standardised system of control, replacing traditional national procedures, whilst effectively protecting the revenue of each State through which goods are carried[19].It follows that customs transit systems are not static. They develop in line with any global, regional or national developments, may those be political, economic, structural or technological.

The main features of a customs transit system are seals, guarantees (or bonds or deposits of duty) and documentation such as the customs declaration, indicating the value of the goods and the duty to be paid at the destination country; sometimes it is also required to provide a consignment note or invoice or other commercial document containing particulars of goods for shipment and which provides proof that the consignment has been received by the carrier for delivery. A distinction should be made between regional agreements dealing only with guarantees or only with administrative documents, and customs transit systems like TIR, discussed later in this article, that are more comprehensive arrangements that usually encompass all or most aspects of customs transit operations under a single procedure or administrative document including a guarantee.

17. See Black, J., Hashimzade, N. and Myles, G., "A dictionary of Economics", 3rd edition, Oxford University Press, 2009.
18. Extract from the TIR Handbook, Tenth Revised Edition, Chapter 1.1.4.
19. As above

In sum, a customs transit system is a trade and transport facilitation tool, whose development evolved from the principle of freedom of transit as codified in the WTO/GATT and other legal instruments. A customs transit system is maximally efficient when supported by information and administrative systems that:[20]

- confirm or guarantee the sealing of the cargo at the point where the transit operation is initiated;
- provide financial security to customs in the country of transit, which will guarantee the payment of duties if the goods do not leave the country of transit;
- use an efficient information system that allows certification that the transit goods have effectively left the country of transit so that the security can be released or activated in case of non-compliance.

An effective transit system can bring countries benefits of reduced waiting times and queues at borders and, as a result, lower transport and trade transaction costs as well as transparent, predictable and non-discriminatory rules for all transport operators. Customs authorities benefit from increased efficiency through the use of efficient control procedures and risk management and better protection of customs revenues.

The TIR Convention

The TIR Convention establishes and regulates the only existing global customs transit system, which combines fiscal and customs security via an efficient and cost-effective international financial guarantee system and, at the same time, appropriate mechanisms and procedures to ensure controlled access to the TIR system; this ensures secure door-to-door transport operations under customs seals. While there are numerous bilateral and regional transit agreements dealing with various aspects of transit, the TIR system is one of the only two fully developed systems that address transit in a holistic manner.[21] The TIR system is based on a United Nations Convention administered under the auspices of the United Nations Economic Commission for Europe (UNECE)[22] and is designed for international application. It comprises 69 Contracting Parties, 68 States and the European Union in its own right. As of 5 January 2015, the TIR Convention will enter

20. See "TIR Study", 2011 (pg.2) available athttp://www.unece.org/fileadmin/DAM/trans/bcf/wp30/documents/id11-05e.pdf
21. The other one is the EU Common/Community Transit System
22. UNECE hosts the TIR secretariat and is based at the United Nations Office in Geneva, Switzerland. UNECE services the TIR Convention treaty bodies as well as UNECE intergovernmental bodies dealing with inland transport and customs questions affecting transport. For more information on UNECE visit: http://www.unece.org/info/ece-homepage.html

into force also for China, which deposited its instrument of accession on 5 July 2016[23]. This will bring the total number of Contracting Parties to 70.

Map 1: Geographical Coverage of the TIR Convention

The TIR system is, in fact, the most broadly used international customs transit system currently available. It allows goods to transit from a country of departure to a country of destination in sealed load compartments with customs control recognition along the supply chain. This minimises administrative and financial burdens and customs duties and taxes that may become due are covered by an international guarantee. The TIR system is simple, flexible and cost-efficient, factors that have contributed to its widespread use and success. The TIR system is not only applied in European countries, but also in the Caucasus, Central Asia and some parts of the Middle East. The most recent accessions were that of the Islamic Republic of Pakistan, in effect as of 21 January 2016, and of China, which will come into effect on 5 January 2017.[24]

***Principles of the TIR System*[25]**

In order to ensure that goods may travel with minimum interference en route and yet offer maximum safeguards to customs administrations, the TIR regime comprises five basic elements:

- Goods should travel in customs-secure vehicles or containers;

23. See Depositary Notification: http://www.unece.org/fileadmin/DAM/trans/conventn/depnots/2016-503e.pdf
24. http://www.unece.org/fileadmin/DAM/tir/documents/CN.420.2015-Eng.pdf and *ibid*
25. This section is extracted from the TIR Handbook, Tenth revised edition, Chapter 1.2.

- Throughout the journey, duties and taxes at risk should be covered by an internationally valid guarantee;
- Goods should be accompanied by an internationally accepted customs document (TIR Carnet), opened in the country of departure and serving as a customs control document in the countries of departure, transit and destination;
- Customs control measures taken in the country of departure should be accepted by all countries of transit and destination;
- Access to the TIR procedure for national associations to issue TIR Carnets and to act as guarantor; and natural and legal persons to utilise TIR Carnets shall be authorised by competent national authorities.

Another element is the TIR IT risk management tools; this aspect has been evolving as one of the principles of the TIR system in light of the importance of computerisation of all TIR-related procedures for the purposes of further security and facilitation of transit.

Finally, it is important to note that the TIR procedure can also be used for intermodal transport, as long as there is at least one road leg in the journey[26].

How It Works

After a strictly defined selection process by national associations and national customs authorities, the TIR Carnet holder is granted the authorisation to use a TIR Carnet[27]. This TIR Carnet functions dually as a customs transit declaration and as evidence of the existence of an internationally valid financial guarantee. The Carnet is duly completed and stamped by customs authorities, who seal the load compartment at departure, and, thus, ensure the integrity of the load to customs authorities at all successive border crossing points, while avoiding time-consuming inspections or bond deposits at each border.

Every national guaranteeing body - an association or chamber of commerce representing the interests of the transport sector in a particular country - is authorised by the customs administration of that country to guarantee payment within that country of any duties and taxes which may become due in the event of any irregularity occurring in the course of a TIR transport operation. The national guaranteeing association, therefore, guarantees the payment of duties and taxes of national and foreign carriers for TIR

26. See Article 2 of the TIR Convention, 1975; the only condition is that there is no intermediate reloading of the cargo when switching modes, i.e. the load compartment or container must be transported sealed on all modes along the journey.
27. For the list of selection criteria, see TIR Convention, 1975, Annex 9 Part II.

Carnets which have been issued by itself or by a TIR guaranteeing association in another country.[28]

The TIR guarantee system has been organised and administered by the International Road Transport Union (IRU)[29] since the very establishment of the TIR system in the 1950s. As of 2002, IRU has been performing this task on the basis of formal authorisation, granted by the TIR Administrative Committee – the highest decision making body of the TIR Convention[30] – to take on responsibility for the effective organisation and functioning of an international guarantee system. While the Convention contains detailed legal provisions on the TIR guarantee as such (validity, maximum amount, conditions for invoking, deadlines for payment, etc.), it does not specify how the TIR guarantee system should internally be organised, leaving this issue up to IRU and its partners within the international guarantee chain (national associations, insurance companies, etc.), with scope and – recently - requirement for supervision by the competent TIR intergovernmental bodies in a transparent manner.[31]

It should be noted that the guarantee given by the guarantee chain to customs authorities is only activated when the TIR Carnet holder has failed to settle a payment request directly and, as a result, the guarantee chain has to meet the claim. In other words, it is the holder of a TIR Carnet who assumes direct, personal and primary liability for all duties, taxes, interest and fines which may be claimed by a customs authority as a result of an irregularity in the international transport operation involving a TIR Carnet issued to him.

The financial backbone of the IRU guarantee chain is based on a two-tier system[32]:

- The international component is based on a global insurance contract between IRU and the global insurer[33]with national guaranteeing associations as beneficiaries. The contract covers the guarantee/surety provided by IRU to national associations to back up the surety that national associations are providing towards customs authorities. The aggregate maximum limit covered per year is CHF 300,000,000. The contract provides a guarantee/surety in all Contracting Parties where the TIR procedure can be used;

28. See "Spectrum of Border Crossing Facilitation Activities", UNECE (2015) (pg.13), available at http://www.unece.org/fileadmin/DAM/trans/bcf/publications/Spectrum_of_Border_Crossing_Facilitations_Activities.pdf.
29. For more information on IRU see https://www.iru.org/.
30. Comprised of all Contracting Parties to the TIR Convention, 1975.
31. See TIR Convention, Annex 9, Part III.
32. See associations' TIR manual (training version) https://www.untrr.ro/IRU-TrainingCD/Reference/Manuel_Association_Part_1_01082004.htm
33. As of 2011 – AXA Winterthur.

- The national component is based on contracts between national guaranteeing associations and insurance companies/financial institutions with the aim of covering the liabilities of the holder towards the guarantee chain.

In practice, the global insurer can recover claims paid by it from the national insurers/national financial institution up to the maximum of the national insurance contract. The national insurer/national financial institution, in turn, can seek recovery from the TIR Carnet holder in cases where the latter is at fault. In legal terms, the guarantee chain is based on the following contractual arrangements:

- Guarantee agreement between the customs authorities and the national association as required by Annex 9, Part I of the TIR Convention;
- Deed of Engagement of the association towards IRU concerning the issuance of TIR Carnets;
- Declaration of Engagement by the transport company towards its association for admission to the TIR customs system and authorisation to use TIR Carnets, in line with the requirements of Annex 9, Part II of the TIR Convention.

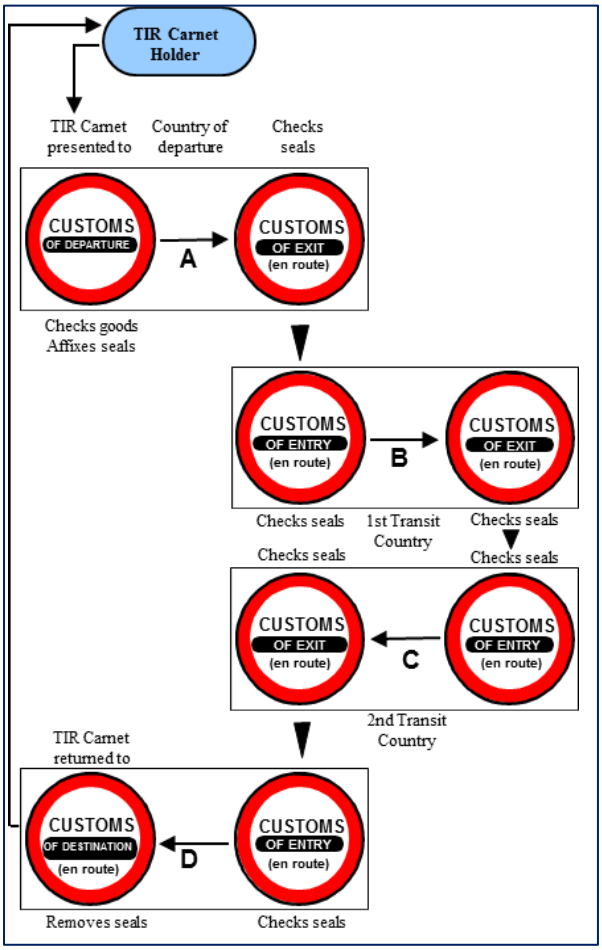
The effective implementation and success of the TIR system is, by and large, attributed to the innovative and unique Public-Private-Partnership for the guarantee chain, which is also characterised as the only one with the capacity for global application. It should be further highlighted that this guarantee chain functions pursuant to the provisions of the Convention but is dependent on several factors beyond it, such as inter-related tiers of insurance as well as the relevant national and international (private) laws and regulations governing such contracts and the related claims. This becomes evident in situations where parties take recourse to a domestic court system for the settlement of a claim. In these cases, it is the domestic legislation and the international laws governing contract law that determine the outcome of a claim, not the TIR Convention itself. Figure 1 provides an overview of how a TIR transport actually works:

How TIR Can Benefit the Bangladesh, Bhutan, India and Nepal (BBIN) Sub-Region

The trading and growth potential of the Indian sub-continent is significantly hindered by inadequate transport infrastructure, insufficient regulatory inter-governmental cooperation and integration as well as – primarily– due to historical, political and economic reasons[34]. In practical terms, Bhutan and Nepal are landlocked countries and depend solely on transit through neighbouring countries.

34. For more in-depth analysis on the historical evolution of trade and transport in South Asia see Rahmatullah, M. "Transport issues and integration in South Asia", in "Promoting Economic Cooperation in South Asia: Beyond SAFTA", Sage publications, 2006.

Figure 1: The TIR System in Operation



They principally rely on India's eastern coast for their international trade. Due to several bottlenecks, including those at border-crossings, they face costs that would be significantly lower if an effective transit regime was in place. According to data from 2014, for example, the average customs transaction in Nepal involves 20 to 30 steps, 40 documents, 200 data elements and re-keying of 60 to 70 per cent of all data at least once[35].All BBIN countries are considered to be at a competitive disadvantage on all indicators relating to efficiency of border administration, according to the Global Enabling Trade Report (2014)[36]. Even though the four BBIN countries trade significantly between them, the moderately enabling regulatory framework appears to be greatly proliferated, with a multitude of bilateral or trilateral agreements dealing with various different aspects of trade and transport between each of them with each other individually and in different manners; that is to say, there is a lack of regulatory and procedural harmonisation in the treatment of trade related issues, including transit.

The movement of trucks, in particular, is more often than not carried out with transhipment of cargo at the border, which increases both the time and cost of international transport of goods in the region. After the South Asian Association for Regional Cooperation (SAARC) level MVA fell through in 2014, due to lack of consensus,

35. See Kamat, S., "Customs Trade Facilitation in South Asia: the road ahead post Bali", working paper at the multi-year expert meeting on transport, trade logistics and trade facilitation, UNCTAD, 1-3 July 2014.
36. The Global Enabling Trade Report, 2014, World Economic Forum (WEF), see country profiles (Chapter 3).

the BBIN sub-group of the SAARC member States decided to proceed with it as a sub-regional agreement. The BBIN MVA was signed in June 2015 at Thimphu, Bhutan by the Transport Ministers of the four countries. This agreement – only marginally modified by comparison to the original SAARC draft – is a framework agreement which is expected to drastically improve the conditions of cross-border vehicular traffic for goods and passengers across these countries. When considering the impact of this agreement, it is also worth noting the sprawling vastness of the borders under discussion:

Table 1: Length of Borders with Bordering Countries of BBIN[37]

Countries	Bordering Countries	Length of Land Border
Bangladesh	Myanmar	271 kilometres
	India	4142 kilometres
Bhutan	China	477 kilometres
	India	659 kilometres
India	Bangladesh	4142 kilometres
	Bhutan	659 kilometres
	Myanmar	1463 kilometres
	China	3380 kilometres
	Nepal	1690 kilometres
	Pakistan	2912 kilometres
Nepal	India	1690 kilometres
	China	1236 kilometres

As mentioned earlier, the BBIN MVA is a framework agreement, which upon its official ratification by all participating States, would also require the negotiation and entry into force of further implementing Protocols on, among others, fixing customs procedures, volume of cargoes and passengers, transit fees, routes, insurance, and so on. As one commentator pertinently observed, the actual impact of an agreement, especially an agreement whose objectives are to facilitate trade and reduce the cost of doing business across borders, is critically dependent on the design of that agreement and the quality of implementation; the design of an agreement refers to its ability to incorporate the micro-level operational issues and the quality of implementation refers to the ability of the agreement to incorporate solutions and procedural norms that resolve such micro-level operational impediments.[38]

In this regard, an agreement such as the BBIN MVA, requiring separate implementing legislation, potentially on bilateral or trilateral bases, would only appear to

37. Combination of official sources.
38. See Banerjee, P., "BBIN-MVA: Unlocking the potential for vibrant regional road freight connectivity", Discussion paper, CUTS International, July 2015.

add to the legislative fragmentation rather than promote harmonisation and standardisation of procedures. On the other hand, the TIR Convention incorporates all aspects of a comprehensive, harmonised procedure, which could very well serve the objectives of the BBIN MVA as it relates to issues of transit. For example, Bangladesh does not recognise insurance policies made in India, Nepal or Bhutan, but the BBIN-MVA requires comprehensive policies for vehicular traffic. This has resulted in ad hoc contractual arrangements for mutual recognition and coverage between insurance providers so that their policies can be honoured abroad[39]. In the case of the TIR Convention, as noted earlier in this article, there would be no such issue, as national guarantors are covered locally by a national insurance contract, linked to a global contract, thus dispensing with the need for multiple bilateral contractual arrangements.

In addition, the legal certainty and reliability of knowing what a procedure entails and how it is to be applied throughout the region would immensely improve the volumes of traffic and trade, and the security of knowing that State revenues are guaranteed would vastly improve the efficiency of border controls for traffic in transit. When envisaging a fully operational TIR system in the BBIN sub-region, it is actually difficult to detect any down-side. In fact, it has been estimated that the implementation of TIR could yield economic benefits ranging from 0.14 per cent to 1.31 per cent of national GDP.[40]

It is worth noting at this point that the United Nations, as well as the WTO and other international organisations have, early on, advocated for the benefits of multilateral transport agreements for, in particular, South-Asia[41]. By 2016, however, none of the BBIN countries has acceded to the TIR Convention, 1975, and perhaps – at this point of the discussion – it is worth looking into why such a step has not yet been taken and whether the potential obstacles to accession could be pragmatically resolved. In this context, one has to also consider the possible political or strategic considerations linked to any decision to accede to any multilateral agreement. Those considerations notwithstanding – as they would be too complex to analyse for the purposes of this article – the focus will be on the practical impediments, if any, to the BBIN countries acceding to the TIR Convention and possible ways to address them.

Requirements for Accession

To become a Contracting Party, any United Nations member State can submit an "instrument of accession, acceptance or approval" to the Secretary-General of the United

39. See Mishra, R., "BBIN: A new tool in India's Sub-regional diplomacy", Indian Council of World Affairs, Policy Brief, July 2015.
40. Information provided by IRU
41. See for example Resolution 48/11 of 23 April 1992, adopted by UNESCAP.

Nations. Typically, becoming a Contracting Party to a Convention after it has already entered into force requires the formality of accession, whereas acceptance and approval are required for signatory States. The TIR Convention, in particular, was open for signature until and including the first of December 1976. Since then, it has been open to accession for all State members of the UN, as well as for State members of specialised agencies of the UN, States invited by the General Assembly of the UN and for Economic or Customs Unions, as long as all their member States are also Contracting Parties[42].

The instrument of accession is a letter, signed and sent via official channels to the Secretary-General of the United Nations. In practice, the Treaty Section of the Office of Legal Affairs at the United Nations Headquarters in New York City will receive and register the accession. The instrument of accession can only be signed – and therefore be valid – by the Head of State, Head of Government or the Minister for Foreign Affairs, depending on the institutional and constitutional structure of a country. Becoming a Contracting Party does not involve any financial obligation or fee.

Before a Head of State, Head of Government or Minister for Foreign Affairs signs and sends the letter of accession, domestic constitutional procedures usually have to be followed for a State to make a formal decision to become a Contracting Party to a Convention. This, in some cases, means that Parliament has to agree, or that the Constitutional court of the country has to examine the treaty in question and to provide a formal confirmation that the Convention does not contradict the Constitution (judicial review). In other cases, various councils or other institutions within the government have to give their approval before the letter of accession can be sent.

Bearing in mind that there are thousands of international Conventions currently in force in the world, governments are not always fully aware of the existence of legal instruments that could be of value for their country. This is also the case with the TIR Convention. As such, accession cannot take place until the government and other involved institutions (e.g. Parliament) are convinced that it is a good idea to accede and provide formal approval to this effect. For this to happen, often practice has shown that it is necessary for those advocating for accession to, on the one hand, contact the relevant public authorities and on the other hand to:

- provide a copy of the Convention in the national language (The TIR Convention is available in the six official languages of the UN)[43] together with a summary of substantive international obligations and an assessment of whether these obligations affect national interests;

42. See article 52, TIR Convention, 1975.
43. See http://www.unece.org/tir/tir-hb.html.

- conduct and provide a cost-benefit analysis, outlining the resources (fiscal or human) required to effect implementation (e.g. training, setting up certification authorities or enforcement agencies etc.), and the quantitative or qualitative benefits of implementation within the first five to ten years;
- provide a list of legal reforms required at the national level (if any); and
- hold consultations with industry representatives and civil society to ensure full transparency and legal certainty for professionals in the field affected by the new rules.

Once the instrument of accession is deposited, the Convention enters into force automatically after a designated period of time; for the TIR Convention, this period is six months. The transitional period between accession and entry into force is designed to allow governments to prepare for implementation. Unless a Convention specifically provides for progressive implementation or transitional periods after the entry into force, generally speaking once a Convention enters into force for a country, it is no longer possible to invoke national law as grounds for non-implementation. This also means that, where necessary, national legislation has to be adapted to enable implementation; simply put, the international obligations of a State vis-à-vis other States in the context of a multilateral agreement supersede impediments imposed by national law to the extent that the latter adapts to the former and not vice-versa[44].

Requirements for Implementation

As mentioned earlier, in order for the TIR Convention to become operational in a Contracting Party, the guarantee chain needs to be set up. This entails designating the competent authority for the selection of the appropriate guaranteeing body (association, chamber of commerce etc.); the selected guaranteeing body should also be a member association of the international organisation authorised to manage the guarantee chain (currently IRU), and should be able to – also – fulfil any requirements that IRU may impose, in addition to those specified by the Convention. Further to this, a guarantee agreement should be drawn up and concluded between the designated guaranteeing body and the competent authorities (usually customs). Other authorities should also be appointed for the approval and certification of road vehicles and load compartments or containers in accordance with the TIR Convention. Finally, competent authorities should

44. Article 27, Vienna Convention on the Law of Treaties, 1969 (VCLT) makes clear that the obligation to perform international treaties in good faith applies irrespectively of any conflicting domestic law. It is the duty of the treaty party under international law to ensure that all national provisions are compatible or brought into line with the international treaty provisions. Notably several articles of the VCLT (if not its entirety) are considered to bind all States (even those that have not ratified it), by virtue of them having acquired the status of customary international law even before VCLT was concluded (see Aust, A., "The VCLT as a reflection of customary international law", Max Planck Encyclopedia of International Law).

publish a list of border crossing points where the procedure can be used, for the benefit of all users of the system in all Contracting Parties.

However, these are necessary, but not sufficient conditions for implementation. Customs authorities and any other competent authorities need to be trained as to how to perform the tasks related to TIR operations in their country, as well as with regard to their obligations vis-à-vis the TIR Executive Board.[45] In addition, transport operators interested in becoming admitted to the system should familiarise themselves not only with the requirements for admission and the operational details, but also with the technical requirements that their vehicles and load compartments or containers should fulfil in order to be able to use the procedure.[46]

After all the above have been fulfilled, the necessary technological infrastructure must be developed for the use of available electronic tools[47] that improve risk assessment and efficiency and, eventually, move to full computerisation. There are two main TIR IT tools which serve these purposes. The Real-Time Safe TIR system is intended for the automation of TIR related customs procedures and allows customs officers to check, in real time, the status of any TIR guarantee, to automatically transmit the data on the termination of the TIR operation on the territory of their country in line with Annex 10 of the TIR Convention and to ensure the automatic reconciliation of electronic and paper-based data related to the termination of TIR operations, if need be. The second tool – TIR-EPD, enables TIR Carnet holders to send the information on transported goods in advance to the customs authorities of the countries to be crossed with the cargo covered by the TIR Carnet, for the purposes of advance risk assessment. This allows customs to take decisions on the degree of required controls. This approach is in line with the WCO SAFE Framework of Standards and for the same reason, the requirement to submit the information on transported goods in advance becomes mandatory in a growing number of countries (the countries of the European Union, Belarus, Iran, Kazakhstan, Kyrgyzstan, Russian Federation, Ukraine). TIR-EPD allows transport operators to comply with this requirement, on one hand, and use the TIR-EPD service to benefit from further facilitation provided by the advance risk assessment, on the other hand. This facilitation

45. The TIR Executive Board (TIRExB) was established as a subsidiary body of the TIR Administrative Committee, by Contracting Parties in 1999. It is composed of 9 members elected in their personal capacity by the governments which are Contracting Parties to the Convention for two year terms of office. It is, among others, mandated to supervise the centralised printing and distribution of TIR Carnets, to oversee the operation of the international guarantee and insurance system and to coordinate and exchange information among customs and other governmental authorities.
46. For detailed information on the requirements for implementation see the TIR Handbook, 10th revised edition http://www.unece.org/tir/tir-hb.html.
47. Such as the International TIR Data Bank (ITDB), managed by UNECE and the TIR IT tools, managed by IRU.

finds its further development in TIR-EPD Green Lanes - the lanes dedicated for TIR transports for which the information was sent to customs authorities in advance.

Is TIR for BBIN?

The previous section has demonstrated the administrative and procedural complexity of setting up the TIR system in a newly acceded Contracting Party. A study undertaken by UNESCAP[48] to examine issues relating to participation in international conventions – including TIR - in the region found that some countries had concerns with respect to the cost of adjustment to meet the requirements of conventions; difficulties in implementation; lack of involvement in elaboration and amendment of conventions; and inadequate national capacity.

On the other hand, it is important to view the TIR Convention as a long term investment. One could even go as far as to contend that the TIR system was one of the pivotal starting points of European integration, even before it was codified into an international agreement, at the end of the Second World War and as part of the efforts to reconstruct the European economy and to kick-start trade. Customs transit is one of the cornerstones of European integration; it represents the first implementation of the principle of (regulated) freedom of movement of goods[49] in the early days of European integration[50]. Europe has come a long way since then, but – arguably – precisely due to that initial investment that allowed countries to trade with a reliable and secure transit system, which today is still relevant, and constantly modernising itself to cater to changing demands and environments, such as the need for computerisation.[51]

Once operational, the TIR system can and does provide significant benefits for origin, transit and destination countries alike. Especially for landlocked countries striving

48. ESCAP, 2013, Discussion Paper on Harmonisation and Strengthening of the Regulatory and Legal Framework Pertaining to International Transport and Transit; Presented at the ESCAP/OHRLLS/ECE/Government of Lao PDR Final Regional Review of the Almaty Programme of Action for the Landlocked Developing Countries held 5-7 March 2013 in Vientiane, Lao People's Democratic Republic.
49. For more information on how customs transit set the pace for European integration see Fabio, M. "Transport and the TIR regime" in "Customs law of the EU", second revised edition, Kluwer Law International, 2010.
50. The TIR system can trace its birth as far back as 1949; it was applied as an ad hoc, industry led arrangements until its original codification. The European Coal and Steel Community was founded in 1950, while the European Economic Community was established in 1957, only two years prior to the completion of the codification of the TIR system in a formal international agreement.
51. The TIR system is in the process of computerisation; Contracting Parties are also constantly reviewing the needs of customs and of the industry and appropriately updating the TIR Convention and introducing new tools and facilities. For more information on eTIR see Hardman-Reis, T, "Border Crossing Facilitation in the Context of the United Nations General Assembly Resolution 70/197: Prospects for the TIR and the Harmonisation Conventions", in the present volume.

to boost their economy and competitiveness, becoming part of a fully operational and well established system can significantly lower trade costs and streamline cross-border trade, without having to reinvent the wheel by designing new solutions that have not stood the test of time. At the same time, it is worth noting that India, Bangladesh and Nepal are also WTO member States, and India as on 22 April 2016 ratified the WTO-TFA[52]. Against this background, the additional facilitative role of the TIR system merits further attention. A comparative study undertaken by UNECE showed that implementing the TIR Convention – among others – serves to instrumentalise and effectively meet a multitude of TFA obligations, particularly those related to publication and availability of information, measures to enhance impartiality, non-discrimination and transparency, clearance of goods, freedom of transit and customs cooperation[53].

The BBIN region, in particular, would immensely benefit from improving cross-border connectivity. This applies not only to the physical infrastructure which requires significant financial investment, but also to procedures, as infrastructure alone would not suffice for the effective facilitation of the transport of goods.[54] The BBIN-MVA already stipulates that the cost of implementation is to be borne by the contracting States; a collective decision to move toward TIR as the vehicle for accomplishing the procedural harmonisation objectives of the BBIN MVA, with the assistance of UNECE and other organisations could be the most cost effective way to resolve transit procedure issues, thus enabling the four nations to focus the majority of resources on other elements and to – gradually – become the link between South and South-East Asia. This is of particular relevance at this point in time, when Pakistan and China have acceded to the TIR Convention[55].

At the same time, other sub-regional arrangements are being put in place, such as the India-Myanmar-Thailand (IMT) Motor Vehicles Agreement which is currently under preparation, the recently concluded Chabahar port agreement between India, Iran and Afghanistan and the Bangladesh–China–India–Myanmar (BCIM) Economic Corridor. These agreements aim to pave the way to seamless transport in the entire region and beyond, with a clear trade facilitation focus. A separate transit trade corridor has been agreed on as a side-product of the Chabahar port agreement, which is expected to drastically improve connectivity through Eurasia, to Russia and, ultimately, Europe, as it

52. See https://www.wto.org/english/tratop_e/tradfa_e/tradfa_agreeacc_e.htm
53. See ECE/TRANS/WP.30/2016/4 at http://www.unece.org/fileadmin/DAM/trans/bcf/wp30/documents/2016/ECE-TRANS-WP30-2016-04e.pdf
54. For in-depth analysis on transport infrastructure vs. processes in South Asia, see De,P. & Kumar, A., "Regional Transit Agreement in South Asia: an Empirical Investigation", SAWTEE discussion paper, 2014
55. China deposited its instrument of accession on 5 July 2016.

has been estimated that the land route is roughly half as expensive and takes less than half the time of the traditional maritime routes.

However, these separate sub-regional arrangements continue to lack the capacity to effectively address the issue of harmonisation, transparency and efficiency of procedures and processes. Afghanistan and Iran – as all member countries of the Economic Cooperation Organisation (ECO)[56] – are Contracting Parties to the TIR Convention and, in fact, Iran is one of the most prominent users of the system. With such dynamic intentions and actions towards increasing the transport and transit capacity of the region, a fragmented sub-regional approach appears to be the longest, hardest and most expensive route. As the entire ECO and Central Asia region uses the TIR system, and with China's imminent accession, consideration of the TIR system for the Indian sub-continent appears to be an ideal solution to accomplishing transit related objectives of trade facilitation; this would create a formidable land bridge for trade between BBIM and Europe.

Conclusions/Recommendations

In short, it can be contended that the main recommendations stemming from the above analysis are that:

- An efficient, harmonised and reliable transit regime between Bangladesh, Bhutan, India and Nepal could be a driver of integration in the region, as well as a means of implementation of the BBIN-MVA. In addition, if the selected transit regime is TIR, this could further stimulate regional integration as TIR is already broadly used in ECO countries, Central Asia, Pakistan, and soon by China.
- Technological solutions would help in streamlining procedures at border crossing points.
- Information – sharing and cooperation between customs and other agencies that deliver the border control functions is vital towards enabling a less cumbersome system and for preventing unnecessary repetition of formalities decelerating the entire process. The TIR Convention already provides for cooperation mechanisms as well as electronic risk-management tools.
- Implementation of existing agreements and policies need to be prioritised over creating more agreements that further fragment the regulatory framework.

56. In 2013-15, 29 per cent of all TIR Carnets issued globally were used for transport to ECO countries; 24 per cent of all TIR Carnets issued to ECO holders were used for transport to Europe; and 65 per cent of TIR Carnets issued to ECO holders were used for intra-ECO transport.

Therefore, it can be concluded that the TIR system provides an elaborate mechanism to ensure that transit operations are performed safely and securely without hindrances and delays, while guaranteeing that taxes and duties that may become due will not be lost. The TIR system has noted significant and steady growth over the years, in line with the development of global trade. In addition, it should be made clear that the TIR Convention does not automatically replace national Customs law, particularly with respect to in promptu customs checks when an irregularity is suspected. The TIR Convention recognises, indirectly, that the TIR system is not impenetrable and as such allows national authorities to interrupt transit if they see fit and to prosecute customs offences under national law.

Finally, it should be underlined that the implementation of the TIR Convention – as is the case with any international agreement - primarily depends on the political will and commitment of its Contracting Parties. Therefore, governments play a crucial role in determining the success and positive outcomes from acceding to multilateral legal instruments such as the TIR Convention, 1975.

Elements of a Motor Vehicle Agreement

Satish Kumar Reddy*

Abstract

Motor Vehicle Agreements (MVAs) cover a key flank in facilitation of cross-border trade. By enabling exchange of traffic rights, they allow vehicles to cross borders seamlessly, and help in faster and cheaper movement of goods and people. However, MVAs may vary in their coverage and structure, i.e., the range of cross-border issues they cover and the extent to which they harmonise the border procedures and controls. Their content could influence their implementation and determine their success.

While each Agreement may be customised to suit the needs and circumstances of its sphere of operation, its effective implementation would require certain elements to be necessarily and adequately covered in it. This includes issues relating to cross border movement of vehicles, goods, containers, natural persons and compliance with related national laws. The paper lists out the important issues and discusses how they could be resolved for a more efficient working of the MVA and institutional mechanisms necessary to oversee its smooth implementation. Emphasis is laid on following transparent, uniform and predictable processes and use of Information and Communication Technology (ICT). The paper also discusses the good practices that complement the exchange of traffic rights and the factors key to the success of MVAs, based on global experience.

Introduction

As trade seeks to find the swiftest and most efficient manner of transporting goods across borders, arrangements that allow seamless movement of vehicles have emerged as important instruments to the trade and logistics industry. With notable increase in door-to-door carriage and multi-modal transport in recent years, spurred on by containerisation, a strong demand has emerged to allow seamless movement of vehicles and cargo across borders.

In the absence of such arrangements, cargo has to be transhipped at borders – a cumbersome process, entailing delays and higher transaction costs for trade and unsafe for the cargo. Even the practice of allowing the cargo vehicle to go up to the Land Customs Station (LCS) of the importing country to discharge the cargo is sub-optimal, since many LCSs do not have facilities for secure storage and handling of cargo. Thus, border transhipment necessitates development of elaborate infrastructure at LCSs for

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receipt, storage, inspection and despatch of cargo, and, with such facilities not being adequately available, trade is further impeded. Inability of vehicles to cross borders also restricts social exchanges.

Motor Vehicle Agreements (MVAs) provide institutional means to overcome these problems by enabling cross-border vehicular movement under standardised and mutually agreed procedures, documentation and other modalities.

Why an MVA?

The primary objective of the MVA is to enable efficient and smooth cross-border flow of goods by enabling 'through' transport, obviating the need for the unwieldy practice of trans-shipment of goods at the border. This, in turn, can promote inland clearance of cargo, as a customs-sealed vehicle/container can be allowed to transit up to a dry port or an inland customs station for clearance. Consequently, border congestion is reduced and trade can clear cargo at a location proximate to them.

MVAs establish transparent, uniform and predictable cross-border transport processes with institutional mechanisms to oversee their smooth implementation. It complements the national and sub-regional road networks and lead to their better utilisation.

Cumulatively, MVAs can promote regional integration, incentivise containerisation and bring about reduced trade transaction costs and speedier movement of cargo. They can advance the cause of multimodal transport, economic corridors and value chains in their region of operation. Such agreements also deepen people-to-people contact boosting tourism.

Structure and Contents of an MVA

While benefits of an MVA are well recognised, its implementation and its success would depend on its structure and content. It may focus on enabling exchange of commercial traffic rights or could be comprehensive, covering a range of transport and border-management issues as well as institutional matters. It could be prescriptive in nature laying down the systems, procedures, forms, etc. to be followed in cross-border transport. It could even cover the manner in which clearance formalities would be carried out for cargo and passengers (in addition to vehicles). However, agreeing on a wide range of issues involving multiple government departments may take time and lead to delay in finalisation and implementation of the MVA. Also, if the MVA is all-encompassing, even a procedural change may entail its amendment (which may be subject to cabinet approval and/or Parliamentary ratification), making the process rigid and lengthy.

Another approach could be to only enable cross-border movement of vehicles through the MVA and leave the border crossing procedures, documentation, and other related processes to the national laws of the implementing countries. This approach is likely to expedite the negotiation and signing of the agreement, but it is likely to lead to more issues in implementation. With a very basic MVA, the trade may not be aware of the requirements to be fulfilled at border crossing points and there could be more discretion and conservatism practised by the national regulatory agencies and less predictability, transparency and uniformity.

An intermediate and pragmatic approach would be to negotiate the agreement at framework level with focus on exchange of traffic rights and providing for duty free temporary admission of vehicles. This Agreement could provide for developing subsidiary instruments such as Protocol that constitute an integral part of the Agreement, for its effective implementation. The implementing provisions such as the conditions of temporary admission (such as bonds and guarantees), delineation of the routes, the types of vehicles that can be operated, volume of traffic, forms to be used, could be set out in subsidiary instruments such as Protocol. This gives the countries the flexibility to review and, if necessary, revise the operating procedures without having to amend the agreement.

Not all implementing issues need to be negotiated. For example, the details of competent authorities of a country to carry out various functions under an MVA are useful for trade, but need not be subject to bilateral discussion. Such details, meant only for information, could be set out in separate annexes or schedules, while those requiring mutual consent may be set out in the body of the Agreement/Protocol.

Irrespective of the manner in which the arrangements are structured, it is a given that a well drafted MVA (and its subsidiary instruments) will go a long way in ensuring its effective implementation. Issues that may arise during implementation can be anticipated and building appropriate solutions in the MVA.

The fundamental principle espoused in the MVA should be a non-discriminatory approach towards foreign transport operators vis-à-vis the domestic operators for the purpose of a cross-border transport operation. Beyond this, the effective implementation of an MVA will require efficient procedures and systems to handle cross-border movement of (a) vehicles (b) cargo (c) containers and (d) people. The procedures would have to be modern, efficient, transparent, coordinated and sustainable with the right balance between facilitation and control.

So, what are these issues that need to be resolved in the MVA and what could be the manner of resolving them? This is sought to be answered in the following section.

Needless to state, there can be no 'one size fits all' approach. Solutions would have to evolve based on the particular issues and circumstances, with continuous improvements and innovations to suit the emerging needs, in which case a flexible mechanism for amending MVAs and its protocols need to be in place.

Elements of an MVA

Basis for Cross-Border Operation

An MVA enables the exchange of traffic rights on reciprocal basis, allowing transport operators from the home country to operate vehicles on the host country national territory. Cabotage is generally barred. An immediate issue would be – who is entitled to undertake transport operations under the agreement? Can any operator/vehicle owner avail the facility or does this need to be regulated by the authorities? To operate under the MVA, a primary requirement would be the registration of the vehicle in one of the Contracting parties to the MVA (referred to as its home country). An operator should also be capable of fulfilling the conditions specified in the agreement (such as furnishing bonds, guarantees for temporary admission, insurance cover).This necessitates some kind of control over probable operators, usually achieved by issue of permits by authorities in the home country, based on transparent criteria and guidelines. This allows the authorities to evaluate the applicants, build a database of the operators' information and exercise checks on their operations.

Norms for Issuance of the Permits

While the home country issues permits to eligible transport operators to perform the cross-border transport operations under the Agreement, the criteria for issue of permits could be mutually agreed between the Contracting parties. General eligibility requirements are - professional competence, solvency, and reliability. Transport operators should also have the capability to meet additional requirements to qualify for cross-border transport operations under the Agreement, such as:

(i) temporary admission and transit conditions;
(ii) insurance requirements; and
(iii) vehicle technical standards.

The country hosting the vehicles on temporary basis (host country, including the country of transit) may retain the power to exercise a veto (i.e., refuse entry to vehicles even if carrying a permit) on the basis of clearly laid-down principles, such as:

(i) infringement of national laws of the host country during past operations;
(ii) unpaid dues that had arisen during past operations; and
(iii) transport equipment not in compliance with the technical safety standards.

The provisions to suspend or cancel permits due to violation of the conditions of MVA or a related national law by a transport operator could also be built into the agreement. This would obviate the uncertainty and costs associated with refusal of entry by the host country to a vehicle only on reaching the border.

The other provisions in relation to permits could be on their format, period of validity and issue of electronic permits. In the interest of transport facilitation, the permit should be valid for multiple entries for a defined period of time (rather than being a permission for each cross-border transport operation). However, permits for personal vehicles could be issued for a limited duration or for a single transport operation.

It is a good practice not to levy fees for issue or acceptance of permits, other than to cover for expenses related to the administrative work involved. The fee should be thus cost-related and not amount to a tax.

Mutual Recognition

A vehicle operating in its home country is usually required to possess a valid registration certificate, fitness/road worthiness certificate, insurance policy, etc. Mutual recognition of such documents, where possible, would significantly facilitate the operators avoiding the need for multiple registration and certification in each country where the vehicle operates.

Border Crossing Points and Routes of Operation

While a MVA allows movement of vehicles among its Contracting parties, it is common to define the border crossing points through which the vehicles should enter and exit the territories of the Contracting parties. In addition, the parties may choose to lay down the routes (particularly through the host country), for the vehicle movement. This is done to ensure that:

- the entry and exit points are sufficiently equipped and staffed for border clearance procedures;
- the selected routes can accommodate the vehicles (in terms of dimensions, weights of the vehicles and volume of traffic); and
- there is better monitoring of cross-border traffic by the host country authorities.

Inclusion of more points for cross-border movement would facilitate trade, as they do not have to travel long distances just to reach the designated entry and exit points. Also, the prescription approach to routes may result in rigidity for trade and transshipment has to be arranged at the terminal point of the route up to the consumption centre. Any concerns that host countries may have related to allowing the

movement of vehicles in their territories could instead be addressed by using electronic tracking systems, as discussed subsequently.

Temporary Admission

MVAs envisage a temporary duty free admission for the foreign registered vehicles into the host country and hence the conditions for temporary admission of the vehicles would be a key factor in facilitating their cross-border movement. A vehicle entering one or more host countries is expected to return to its home country after completing the transport operation and is not generally allowed Sabotage. For this reason, the vehicle is not expected to stay for unduly long periods in the host country.

Period of temporary admission is, therefore, designated for different categories of vehicles to help the administrations monitor and guard against attempts to retain the imported vehicle in the host country, escaping duties of customs. A liberal period should be granted - depending on the length of routes, time taken for border crossing, etc., this period can range up to 30 days for each operation. There should be a provision to extend this period in case of force majeure. In case of a scheduled operation, the time period could be modulated based on the time table set for the vehicle (such as in the case of a regular bus service).

Conditions of Temporary Admission

Under an MVA, temporary admission granted to vehicles entering into the host country should be free of import duties. Since the entry of the vehicle into the host country constitutes an 'import', a specific waiver of the import duties is needed for the vehicles, as also to its standard accessories, toolkit, equipment, fuel in the supply tanks and lubricants. Such waiver is contingent on the vehicles exiting its territory within the agreed temporary admission period. In addition, the host country may impose conditions to cover the duties and other levies that would arise in case of violation of the above conditions. The conditions should be so devised as to achieve the necessary balance between the revenue and control concerns and the facilitation needs. The following options are generally considered.

(i) Execution of a bond by the transport operator with the host country authorities undertaking to fulfil the conditions of temporary admission is a common requirement. The bond could be specific to a transport operation or a rolling bond, in case of regular operators.

(ii) The transport operator may be required to execute a security in the host country (generally with its customs administration), in addition to the bond. This is to provide to the administration an assured means of revenue recovery in case of any default by the operator. The quantum of security

may be equivalent to the customs duties leviable on the vehicle or some other agreed amount. Such security could be executed for a particular cross-border transport operation or in the form of a valid standing security (particularly for transporters with regular operations) with debits and re-credits taking place.

If the security is mandated in the form of a bank guarantee, this may require the operator to open a bank account in the host country and maintain sums to support the guarantee and also undertake procedures for its cancellation and return/re-credit, etc. Thus, while this instrument may offer a high level of revenue security to the host country, it lowers the facilitation levels to the transport operator and increases the transaction costs.

(iii) International Conventions that allow temporary admission (such as the Customs Convention on International Transport of Goods under Cover of TIR Carnets; the Convention on the Temporary Importation of Commercial Road Vehicles, Geneva, 1956 and Istanbul Convention) provide for temporary admission of vehicles without payment of import duties and taxes, subject to the conditions laid down in the Convention. The temporary admission is guaranteed by issue of Carnet, operated by a network of issuing and guaranteeing associations in the member countries that, in turn, are regulated by an apex organisation. With the Carnet serving both as a Customs declaration and a guarantee, their use offers the advantage of revenue security to the administrations, mutual recognition of Customs controls and standardised paper work at various borders. However, the arrangement requires accession of countries to the Convention and designating one or more capable associations in each country to act as the issuing/guaranteeing association.

(iv) The Carnet arrangement can also be replicated at the regional level under which one or more designated agencies/associations in each country guarantee the re-export of the vehicle. Though this is similar to Carnet system, it does not involve accession to an international convention(s) and is designed and run by the Contracting parties to an Agreement, giving them flexibility to customise arrangements to suit the regional needs. However, the parties have to manage the arrangement including the chain of guarantees without the aid of an apex organisation. This may also make it difficult for extending the arrangement to more countries, as compared to acceding to a global convention.

(v) An insurance policy in the name of the customs authority of the host country could also serve as a guarantee. The policy could lower the cost of the security and would be valid for a period up to one year. However, a customised policy would have to be designed to suit this purpose (covering, for example, acts of dishonesty/crime, skilful pilferage, etc.) in a manner convenient for the trade to subscribe and for customs to lodge claims in case of violations by the operators.

While granting and monitoring the transport permits, the home country could look into the financial solvency, past record of the legal entity and its partners/directors, scale of operations, etc. of the transport operator. The screening of the operator before granting him a permit using risk management techniques, coupled with the barring of his operations for any acts of non-compliance may help in better enforcement of the temporary admission conditions.

A graded system of facilitation could be considered to transport operators, with differing qualifying criteria and corresponding facilitation levels. The operators willing to comply with higher standards of compliance and proven track record could receive greater facilitation. The principle involved is similar to the systems of Trusted Traders or Authorised Economic Operator Programs that are maintained by the Customs Administrations. The parameters for grading the level of credibility and extending proportionate levels of facilitation to transport operators could be based on their record of compliance; financial solvency; willingness to install and use specified tracking devices on the vehicles; presence of branches/assets in the host country, etc. For operators meeting higher standards, the security may be set at lower level or dispensed with.

Document for Temporary Admission of Vehicles

It is possible that a vehicle holding a valid permit makes a number of trips during the period of validity of the permit. The original permit may have to be preserved and it may be difficult to record the dates of entry and exit on the permit in each instance. Therefore, the details of entry and exit, any extensions of temporary admission, etc. for each cross-border operation may be recorded on a separate document issued by a designated authority of the home country in mutually agreed format. This document may be integrated with a transit declaration, if the transport operation involves international transit.

Monitoring the Entry and Exit of Vehicles

To monitor compliance to the condition of temporary admission of vehicles, the border point through which a vehicle had entered would have to know whether the vehicle has exited (within the permitted period). As the vehicles may enter and exit

through different border points, and to overcome the practical issues associated with monitoring compliance with this condition and due to its revenue implications, the Customs authorities should use ICT to enable the border points of entry and exit square up the operations. The use of tracking systems with the data feed made available to the border officials would also help in monitoring.

Transit Controls and Facilitation

Another important issue would be the Customs procedures and documentation applicable for cargo in transit, where the transport operation involves a country other than the origin and destination country. Freedom of Transit is recognised by General Agreement on Tariffs and Trade (GATT) and a number of other International Conventions. Movement through the country of transit (temporary admission) would not only include vehicles, (means of transport), but also the cargo.

Transit conditions may require a bond, or a bond with security, covering both cargo and the vehicle. In this context, a possible recourse could be to follow Carnet system or adopt similar provisions. The Carnet plays a two-fold role: (a) as a customs declaration and (b) as a guarantee for customs duties and taxes. The Carnet obviates the need for executing national guarantees in the transit country.

It is important to minimise physical inspections and physical escort of vehicles to speed up the process of transit and facilitate trade. The Customs Administrations should, therefore, agree on a system of mutual recognition of customs controls and avoid customs inspections en route (in the country of transit and in the home and host countries), if the cargo has been inspected, the load compartment sealed securely by the customs of departure station, and the seal is found intact. Cargo examination could be done only in exceptional cases where there is information on concealment of contraband, or as a risk management measure. Use of electronic seals can additionally enable vehicle tracking.

A good practice would be to eschew the levy of charges on transit other than commercial charges (such as for transportation) or those commensurate with administrative expenses or with the cost of services rendered for processing the transit operation.

Overstay of Vehicles – Consequences and Collection of Dues from Vehicle Operator

There should be a mechanism to extend stay of the vehicle in the host country in case of vehicle breakdown, accident, or other unforeseen circumstances including natural calamities or disasters beyond the control of the operator. In such cases, the procedure for extending the stay should be laid down in a transparent manner.

The consequences of overstay of vehicles in the host countries could be left to the domestic law of the said countries or be agreed mutually. In case of over-stay beyond the permitted period, it should not be met, each time, with serious punitive measures such as confiscation of the vehicle, unless it involves a habitual offender or circumstances so warrant. Sanctions for overstay in the form of fines based on the extent of overstay should be considered. In case a security or Carnet is used, recovery of dues can be easy. In their absence, a cooperative mechanism has to be devised between the home and host countries' administrations to serve a notice and recover the dues from the operator located in the home country.

Installation of Tracking Systems

Deployment of electronic seals and tracking systems would enable monitoring of the:

(i) entry and exit of the vehicles as per the permitted period of temporary admission;
(ii) operation of the vehicles along the designated routes;
(iii) the pattern of movements/halts of the vehicles; and
(iv) integrity of the seal and live reporting of the breaches.

While use of tracking systems improves control, it also gives an opportunity for administrations to simplify some of the regulatory requirements for the benefit of trade. For example, bank guarantees or other forms of financial securities for temporary admission/transit could be waived for operators using specified tracking systems and providing live data feed to customs. A more liberal approach on the routes permissible for operation could be adopted. Cancellation of bonds could be done immediately after the tracking data shows the exit of a vehicle/cargo from the host/transit country.

To implement the system harmoniously, the Contracting parties would have to agree on:

(i) Type of vehicle movements to be tracked;
(ii) Data access to authorised agencies;
(iii) Choice of type of tracking system;
(iv) Business model; and
(v) Maintenance and management of the system.

Restricted and Prohibited Goods

Stipulating the categories of goods that are prohibited or restricted movement under the MVA brings more clarity to the persons involved in transport and trade and helps in better enforcement and cross-border cooperation between the authorities. While the movement of prohibited goods (such as weapons, firearms, narcotics, etc.) is

completely banned, the movement of restricted goods can be allowed, provided it meets special rules/conditions, e.g., dangerous goods as per the Recommendations on the Transport of Dangerous Goods (UN Model Regulations).

Documents and Forms Required

The documents that a vehicle is expected to carry on board while operating under the MVA should be agreed and listed in public domain for transparency. The following is an illustrative list:

- Vehicle permit;
- Certificate of registration of the vehicle.
- Vehicle fitness/inspection certificate.
- Insurance policy, as agreed in the MVA.
- Driving licence issued by the home country (if there is mutual recognition) or an international driving permit.
- Transport document providing a brief description of the cargo and destination(s), commercial invoice, packing list, weighment certificate, etc.
- Passport with travel authorisation and photo identity cards of the crew.
- List of personal goods/articles in possession of the crew.
- Passenger manifest.

The above list is in addition to the standard customs declarations for the export and import of cargo or persons as required to be filed under the national laws of the Contracting parties.

In the interest of facilitation, the Contracting parties may mutually recognise vehicle inspection certificates, driving licences, weighment certificate, etc. issued in the home country.

Motor Liability Insurance

While a vehicle is required to be insured in its home country as per its national law, vehicles plying under the agreement would have to be insured in the territories of the transit and host countries also, so as to aid the potential victims of road accidents, etc. caused by them, avail compensation. At least a third-party motor liability insurance cover would be mandatory to guarantee compensation by the insurance company. Insurance cover may also be required as per the domestic law of the host countries. Such cover has to be either purchased in these countries or, alternatively, the third-party motor liability insurance cover subscribed for a motor vehicle in its home country should be recognised by the host country, if it is valid for the territory of the host country. The latter arrangement would obviate the need for taking different insurance policies for a vehicle in different countries with its attendant delays, as also since the vehicle can physically

operate and create a risk only in one country at the same time. This would, however, require development of appropriate insurance products valid in territories of multiple countries.

The procedure to make and receive claims should be made easy for potential victims of road traffic accidents caused by foreign motor vehicles. The establishment of a representative office of the foreign insurance company in the host country or the possibility of a domestically established company representing the foreign insurance company should be explored for the victims to claim compensation in their own country.

Trade Facilitation

While the main focus of an MVA is transport facilitation, it should not be lost sight that transport is only a 'means' to move goods (or people). Therefore, trade facilitation should remain a priority. However, it is arguable whether detailed provisions on facilitating cargo clearance should be negotiated as part of a transport agreement. There are many international Conventions and Agreements that concern trade facilitation, such as the Revised Kyoto Convention and the WTO Trade Facilitation Agreement. The Contracting parties can well implement the provisions of such instruments to upgrade their practices to global standards and harmonise their border regimes. However, as an MVA would involve overland trade, the following provisions could be relevant.

- Advance exchange of information on movement of goods and people - to facilitate their risk assessment and speedy clearance;
- Coordinated development of infrastructure on both sides of the border – Border Posts often operate as pairs, handling the export and import legs of the same transactions. It is important to coordinate the physical layouts and facilities of the border crossings in terms of the number of lanes (for transit and other cargo, for passenger vehicles, etc.), parking lots and other relevant facilities.
- Integrated risk management - With several regulatory agencies exercising controls at borders to inspect, test and pass the cargo and vehicles, inter-agency coordination among different agencies of a country acquires importance. If the coordination is taken to the level of integrated risk management and intervention strategy and this is further strengthened with cross-border cooperation, it can help reduce process duplication and speed up clearances.
- Joint customs controls – A shipment undergoes export formality on one side of the border and the import formality on the other side. This may lead to delays and queues at the border, particularly in the face of infrastructural

deficiencies. The neighbouring Customs administrations could improve this situation by coordinating export and import formalities including inspections, eliminating redundancies and, in the process, strengthening their regulatory capabilities.

- Setting up joint border posts – A joint office at border post (common office space, inspection areas, storage facilities, etc.) can help lower investment and operational costs; provide speedy and effective service to the trade and combat offences. However, such arrangements would also need a legal basis for the officers from a country to exercise their powers under their national law on the other country's territory and also arrangements for division of costs and commitments to set up and maintain the joint facilities.
- Coordination of working days and hours at the border posts – Varying work hours and days at adjacent border posts can have a cumulative impact delaying clearances and causing congestion. Similar working days and hours at adjoining border posts would solve this problem.

Ways of Ensuring the Authenticity of Transport Permits at the Border

If the vehicles of a Contracting party require a permit issued by the competent authorities of a country for entering the other country, then the issue of verifying their authenticity at the border may arise. Permits issued on paper medium may be prone to forgery. Any attempt to check their authenticity from the permit issuing authorities would delay the vehicle and cargo movement. If the permits are stored electronically, and made accessible to the host countries' regulatory authorities on a secure site, it would enable checking the validity of permits in a convenient and secure manner. Also, a totally paperless system is possible whereby the permits are digitally signed and uploaded on a webpage that is accessible to the host countries' authorities.

Cooperation for Investigation and Repression of Violations

The agreement should have provisions for the Contracting parties to cooperate to deal with defaulters for recovery of dues, for conducting investigations in case of violation of the agreement provisions or domestic laws of the parties and for taking any precautionary measures considered necessary to prevent recurrence of offences. The details of the offending transport operators could be recorded in a database accessible to the authorities of the Contracting parties, and used for imposing specific sanctions against such operators or for barring them from cross-border transport activity under the agreement. Effective cooperation is important for promoting compliance and trust between the parties. For this purpose, each Contracting party could designate a person of contact, either in the home country or in the embassy located in the host country and inform the other Contracting parties.

Repair of Vehicles in the Host Country

Repair work should be allowed on the vehicles in the host country, in the event of an accident or break-down of the vehicles. Conveying the details of authorities to be informed, should the need arise for repair, would be a good practice. The parts, accessories added during the course of repair would constitute 'import' into the home country, when the vehicle returns. Therefore, provision should be made to report to the home country of the details (description, quantity, value) of goods added during repair of the vehicle in the host country. It would be prudent to waive import duties to such goods, to facilitate the transport operators and also as the examination and assessment of such goods fitted in the vehicles may pose practical difficulties.

Types of Vehicles that may be Operated under the Agreement

The Contracting parties may decide to allow operation of only certain types of vehicles under the MVA to comply with their national laws and in light of the condition and capacity of the roads (including bridges and tunnels) and border crossing points. In such a case, the types of permitted vehicles may be defined in terms of gross weight, axle load, etc. as also by category: two wheelers, three wheelers, passenger cars, mini-vans, trucks, buses, agricultural vehicles, etc.

For the sake of road safety, the Contracting parties may also define the technical characteristics of the vehicles (e.g., equipment they need to possess on board, type of lighting, etc.).The vehicles plying under the MVA should have valid certificate on board stating the compliance of the vehicle with the agreed standards.

Volume of Traffic to be Allowed

The Contracting parties may set the volume of traffic allowed under the MVA. This may be borne out of a desire to administer the agreement in a measured manner, to evaluate the readiness of the regulatory systems and also to gauge the impact on the domestic transport sector, before considering further expansion. Significant difference in the size of transport and logistics industries among the Contracting parties may also be a reason. The volume of traffic can be regulated in terms of number of permits and the number of operations allowed in a given period. While this is normally set on the basis of reciprocity between the Contracting parties, the parties may choose asymmetrical arrangement based on supply-demand scenario and the size of transport fleet. A liberal approach in this regard would advance the cause of economic integration among the parties.

The dynamics among different types of operations should be borne in mind, while setting quantitative measures. In case of scheduled transport, operations are to be performed as per the established schedule, irrespective of the demand. Therefore, the

number of services may be mutually decided by the parties so that competition does not render the activity unprofitable. For non-scheduled transport operators, permits should be granted to generate competition and achieve the best price/quality ratio for users. If there is lack of demand, the non-scheduled operators would be free to cut back on services.

Transparency

Transparency is a vital factor for efficient operation of an MVA, as foreign operators are expected to comply with the legal/procedural/documentary regime of the host country. Therefore, all the relevant laws, procedures and forms should be made freely and easily accessible. For ease of approach, it would be a good practice to list the details of competent authorities for various purposes (issue of permits, extension of period of temporary admission, reporting accidents, etc.) under the Agreement.

Road Safety

During the course of cross-border movement of vehicles, drivers of the home country would have to adhere to the traffic laws of the host countries. To make this easier and in the interest of road safety, the agreement can prescribe road signs, signals and road markings to be used on the routes and corridors covered under the agreement. Also, to overcome the differing languages that may be used in the Contracting parties, usage of symbols in road markings, signs, and signals can be explored, to the extent possible, along with the use of English/Latin characters and Arabic numerals (in addition to the national language).

Temporary Admission of Containers

Effective operation of the agreement would require that the Contracting parties grant temporary admission to containers, with or without cargo, free of import duties. This could be done under the national law (on the strength of a bond) or by accession to a Convention (Istanbul Convention). Care should be taken in such cases to prescribe a sufficient period of admission, so as to facilitate movement of containers inland to discharge and/or pick up cargo.

Crew Facilitation

Cross-border movement of vehicles entails movement of their crew also. For effective transport facilitation, easing the movement of crew should also be considered. It should not be made obligatory for the crew members to apply for visas for each visit to the host/transit country; they should be issued with multiple entry visas. This also becomes important as the supply centers from where transport emanates and the border crossing points may be located away from the main cities where the consular facilities

would be available. The validity period of crew member entry visas could be set at a minimum of one year with the signatory countries free to grant longer validity periods. To enable issue of such visas to genuine crew members, their identity has to be established. A provision for issue of crew certificates (in a standardised format) by the competent authorities of the home country could be a solution. Also, the crew should be allowed to carry their personal belongings free of customs duties.

ICT and Electronic Data Exchange

The use of ICT can help in efficient implementation of the MVA by enabling better cooperation and information-sharing arrangements between the administrations and facilitating trade by way of electronic filing, quick reconciliation and release of bonds and better shipment visibility. The following ICT applications can be envisaged:

(i) Website with all relevant information on the agreement and its subsidiary instruments, with links to transactional portals (for issue of permits, filing of relevant declarations, payment of fees, etc.) and providing details of nodal officials of each country;

(ii) Applying for permits, their generation and transmission to operator/host country;

(iii) Electronic filing and transmission of manifests, transit declarations and documents for temporary admission, etc.

(iv) Data exchange to track vehicle and container movement, enable advance risk assessment and speedy customs clearance, etc.

(v) Monitoring the temporary admission period and release of bonds, etc.

(vi) Filing of documents and declarations required (if any) by regulatory agencies other than to Customs to process and clear the transit traffic; and

(vii) Payment fees and charges.

The Institutional Framework

Institutional framework should be established (at national and supra-national level) to monitor and provide necessary guidance for the smooth and effective implementation of the MVA and its subsidiary instruments and also to act as a forum for addressing issues on their interpretation and for amicable settlement of disputes. The agreement may provide for the setting up of transport facilitation committees at national level and a joint transport facilitation committee at the multi-lateral level. The mechanisms should be also used to update and exchange information under the MVA. It is important to give adequate representation to private sector in these bodies.

A permanent Secretariat to help prepare and maintain the related documents, organise meetings, coordinate the conduct of relevant studies, draft amendments, etc., could be a useful mechanism. However, the question of setting it up, staffing and funding would be issues to be considered, when an MVA is negotiated between countries. Multilateral organisations such as Asian Development Bank have been discharging the role of Secretariat in case of some regional MVAs. Alternatively, technology can be leveraged to have a virtual secretariat to support the joint transport facilitation committee.

During the course of implementation of the agreement, there may be disputes on its interpretation and implementation. While the first step should be to resolve them amicably through discussions. Should such approach prove ineffective, an escalation matrix should be laid down, such as a formal judicial option (International Court of Justice in The Hague, Netherlands), or an institutionalised arbitration option (The Permanent Court of Arbitration in The Hague, Netherlands).

Relationship with Other Agreements

The contracting parties to an MVA may already be part of some bilateral arrangements or in the interest of harmonisation they may have acceded to international Conventions on road transport. National and sub-regional exigencies may dictate that that two (or more) countries involved in a multilateral arrangement may also choose to honour the arrangements existing bilaterally. So, the MVA should define its relation to other existing agreements or arrangements among the parties.

Final Provisions

Like any international agreement, an MVA should have provisions for date of entry into force, accession of new parties, withdrawal from the agreement, validity period of the agreement and its renewal, suspension, review and procedure for amending the agreement and its instruments, etc.

Good Practices in Cross-Border Facilitation

While the MVA, as a transport facilitation instrument, may not always cover the entire gamut of trade facilitation provisions, the importance of border-crossing formalities for the efficient working of the MVA cannot be overstated. It has been estimated that nearly half of the total transport time is taken at border crossings and about 43 per cent of the door-to-door transport costs are attributable to border crossings[1]. The experience gained from the implementation of cross border transport agreements

1. Benchmarking Economic Corridors logistics performance: A GMS border crossing observation by Dr. Ruth Banomyong.

and private sector feedback suggests that the implementation will enormously benefit from the following arrangements:

Mutual recognition of customs controls: This can considerably reduce physical examination of cargo between the origin and destination points, and cut down the associated delay and inconvenience to the trade. The cargo can be carried in trucks or containers customs sealed at origin and the details of the seal made known to the customs and other border agencies for verification.

Exemption from physical escort system for international/inland transit: Making physical escort of vehicles mandatory will lead to delays as sufficient number of vehicles have to be assembled, escort arranged and the vehicles would have to move as a convoy. Exemption from physical escort would help speedy movement of vehicles. Use of safeguards such as electronic tracking presents a superior option.

Waiver from furnishing bank guarantees for temporary admission and transit and use of tracking systems and insurance policies as safeguards: The requirement of bank guarantees at the borders as a condition of temporary admission has the potential to severely inconvenience the trade as this entails opening of bank accounts in foreign shores; maintaining adequate credit worthiness and giving and seeking cancellation of guarantees. Instead, the use of tracking systems and insurance policies can ease the burden on trade, while enabling better control, quick intervention and recovery in case of frauds such as cargo diversion.

Agreeing on common customs documentation – such as manifests, transit declaration, etc.: In a scenario where a vehicle may have to cross multiple borders, any requirement to file documents in differing formats at each border would considerably add to the burden to trade. Designing common forms would help the trade as the document can be prepared only once and required number of copies submitted at each control point (or electronically).

Single-stop customs inspection: Such arrangements help in resource optimisation, speedy processing of cargo and better coordination to detect and deter offences. However, challenges include putting in place a legal regime to support the operation of Customs officers in a foreign territory and cost sharing.

Use technology – E-seals and GPS based container tracking and security: Usage of these devices helps in reduced documentation, guarantees and physical controls and empowers control authorities to monitor and intervene quickly in case of breach.

Optimal use of ICT: The use of ICT helps in efficient filing and processing of documentation and exchange of data among countries involved in the transport operation and providing full visibility of vehicle/cargo movement to Customs and trade.

System of authorised/trusted transport operators: The idea is to evolve mutually agreed criteria to extend additional facilitation to transport operators willing to comply with a set of more rigorous qualifying conditions. Illustratively, operators capable of meeting a higher threshold of financial solvency; clean record of compliance; using specified tracking systems; having branch office(s)/assets in host countries, etc. may be extended higher levels of facilitation.

Easing the cross border movement of crew engaged in transport: Efficient movement of vehicles would require suitable facilities for the crew of the vehicles to move with the vehicles, particularly visa facilitation.

Information sharing: For the successful implementation of the MVA, facilitation of legitimate operators and combating fraudulent ones, there has to be free and organised flow of information among the authorities of the Contracting Parties.

Robust institutional structures: Institutional mechanisms with representation for all stakeholders including private sector are needed both at national level and at multilateral level to oversee the effective implementation of the agreement; to clarify operational issues; to review and suggest necessary modifications and promote its usage.

Infrastructure and connectivity: Motor Vehicle Agreements provide the software but inadequate connectivity and scarce infrastructure at borders can hinder their implementation. Hence, establishment and upgradation of existing road links and trade infrastructure at borders is necessary. MVA would lead to a better utilisation of such facilities.

Other Issues

Most MVAs address a common set of issues, but some MVAs contain additional provisions seeking to harmonise formalities for border clearance and people movement, traffic rules and signs, carrier liability, etc. A scan of the cross border transport arrangements under discussion or implementation shows that innovative provisions such as Authorised/Trusted Transport Operator program and use of sovereign guarantees and insurance products as security to reduce transaction costs are being discussed. Other suggestions that are being trialled are:

- Allowing trailers to cross the border with swapping of prime overs: This reduces certain complexities since the foreign crew do not have to go beyond the border post of the host country and the temporary admission is only given to the trailers. But this also calls for greater coordination at the transport operator level so as to arrange for the swap of prime movers at borders.
- Developing an efficient model for multi-destination cargo and small shipments: While large shipments are often moved by sea, the road freight industry can

better cater to the need of moving small shipments meant for multiple destinations in the territories of the Contracting parties. The transport operator should be able to drop and pick up shipments at designated places along permitted corridors, with the vehicles and/or containers being sealed, unsealed and re-sealed under Customs supervision at these locations.

- Facilitating multi-modal connectivity: Despite the somewhat limited international instruments available in the area, considering the appetite for door-to-door carriage, it has become necessary to manage multimodal connectivity efficiently.

Institutions that have been supporting MVAs such as Asian Development Bank, UNESCAP, etc. have been bringing in expertise and global best practices to help design sound agreements. Undertaking trial runs before finalising the implementing protocols and other instruments is also a way of finding out the real-world issues to be addressed, alternate solutions possible, their relative merits and the best possible manner of resolution of the issues.

Keys to Success

While MVAs, undoubtedly, have beneficial impact on trade and transport, presence of some essential factors in the ecosystem contributes significantly to their successful and sustainable implementation. Globally, there are several MVAs at various stages of discussion and implementation (involving countries of/in Greater Mekong Subregion, ASEAN, Ashgabat, International North South Transport Corridor, BBIN, TRACECA, ECO, etc.).Going by their experience, some key factors that contribute to the success of a MVA are:

Political will: Political will is essential for negotiating an international agreement that would involve some 'give and take' between the countries, as also for driving the various national agencies to provide unstinting support for its implementation.

Country ownership: To achieve country ownership, it is essential that each of the countries involved in the agreement should gain from its implementation. The benefits as also the costs should be clearly articulated.

Adopting a result-oriented and realistic approach is key: While complete harmonisation of all provisions connected with cross-border movement may be ideal, the Agreement (and its instruments) may concentrate on provisions that are more critical to its success.

A corridor approach can be an effective way of implementing transport and trade facilitation: Traffic flows on certain corridors may be crucial in the region and coordinated border management can produce more apparent outcomes on them.

Customising provisions to suit the individual and varying needs of the countries: To do this while drawing from international best practices and balancing the control and facilitation requirements is a tough task, but necessary for a sustainable arrangement.

Use of technology as a key enabler: Whether it is the use of ICT for filing of various forms, payment of fees or the electronic exchange of data among administrations or use of tracking, technology can pave the way for greater efficiency, transparency and visibility.

Private sector engagement: It is important to involve the private sector in the transport and trade facilitation initiatives from inception stage. Shared understanding of their benefits and safeguards is key for all-round buy-in.

A Motor Vehicle Agreement designed appropriately to achieve its objective of easing cross-border movement of goods, vehicles, and people, can truly help expand trade, economic exchanges and people-to-people contact, paving the way for a more closely integrated region. The regional road networks could be transformed into corridors that attract investment and generate employment. MVAs occupy an important place in addressing the removal of non-tariff barriers to international trade and transit and enhancing connectivity. With the right elements and effective implementation, an MVA has the potential to be a game-changer in its sphere of operation.

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Operationalising Connectivity and Trade Facilitation: Role of BBIN Motor Vehicles Agreement

Dr. Pritam Banerjee*

Abstract

Physical connectivity is the pre-requisite for cross border transport facilitation. However, in the context of international trade where goods, people, and services have to move across political borders, institutional and procedural aspects of connectivity related to rules and governance structures are equally important. Most studies indicate improvement in connectivity including the institutional and procedural aspects of connectivity will be the key to improving economic integration in South Asian region. The BBIN Motor Vehicles Agreement (MVA) is, therefore, a major step forward in the right direction. This article discusses the specifics of solutions that can potentially be achieved under the cargo protocol of the BBIN agreement to help develop such solutions.

Introduction

The basic premise of an efficient global market is the smooth flow of goods, services, technology and people across borders, in other words connectivity. Connectivity is an essential pre-requisite for effective development of market access. One aspect of connectivity, and one that is most obviously understood, is physical connectivity, i.e., existence of proper roads, shipping and air linkages. But in the context of international trade where goods, people, and services have to move across political borders, equally important are the institutional and procedural aspects of connectivity related to rules and governance structures that regulate such cross-border movement.

Literature on trade and transaction costs has dealt extensively with the idea of political borders as barriers (Bougheas, et al. 1999). Lack of effective connectivity has been a much discussed policy issue in the context of the Bangladesh Bhutan India Nepal (BBIN) sub-region. The borders between India and Bangladesh that dissect the BBIN region have long been considered one of the worst managed and subject to the most severe transaction costs (Lakshmanan, et al. 2001). Generally, poor infrastructure and the small number of actual rail and road cross-border corridors create congestion which is further aggravated by the poor governance of border procedures (i.e., enforcement of customs and other allied regulations) and lack of institutional solutions to facilitate trade (Banerjee, et al. 2009).

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It comes as no surprise, therefore, that statistics show that tariff reduction under South Asian Free Trade Agreement (SAFTA) has not helped improve economic integration beyond a certain level. Most studies indicate improvement in connectivity including the institutional and procedural aspects of connectivity will be the key to improving economic integration in BBIN region (Reihan 2015). What makes this state of affairs even more ironic is that prior to the 1947 partition of the subcontinent, Bangladesh and India were, in fact, a single entity politically, economically and monetarily. The borders between undivided India and Nepal and Bhutan were also open. The enforcement of barriers in BBIN borders post-1947, artificially restricted the long history of movements between goods, services, people, cultures, beliefs and ideas, and was completely unnatural from the beginning (Banerjee, et al. 1999).

The BBIN Motor Vehicles Agreement (MVA) is, therefore, a major step forward in the right direction. In addition to the substantial physical and governance-related transaction costs, connectivity in BBIN was further impeded by the fact that vehicles of one BBIN member country could not operate in another, thereby necessitating transshipment of goods between goods carriers of one country to the other at the border point. The costs and delays due to such forced and entirely avoidable transshipment has been substantial.

By simply doing away with need for such transshipment by allowing trucks to cross borders, the BBIN MVA adds great value to the cause of regional integration. However, building on the fact that cargo vehicles can now actually cross borders, the BBIN MVA can go much further by developing cargo-related protocols and governance solutions that will also address several of the existing institutional and procedural challenges to regional connectivity.

This article discusses the specifics of solutions that can potentially be achieved under the cargo protocol of the BBIN agreement to help develop such solutions. The article is organised in four sections. Section I discusses the key issues related to connectivity in BBIN and business-related realities that impede regional commerce. Section II presents specific solutions that need to be considered by the BBIN MVA, and potentially integrated in the cargo protocols and customs regulations in order to solve the connectivity-related challenges. Section III argues that BBIN MVA is a template for further development of regional connectivity and serves as the base for greater South Asian integration. Section IV concludes the article with summary of key points and recommendations.

Why Connectivity Matters and Importance of BBIN MVA

It is a widely known, and discussed, fact that South Asia, including the BBIN region remains one of the least economically integrated parts of the world. This article

shall not get into a detailed discussion on trade metrics or the causes that inform such relatively poor integration (for the interested reader, an excellent overview of literature is available in Ahmed et al., 2010 and Razzaque and Basnett, 2014)[1].

But the relative lack of integration can be easily gauged by the fact that the BBIN countries account for a miniscule 0.4 per cent of India's imports (USD 1.4 billion) and 3.8 per cent of exports (USD 10.8 billion)[2]. Total trade between Bangladesh, Nepal, and Bhutan is less than USD 100 million[3]. A direct inference of such poor bilateral trade figures, even after taking into account issues related to trade complementarity and the limited production base of the smaller South Asian countries, is that borders exert a disproportionate cost on bilateral trade (ESCAP-World Bank Trade Cost Database)[4].

Trade, at the end of the day, is a dynamic process of entrepreneurship seeking transactional opportunities and maximising gains. If transaction costs of negotiating political borders are reduced, a combination of investment and trade-led value-chain integration would result in far greater regional trade. As pointed out by Reihan (2015), in the South Asian case, much more than tariff-led trade liberalisation, it is the transaction cost of trading across borders that have impeded meaningful trade relations.

Essentially, then, the South Asian, and even more specifically BBIN regional integration has been held hostage by connectivity-related barriers. The reason that lack of connectivity and high transaction costs can be considered to be the main impediment to trade and investment linkages are that unlike the India-Pakistan dynamic that suffers from a huge political challenge, such challenges are much lesser in the context of BBIN.

Connectivity and Transactions Costs from a Business Operations Perspective

The quality of connectivity is always trade-lane specific, i.e. connectivity between Chennai and Dhaka, Ludhiana and Dhaka, and Agartala and Dhaka would be substantially different. The test of the quality of connectivity of a trade-lane is captured on three dimensions: cost, time, and reliability.

- Costs are a direct function of the quality of the physical infrastructure, the cost of feasible transport options available (i.e., air, sea, road, and a combination of

1. Ahmed, S., Kelegama, S., and Ghani, E. (2010) "Promoting Economic Cooperation in South Asia: Beyond SAFTA" Sage Publications India and World Bank; and Razzauque, M. and Basnett, Y. (2014) "Regional Integration in South Asia: Trends, Challenges and Prospects", Commonwealth Secretariat,
2. Author calculation based on Export Import Data Bank, DGCIS, Ministry of Commerce, Government of India. Data is for 2015-16,
3. Author's calculations based on UN COMTRADE data
4. UN-ESCAP-World Bank Trade Cost Database, available at: http://www.unescap.org/tid/artnet/trade-costs.asp

modes) and the operational challenges that arise from regulatory issues (for example, issues related to transit or transshipment). Costs are also directly influenced by trade volumes, and have a tendency to fall as trade increases

- Transit time of a trade-lane is directly related to quality of transport solutions, the strength of the transport network, and the frequency of services. It is also subject to the time taken to negotiate regulatory requirements and procedures (e.g., customs clearance or time taken for transshipment)
- Reliability is direct function of certainty. One aspect of certainty is directly an outcome of the quality of transport solutions available (i.e., on time delivery and frequency of services). The other relates to availability of transport options (e.g., can goods typically shipped by road easily and at a feasible cost be shipped through air in an emergency). Another critical aspect relates to regulatory functions and institutions providing a predictable environment (e.g. customs and other clearances are transparent and not subject to arbitrary decision-making leading to unexpected hold up of goods at the border).

While development of physical infrastructure is an ongoing medium to longer term objective, institutional and regulatory solutions that ensure the maximum options for transport, increase reliability of services and reduce cost and transit time are low hanging fruits. In the context of development of production network linkages (that form the basis of sustainable trade relationships), the reliability of the supply chain is one of the most important aspects of connectivity. A high degree of uncertainty means that businesses and logistics service providers have to adopt costly hedging strategies, such as maintaining relatively high inventory levels. Institutional solutions that facilitate connectivity play a major role in mitigating such uncertainty.

BBIN MVA as an Example of Institutional Solution for Connectivity

A basic operational example in the BBIN context is related to need for changing vehicles at the border and complicated transit procedures. For one, transit operation typically involves many private and public participants and is highly fragmented and, therefore, also exposed to the risk of rent-seeking activities[5]. Secondly, the need to transship goods into another vehicle at the border adds to delays, exposes shipments to damage and pilferage in the process of transshipment, and adds another layer of handling charges that are entirely avoidable.

The BBIN MVA is an institutional solution to these operational problems. By allowing cargo vehicles to cross borders, the need for changing vehicles has been

5. Feidieker, T (2011) 'Transport and Logistics Facilitation as an Effective Means of Promoting Trade and Regional Integration within the SADC' GIZ Trade Program Working Paper

eliminated (pending implementation). Putting this in the context of developing sustainable production networks leading to regional integration, the most visible and successful example of production network in the BBIN is between Bangladeshi ready-made garments (RMG) sector and the yarn industry based mostly out of Ludhiana and Gujarat in India. The overland road route is the most cost-efficient solution to service this production networks connectivity needs. Overland truck traffic at Benapole-Petrapole border is subject to notorious delays due to a combination of the need to change vehicles and poor regulatory procedures.

While allowing the movement of vehicles takes care of the first aspect of the problem, i.e., eliminating need for change of vehicles and transshipment, other areas of concern related to poor procedures (and lack of harmonisation of such procedures) remain. The BBIN MVA can also become the platform for finding institutional solutions for these challenges. The MVA's mandate also includes the development of customs-related procedures and protocols related to the movement of cargo. A well designed protocol that is in line with the business realities would go a long way in addressing the bottlenecks to connectivity by road in the BBIN region.

BBIN MVA and Connectivity for North East India

Another major potential development of benefit of the BBIN MVA would be reducing costs of connectivity between industrial clusters in Eastern, Southern, and Western India, and the North-Eastern States. The transit of Indian cargo vehicles through Bangladesh to reach the North Eastern states would lead to huge time and distance savings[6]. The issue of transit of Indian cargo through Bangladesh remains politically sensitive, and issues related to transit fees and regulations need to be worked out, as do proper customs procedures-related transit.

Thus, institutional frameworks and procedures in the cargo protocol that addresses these issues would be the key to the success of BBIN MVA as an enabler of regional trade. Section II that follows discusses this further.

BBIN MVA and the Cargo Protocol: Potential to Evolve Practical Solutions for Overland Connectivity

The level of ambition of BBIN MVA as a solution for regional integration would depend on up to what extent are BBIN governments willing to introduce global best practices and practical operational solutions around the rules and procedures related to

6. DHL Global Freight India carried out the first cargo pilot test run for BBIN MVA with a truck moving from Kolkata to Shillong via Benapole (entry to Bangladesh) and Akhaura (exit from Bangladesh) borders. The time saved compared to traditional route via Siliguri corridor was 2 days and distance less travelled was approximately 650 km.

the temporary entry of a vehicle, the movement of cargo, and transit. It would also depend on the appetite to use modern risk management systems in combination with easily available technology-based solutions to facilitate trade.

It needs to be pointed out that rules and procedures implemented by governments stem from legitimate objectives and concerns. However, the enforcement systems put in place often suffer from design flaws that lead serious operational inefficiencies and transaction costs. In combination with administrative mis-management and occasional rent-seeking, these on-the-ground rules and procedures become serious impediments to connectivity. Table 1 below describes key regulatory objectives that the BBIN cargo protocol would have to address, the traditional enforcement tools (that do not integrate global best practices and technology-based solutions) and their potential negative impact on business operations.

Table 1: Regulatory Objectives: Inefficient Enforcement Tools and their Business Impact

Regulatory Objective	Traditional Enforcement Tool	Operational Challenge Posed to Business
Preventing foreign vehicle from violating pre-approved routes and destinations	Requiring prior approval of route plan for a truck for every cross-border journey	Reduced operational flexibility as various factors might require need to change route (customer requires shipment at a different location, accident or congestion on prior approved route, etc.)
Ensuring adequate standards for foreign vehicles and vehicle operators to ensure traffic safety and environmental security	Journey-wise requirements for permit; truck and driver need get permit for every journey individually and also get this permit endorsed by customs at the border	Getting permits for every journey, with specified vehicle and driver combination would be very cumbersome. Every journey would require a visit to officials with associated transaction costs and delays. Also, attaching a specific driver to a truck for a journey leads to operational inflexibility. it might be more convenient to have different drivers do different legs of the journey (a local driver for each leg)
	Lack of flexibility in integrating different types of vehicles; e.g. not allowing separate registration for tractors and trailers thereby allowing only one or the other	Operationally, tractor-trailers can help add a layer of operational flexibility to cross-border movement by having only the trailer cross the border. Having both options (i.e., allowing the full truck or only the trailer to cross the border) helps

Regulatory Objective	Traditional Enforcement Tool	Operational Challenge Posed to Business
	to cross the border (typically the trailer crosses the border)[7]	on this score
Prevention of smuggling of contraband (including weapons) and human trafficking. Preventing revenue leakage (customs misdeclaration)	Thorough physical inspection of shipments at every border	Delays caused due to typically manual methods of inspection and lack of risk management systems (RMS) resulting in almost 100 per cent inspection of cargo. Duplication of the process by authorities in both countries at each border adds to delays. There are instances of rent-seeking.
Prevention of revenue leakage and ensuring consumer and environmental health and safety	Onerous physical checking and physical endorsement of customs declaration-related documents	Delays due to typically manual environment and lack of risk management systems being in place. Physical checking and endorsement, and need for physical copies of supporting documents often defeats the efficiency gains of implementing EDI and having a system of advance declaration. Lack of EDI message exchange between customs administrations leads to duplication. Regulatory and physical infrastructure for implementing product quality-related rules is often missing, and leads to huge delays in clearing shipments.
	Insistence of at-the-border inspection and clearance of LTL[8] (less than truckload, i.e., multiple shipment in single truck) cargo	Increases cost of both shipping and transshipping (i.e., transit to third country) smaller shipments, and leads to significant delays.

Source: Banerjee, P (2015)

7. Tractor trailer combinations involve a prime mover that powers a trailer (or trailers) with containers, or a flat-bed with several containers. Operational efficiency is maximized when the prime mover does not need to be assigned to a specific trailer or flat-bed due to regulatory reasons, and can be used in combination with several trailers and flat beds based on operational needs. In the cross-border context, inter-change of prime movers allows operational flexibility (no need to change drivers, or actual vehicles, while also ensuring no need for transshipment between vehicles).
8. LTL of less than truckload refers to a single truck (container or otherwise) carrying several different shipments (i.e. from different consignors and to different consignees). Competitively prices and reliable LTL services are critical for SMEs who do not have enough volumes to justify availing full truckload or FTL services.

In light of table above, it becomes imperative for the BBIN MVA cargo protocol to balance regulatory objectives with efficient enforcement tools, i.e., systems that provide deterrence to non-compliant behaviour and means to assign responsibility for such behaviour, while ensuring maximum ease and efficiency for transport operations. The key areas of intervention for the cargo protocol would be regulating the temporary admission of the vehicle, the movement of cargo including transit. The next sub-section discusses the potential solutions of both the specific aspects.

Temporary Admission of Vehicle

The temporary admission of a vehicle registered in one member state in the territory of another member state is essentially the allowing of temporary import of that vehicle. The customs and road transport authorities that allow a foreign vehicle in would need to ensure that (a) the foreign vehicle meets all legal requirements (duly registered) and technical conditions established by protocol to allow such movement, and (b) the foreign registered vehicle follows designated routes and does not overstay beyond permitted schedules.

In order to achieve these objectives, one can either establish a cumbersome journey by journey permission seeking requirement, i.e., the operator of the vehicle would be required to seek fresh permission for every cross-border journey. It can also put in place stringent on-road inspections to ensure that cargo vehicles stick to their routes, etc. In order to ensure that the vehicle exits in time, it can put in place the requirement for a large bank guarantee, thereby adding significantly to operational transaction costs. But all these rules will only hinder smooth operations, increase complexity, and increase costs.

The optimal solutions that should be considered by the BBIN MVA protocols are:

(i) *Dispensation with the need for journey-wise permissions:* Vehicles (tractors, trailers, and trucks) that have fulfilled technical pre-requisites are allowed to cross borders without specific permit for each journey. Number of such vehicles that can be registered are subject to a cap per associating partner country

(ii) *GPS-based monitoring:* Monitoring of whether vehicles stick to the agreed upon corridors, is done through the use of GPS technology. The protocol can establish a technical requirement for such vehicles to have ability to feed their GPS tracking into monitoring systems established by individual countries. This is much simpler than it sounds to implement. Mobile based GPS apps and low cost data transmission can be leveraged to easily set up such systems in very short period of time and with little expense.

(iii) *Electronic permits and log of entry/exit:* A common online platform for issuance of permits for cross border operations should be developed that allows all four BBIN regulators to have sign off on permits (as per requirement), thereby ensuring a single-window environment for transporters who apply for such permits. Customs officials can also use this online system to log in the entry and exit of vehicles and thereby track non-compliance related to overstay of foreign vehicle.

(iv) *Carnet like system for temporary movement of vehicles across borders:* A Carnet like system that allows parties to execute a single bond and guarantee in their own local jurisdiction for operations across the region should be included in the BBIN cargo protocol. This will reduce the transaction costs arising from the need to execute individual bonds or bank guarantees with regulators and customs of all countries where the truck operates.

(v) *Regional insurance scheme similar to COMESA Yellow Card:* The Common Market for Eastern and Southern Africa (COMESA) Yellow Card is a motor vehicle insurance scheme, which is valid in all the participating countries in the region. It covers third-party liabilities and medical expenses for the driver of the vehicle and his passengers, should they suffer any bodily injury as a result of an accident to an insured vehicle. It also facilitates cross border movement of vehicles between COMESA member countries. As this card is valid in many parts of the region, transporters and motorists do not have to buy insurance cover at each border post they cross.

Allowing the Movement of Trailers and Flatbeds, and not Just Trucks

Logistics service providers and transporters might choose not to send a truck across the border. Instead a trailer (flatbed with multiple containers, or a single container trailer) could be taken across the border. For example, an Indian registered prime mover can propel a trailer up to the border. At the border, a Bangladeshi prime mover can take over. This provides operational flexibility and dispenses with the need for certain kinds of insurance cover. It also allows the Bangladeshi leg of the journey to be undertaken by a Bangladeshi driver in a vehicle he is familiar with.

In order to provide this operational flexibility, the following points could be considered in the cargo protocol. These are:

(i) BBIN governments need to explicitly make a provision for separate registration of prime movers and trailers. More precisely make it possible for trailers to be registered independent of a prime mover.

(ii) The cargo protocol needs to make a provision for allowing an independent trailer to cross borders (with the proviso that advance information is also provided for the prime movers that would be used to propel it).

Customs Related Protocols

If BBIN MVA protocols do not eliminate the existing duplication of customs processes, lack of integration of customs operations at the border, and lack of electronic message exchange systems between the IT systems of BBIN member state customs, then its achievement in terms of regional integration would be extremely modest. Simply allowing a cargo vehicle to cross the border has very little value, if not backed up by facilitation that allows the integration of global best practices for regulating overland trade.

Some of the key reforms in this area relate to a) allowing seamless movement of sealed containerised cargo between hinterland customs stations without any procedures being done at the borders, b) joint customs inspections and administration with customs of both countries under the same roof at an integrated border check post, c) message exchange between BBIN member countries customs IT systems, and d) integration of a 'trusted operator' scheme. Another key achievable would be to ensure that all facilitations are available to LTL (less than truckload) shipments and not just to single-shipment full truckload or FTL cargo[9].

Some of the essential features that need to be integrated into the customs protocol in this regard would include the following:

Provision for hinterland to hinterland movement with 'no stop at border' for sealed containers: The customs protocol should have a provision for a truck to be stuffed at a hinterland customs location in the origin country (e.g., container freight station or CFS, or an inland container depot or ICD) and complete all export customs clearance there.

Such a customs-sealed truck would not be stopped again for customs clearance at the border, but would be allowed to pass with a simple check that seals are intact. The truck would travel on to a hinterland customs location in the destination country (again an ICD or CFS) where customs clearance would take place.

In order to ensure maximum security en-route and to dispense with apprehensions related to tampering with the seal, the truck should be sealed with an electronic seal (tampering with which would send SMS based alerts with precise time and geo-location where tampering took place). In addition, GPS based monitoring that has already been

9. As pointed earlier, less than truckload cargoes are critical to smaller scale exporters/traders/manufacturers.

discussed with regards to the temporary admission of vehicles, would also enable authorities to track any unauthorised stops or off-route activity. Integration of such measures into the protocol would enable BBIN customs to confidently allow hinterland to hinterland containerised movement of trucks and dispense with procedures at the border.

Integrated Check Post (ICP) and joint customs inspection at border posts: While a large portion of the containerised trade would take advantage of hinterland to hinterland movements described above if provision for it is made in the BBIN cargo protocol, a large proportion of this trade in the BBIN region is related to bulk goods (industrial raw materials) and agro produce which is often not containerised. Such shipments would still undergo checks and customs clearances at the border posts.

In order to maximise the efficiency of border posts, the concept of an ICP needs to be implemented to the full extent of its meaning. Essentially a BBIN ICP should have the following features:

- Well-developed infrastructure with modern truck bays and access roads
- Customs and all major agencies that required for clearance of goods to be present at the posts. Major agencies include food and agriculture regulators[10], textiles regulator, pharmaceutical regulator, and animal and wildlife regulator[11].
- Customs and regulators from both countries that share the border to sit under one roof, and integrate their clearance procedures in order to eliminate duplication
- All physical examination of cargo (in cases where this is required) to be under CCTV cameras

To start with, BBIN member countries can agree to develop four to five such ICPs in the region. A good start would be the three major Indo-Bangladesh land borders[12], and one each on the Indo-Nepal[13] and Indo-Bhutan borders[14].

10. Regulator responsible for Sanitary and Phytosanitary (SPS) and other food and agriculture related clearances
11. Regulator responsible for livestock, leather and wood products
12. Recommended ones would be Benapole-Petrapole, Akhaura, and Banglabandha-Phulbari
13. Indo-Nepal border at Kakarbhitta-Panitanki (since this would be of interest to Bangladesh-Nepal route as well)
14. Indo-Bhutan border at Jaigaon-Phuntsholing

Data exchange between BBIN member country customs IT systems: A critical trade facilitation measure for customs clearances related to overland movement of goods is the exchange of pre-arrival (i.e., arrival at the land border check post) customs declaration data between neighboring Customs administrations. The receipt of such information few hours prior to arrival of truck (empty or carrying goods) at the border allows customs administration to carry our risk assessment and clearance protocols in advance, thereby significantly speeding up the process of actual clearance[15].

This would need BBIN Customs to implement the following:

- Implement advance electronic customs declaration for overland movement of cargo
- Develop a message exchange system that allows their systems to interact and exchange information
- Enable advance risk assessment and clearance of cargo prior to arrival at land border crossing

Trusted transporter scheme: BBIN MVA protocol for cargo must incorporate a trusted cross-border transporter program which would be open to transporters or logistics service providers. Stringent pre-requisites to qualify could be established in common agreement between the BBIN countries. Such requirements could relate to:

- Past compliance record with host country customs
- Global or national reputation
- National level accreditation from customs, e.g., whether transporter or logistics service provider providing transport services is an approved economic operator or AEO in its host country
- Scale of operations
- Technology integration (GPS tracking-enabled vehicles)

This is not an exhaustive list, but an indicative one. Transporters who do meet such pre-requisites should receive specific benefits related to (but not limited to) the following:

- Reduced or no requirement for bank guarantee or bond where such requirements would be put in place for cross-border operations
- Expedited clearances and green-channel at the border posts

15. A good example is the EU funded SEMS/SEED project among the Balkan states (Bosnia, Serbia, Montenegro) for the "real-time" electronic exchange of information on commercial traffic and "empty trucks" between two sides of the border.

Well Defined Transit Procedures with Online Declarations: There is a definite requirement for a standard form International Transit Manifest (ITM) for BBIN, whose form and content is agreed upon by the customs administrations of all four countries. A truck carrying transit cargo can get this endorsed at each entry and exit points by customs administrations, and a formal report acknowledging the validity of the manifest and seal check can be properly endorsed in the manifest.

Also, some method must be found for entities that are registered in one BBIN country (say Bangladesh) to have the ability to file transit documents and undertake transit procedures with customs in another BBIN country (say India). A Bangladeshi transporter undertaking a transit operation from Bangladesh to Bhutan via India should not be required to get registered in India to file documents with Indian customs or have to use an Indian affiliate to undertake transit operations.

No restrictions on less than truckload[16]*:* Less than truckload (LTL) cargo, i.e., a truck carrying a consolidated cargo of several different shipments (multiple consignors and consignees) are often the most inspected at borders. Since they typically serve the smaller exporters, the transaction cost impact of such inspections (often 100 per cent) and associated delays are also significant. Even in an Risk Managed System (RMS) environment (i.e., a system of automatic clearance for a bulk of shipments based on pre-established risk assessment parameters), the probability of some or other shipment in an LTL truck being picked for physical inspection and thorough check would be very high. This would essentially require unloading of shipments and physical inspection of the truck adding to delays.

The solution for such LTL trucks is to allow consolidators (e.g., freight forwarders and express logistics firms) to have truck movement across regional borders with actual clearance happening at an inland customs station (i.e., essentially hinterland to hinterland movement of cargo discussed earlier) of convenience.

Enabling multi-destination shipments: Transit and customs procedures[17]*:* Another critical aspect would be customs treatment of mixed cargo. The competitiveness of a freight business is based on volumes. Larger volumes bring down costs of the service and allow roll-out better services. Therefore, operational flexibilities that allow better build-up of volumes in a trade-lane are always desirable from the perspective of trade and logistical facilitation. It is in this context that combining cargoes for several destinations (i.e., mixed cargo with final destination in more than one country) in one truck (or trailer) assumes importance.

16. This section largely draws upon Banerjee, P (2015)
17. This section largely draws upon Banerjee, P (2015)

For examples, a truck (or trailer) could carry shipments from Bangladesh for eastern UP and Nepal. Even with the suggested idea of seamless movement of sealed containers (hinterland to hinterland) being adopted, this would still require customs clearance of both Nepal and India bound goods with Indian customs and then re-export to Nepal. Direct transshipment would not be allowed for containers/trucks/trailers that have mixed cargo. This reduces the efficacy of having mixed cargo trucks and increases costs of servicing multi-country trade-lanes using road freight.

In order to allow such aggregation and economies of scale, the BBIN cargo protocol could develop an efficient transshipment model for mixed cargo. Trucks/ containers/trailers containing mixed (i.e., multi-country destination) cargo should be allowed the facility of stuffing and sealing in customs presence at an inland location in origin country and is allowed to cross border by customs administration at both sides of the border without any further physical inspection. The truck would then travel to an inland location in the first destination country, clear the goods meant for first country in customs presence, and pick up additional goods meant for second country, and have the truck/trailer re-sealed in customs presence. The truck would then travel on to the second country without any inspection (other than seal and document check) at the border and undergo customs clearance for second country at an inland destination. Using an illustrative example, this would mean:

- A truck/trailer that is customs sealed at, say, a Narayanganj factory in Bangladesh would cross the Indo-Bangladesh border (both sides) without any further physical inspection (just checking of seal and corresponding details that should be made available through EDI message exchange as suggested earlier).
- The truck would then travel on to the ICD at Varanasi, whereby only those goods meant for Indian customers would be unloaded and cleared under customs supervision.
- Goods meant for Nepal from India would then be loaded on to truck (in addition to Nepal-bound cargo) in custom presence and truck re-sealed for second leg of the journey. The truck would travel to Nepal without any physical inspection at the Indo-Nepal border (both sides) and do customs clearance for Nepal at an inland destination.

The above process would allow agglomeration of cargo in a single journey for the wider BBIN trade-lane and greatly reduce costs by doing away with the need for multiple customs clearances and handling (loading/unloading).

BBIN MVA and Connectivity in Extended Southern Asian Region

The BBIN region as a geography represents the South and Southeast Asian continuum. In other words, it is the geography that connects the western and eastern parts of the larger South Asian region that consists of the BBIN countries and continental Southeast Asia (i.e. Myanmar, Thailand, Malaysia, Cambodia, Laos, and Vietnam). Historically, undivided Bengal, Nepal, and the regions that make up the current Indian states of Assam, Tripura, and Manipur had significant trading relationships across the overland and coastal trade routes connecting India and Southeast Asia.

The India-Myanmar-Thailand (IMT) MVA is also under negotiation. By ensuring that the BBIN MVA incorporates the best practices for trade and transport facilitation, it could become the benchmark for the IMT MVA. ASEAN member states, in turn, are in the process of ratification and implementation of ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT). Over time, the protocols of BBIN and IMT, and that of AFAFGIT could be synchronised for movement of overland cargo over the entire BBIN and continental ASEAN, i.e., Southern Asia.

The overland route would support and complement multi-modal connectivity across the entire Southern Asian region. Coastal shipping agreements between Bangladesh and India have already been signed[18]. Indian Shipping Corporation has started a fortnightly service between Bay of Bengal ports in South India and Myanmar (operating since October 2014). There are discussions for regular containerised cargo movement between Dhaka and Kolkata and other parts of India. These developments put together point to a growing convergence of multi-modal connectivity initiatives between BBIN region and ASEAN.

Growing commercial and tourist traffic have already seen the number of flights connecting Indian cities and major air hubs in Southeast Asia such as Bangkok, Kuala Lumpur, and Singapore. These flights have increased the air cargo options available for Indian businesses to trade with Southeast Asia. Over time, with the growth of Myanmar and Vietnam, Yangon, Mandalay, Hanoi, and Ho Chi Minh City would similarly well connected with India and other BBIN capitals by air.

Such multimodal options would give rise to number of logistics options to businesses across the Southern Asian region. For example, a yarn exporter from Yangon with export shipments for Dhaka, Ludhiana, and London would potentially be able to optimise time and cost using sea-road-air multi-modal solution. To illustrate, the Yangon-based exporter could send the entire shipment by coastal shipping to Dhaka. Dhaka-bound shipment would be dropped off and rest of the shipment would continue by road

18. Agreement signed on June 2015, and Standard Operating Procedures for Operationalization finalized in November 2015

to Kolkata. In Kolkata, both the Ludhiana and London shipments would be transshipped by air (domestic and international transshipment respectively). The Yangon-based exporter would use air transshipment from Kolkata instead of at origin (i.e., at Yangon) or at Dhaka because Kolkata would have offered a much better air-freight rate which would bring the overall costs of logistics much lower while still managing to maintain a short transit time[19].

All of this can be made possible with adequate facilitation available in the regional MVAs discussed in this article, and the hopefully equally facilitated coastal shipping agreements (and attendant customs facilitation) that integrate the Bay of Bengal regional ports. With the planned infrastructure investments by India, ADB, Japan, China, World Bank and other agencies in BBIN and Southeast Asia, road and rail connectivity between India and Southeast Asia would see tremendous improvement. But infrastructure is just one part of the solution. The other would be the attendant institutional framework that allows seamless movement of goods, using road and rail, and the ability to switch to other modes such as sea or air.

The fulcrum for the Act East Policy could be this very ambitious target of creating an integrated Southern Asian market with connectivity between BBIN and continental Southeast Asia as a central theme. This can be achieved through series of multi-sectoral agreements going beyond just trade liberalisation issues. The focus would be on intra-regional integration of transport and transport related infrastructure and trade facilitation. In that context, the BBIN MVA assumes great importance as it already provides a good template such for an issue- specific and focused approach to regional economic integration. While all of this might sound too idealistic, there are good strategic and economic reasons for India to take the lead in this initiative and for other countries in the larger Southern Asian region to consider such a proposal[20].

Conclusion

The BBIN MVA represents a breakthrough agreement in several ways. It is the first major connectivity related regional agreement in South Asia. It also represents a step forward in developing issue-specific institutional solutions for regional economic integration that goes beyond the old recipe of trade liberalisation in the form of tariff reduction.

However, the real relevance of the BBIN MVA to regional trade facilitation and commercial connectivity would only take place once it successfully deals with the various

19. This is only an illustrative example to show how different optimal combinations can be used to serve point to point transport needs, minimizing costs and transit time as per need of the shipper.
20. Banerjee, P (2016)

details related to movement of goods such as customs processes, transit regulations, and harmonisation of procedures between regulators in BBIN countries. The cargo protocol of the BBIN MVA is still under negotiation, and its final form would determine the quality of institutional solutions to real life logistics impediments and costs that regional economic actors have to face in order to conduct trade across regional borders.

Some of the key facilitation elements that the BBIN MVA could potentially deliver include the development of customs rules to allow point to point movement of sealed container cargo without being stopped at the border, and not limiting this facility to just FTL consignments. Allowing multi-country cargo in the same truck (discussed in detail in section II) is another key achievable.

With the combination of the above elements, the BBIN MVA can potentially add significant value to regional integration by allowing the development of a regional cross-border road freight network. Essentially, a road freight network works along the same lines as an ocean going container vessel that travels along dedicated trade-lanes with shipments bound for multiple destinations along this route, and has the ability to deliver and pick up shipments all along the route.

The development of such regular services transformed the face of shipping by allowing reduction of operating costs through economies of scale, predictability of delivery schedules, and operational flexibility that allowed even small and medium scale shippers (i.e., traders with relatively smaller consignments) to avail same level of service that were typically on offer only for larger shippers. Advanced road freight networks developed in Europe and North America have been able to similarly transform cross-border road freight services and have played a major role in regional integration and development of regional production networks.

Other important issues that the cargo protocol would need to address include the development of data exchange systems between the customs IT operating systems of BBIN countries, and development of rules that allow businesses and transporters to work with all four customs agencies with the means of single bond and bank guarantee (instead of one each in each of the four BBIN countries). ICPs that integrate the work flow and processes of customs and other regulators of both countries at the major BBIN border crossings would be another important achievement for facilitating trade.

Finally, the BBIN MVA could serve as a model for such issue-specific engagement in BBIN region, and beyond in Southeast Asia. Successful implementation of the BBIN MVA would provide impetus to similar agreements with ASEAN member states. Such regional agreements need not stay confined to cross-border road transport but take on work on connectivity and regional integration through coastal shipping (covering the Bay

of Bengal littoral countries), open skies treaties, and rail corridor development initiatives. In effect, then, BBIN MVA would become the first tangible success in India's effort to 'Act East'.

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Attachment - I

Outcome of the Regional Workshop on International Conventions on Land Transport Facilitation

19-21, May 1999, Vigyan Bhavan, New Delhi

Workshop Issues

The issues that engaged the attention of workshop participants were:

(a) Benefits of close integration of economies through increased intra-regional trade.

(b) Regional cooperation for optimal development and management of natural resources.

(c) Development of efficient and cost-effective transport corridors.

(d) Harmonisation of customs documentation and simplification of border control procedures, which impede timely delivery of services.

(e) Accession to international conventions to facilitate cross-border movement of goods and passengers.

Recommendations

The three-day deliberations of the workshop led to the following consensus.

(i) South Asia is probably the best defined subsystem in the contemporary international society. Until recently, it was a single geographic and economic entity with traditional trade and accompanying transit facilities that went back two millennia. These historical links provide natural synergies for mutual cooperation.

(ii) Regional cooperation is a beneficial path for economic development and South Asia's rich natural and human resources should be harnessed through increased cooperation and widening of market opportunities at various levels.

(iii) It is not possible to fashion complete regional cooperation from the very beginning. It needs to be evolved and, in some regions, such evolution may take longer than in others. In the interim, however, it is important to look for partial solutions. Pending integration at the regional level, subregional cooperation could yield substantial benefits.

(iv) The smaller member countries of a regional trading arrangement also gain as they are able to have access to the markets, technologies, resources and knowhow available with the larger members of the trading bloc.

(v) There is considerable merit in following a path of unilateral initiatives in promoting regional cooperation as the long-term benefits would far outweigh the short-term costs. The recent trade and transit liberalisation initiatives have undoubtedly helped in creating a conducive environment for free trade in the region.

(vi) Regional cooperation need not necessarily be pursued only at the governmental level. In the changed political and economic environment, non-government organisations have a vital role to play in the realisation of this goal.

(vii) Improved transport integration leads to increased total volume of trade allowing for effective exploitation of comparative advantages among countries.

(viii) The national and subregional approach for implementation of Asian Land Transport Infrastructure Development (ALTID) project – Trans-Asian Railway and Asian Highway – would facilitate the long-term development of regional network.

(ix) Introduction of new transport technologies and removal of impediments on nodes and links of transport logistics chain are ways of achieving seamless movement of goods across the borders.

(x) Efficient supply chain networks require development of intermodal transport services, improvements in customs stations and in-transit warehousing facilities.

(xi) The restoration of the old transport links by rail, road and waterways would involve minimal investments and would result in maximum benefits in the shortest time frame. This would also make the transit smooth and efficient and would be an effective instrument for alleviation of poverty in the region.

(xii) In the eastern and north-eastern parts of the Indian sub-continent, riverine routes can provide a cost-effective mode of transport. As such, the full potential of the inland water transport in this area needs to be exploited.

(xiii) The fuller benefits of infrastructure facilities cannot be achieved unless parallel measures are also taken to improve trade and transit logistics. These measures should include both policy and institutional reforms so as to improve procedural and operational efficiency.

(xiv) The aim in the short term must be to facilitate and improve existing trade flows and reduce costs of trading transactions rather than focusing on trade expansion which is necessarily dependent on other developments in the region.

(xv) There must be a change in the largely conservative trade and transit policies. Presently, documentation and procedures are restrictive, complicated and time-consuming. They act as disincentives to the traders and add to the costs, making trade less competitive in the global market.

(xvi) The banking procedures also need to be streamlined as they are equally cumbersome and inhibit formal trade flows. As a matter of fact, they encourage non-formal transactions and cause leakage of revenue.

(xvii) Harmonisation of tariffs and customs related documentation and introduction of electronic data interchange would facilitate efficient interchange of goods and passengers at the border points. In fact, one-stop service would reduce transaction costs substantially. This service should also permit prefiling of documents.

(xviii) The imperatives of intra-regional trade, particularly at the local and subregional levels, require special training of customs and other border control officials, so as to bring about the desired attitudinal changes.

(xix) Lack of physical facilities – small space, no parking or warehousing facilities – in the customs area causes delays in customs clearance. The development of these facilities would involve minimal investment but would yield maximum benefits in terms of smooth clearance of goods.

(xx) A set of international conventions and agreements which facilitate cross-border movements by different modes of transport have evolved over the past 50 years and have been operationally tested in Europe and other member countries of the United Nations. These conventions provide a delicate balance between the requirements of the transport industry and the national economy on the one hand and the necessity to conform with indispensable governmental regulations relating to national health and security, customs duties and taxes, etc.

(xxi) The conventions are not violative of the legal principles. In fact, where required, they describe general principles and leave the details to be agreed on a bilateral or multilateral basis. They do not cause any infringement of the sovereignty of the country. At the same time, they provide adequate time-frame for implementation even after their accession.

(xxii) An "off the peg" system is available with the added advantage that the necessary documentation has already been developed. This provides an opportunity to compress the time scale to evolve a framework for land transport facilitation in South Asia.

(xxiii) It would be pragmatic to adopt a three-step approach to the adoption of these conventions. As a first step, the country should work towards bilateral agreements based on international conventions. These bilateral agreements could then be enlarged into subregional agreements, eventually leading to accession to UN conventions.

(xxiv) UN-ESCAP Resolution 48/11 refers to road and rail transport modes in relation to facilitation measures. However, the specific recommendation in the Resolution does not include the conventions on the contract for the international carriage of goods and passengers by rail. In view of the extensive rail network existing in South Asia, the accession to conventions relating to rail mode of transport assumes importance. India may take a lead in developing a framework suitable for the region drawing on the provisions of COTIF (convention relative aux transports internationalaux ferroviaires).

(xxv) Asian Institute of Transport Development (AITD) fulfils the need for a multi-disciplinary body outside the government to promote regional cooperation on the basis of objective research and studies. Its recognition by UN-ESCAP as a centre of excellence for research and its associate membership of 14 countries from Asia Pacific Region underscores its capability to perform this role effectively.

(xxvi) AITD should undertake a lead role in sharing experience in the implementation of the international conventions. It should provide advisory services to the developing countries for incorporating provisions of these conventions into their domestic legislation. It should also initiate a process of educating the public on the benefits of acceding to conventions and bring out a suitable publication in this regard.

(xxvii) The Institute should undertake studies of transport corridors to identify the physical and non-physical barriers to cost-effective and efficient movements of trade and transit. The short-term studies should identify constraints on the existing transport links and suggest remedial measures. The long-term studies should focus on the development of subregional transport networks on the basis of the existing and potential future trade flows, cost of logistics and investment requirements.

(xxviii) AITD should initiate and coordinate the development of a framework for cross-border movement of goods and passengers by rail on the lines of COTIF.

(xxix) There is need for carrying out a study of the domestic legislation of the member countries with the objective of harmonising the same in relation to international conventions.

(xxx) The government should evolve a mechanism to coordinate the work of the regional bodies, multilateral and bilateral agencies, chambers of commerce, professional associations and non-government research institutions engaged in fostering regional cooperation.

Attachment - II

Motor Vehicles Agreement for the Regulation of Passenger, Personal and Cargo Vehicular Traffic between Bangladesh, Bhutan, India, and Nepal

PREAMBLE

The Governments of the People's Republic of Bangladesh, the Kingdom of Bhutan, the Republic of India, and Nepal, referred to hereinafter as the "Contracting Party(ies)" to the Motor Vehicles Agreement, referred to hereinafter as the "Agreement", between the People's Republic of Bangladesh, the Kingdom of Bhutan, the Republic of India, and Nepal";

Considering the importance of closer regional economic cooperation and integration through enhanced regional connectivity through road transport in the Contracting Party(ies);

Recognizing the need for promoting cross-border road transportation for increased intra-regional and inter-regional trade;

Convinced that the finalization and implementation of a Motor Vehicles Agreement between and among the countries would help serve these ends and is in conformity with the envisaged activities of the SASEC Trade Facilitation Strategic Framework, which was endorsed by the countries in March 2014:

Have agreed as follows:

ARTICLE-I

Definitions

(a) "Act" means' Act' or 'Ordinance' governing the Motor Vehicles and Motor Vehicular Traffic of the Contracting Parties.

(b) "Appropriate Authorities" means competent authorities of each Contracting Party having control or jurisdiction over the matter referred to in the relevant Article of the Agreement.

(c) "Authorised Operator" for the purpose of this Agreement means a person or firm or company, licensed or authorised by the competent authority of a Contracting Party to undertake passenger or cargo transportation by vehicle between and among the Contracting Parties.

(d) "Certificate of Fitness" means a certificate issued by a competent authority, authorised by the Contracting Parties, testifying the mechanical fitness of the vehicle to ply on the road.

(e) "Competent Authority" or "Competent Authorities" means authorities specified in the protocol to the Agreement, drawn up by the Contracting Parties concerned for operationalising the Agreement.

(f) "Conductor, Helper and Cleaner's Certificate" means certificates issued by the competent authorities of the Contracting Parties to the conductor, helper and cleaner of a vehicle certifying their identity.

(g) "Driving License" means a document of authorization to drive a specified category of vehicle(s) issued by a competent authority of the Contracting Parties or an internationally recognized permission for driving.

(h) "Forms" means any of the forms given in the schedules attached hereto.

(i) "Insurance Policy" means a valid international vehicle insurance policy or a certificate issued by insurers, duly registered in Contracting Party(ies) countries.

(j) "Land Customs Station(s)" will include all facilities to check and facilitate movement of passengers and goods across the international border(s). This also includes the 'Integrated Check Post(s)' serving such purpose

(k) "Law" means any Act, Ordinance, Rules, Regulations or any other legal documents of Contracting Party(ies).

(l) "Local Taxes" include the taxes levied by concerned local Government bodies in any of the Contracting Parties but excludes the permit fees.

(m) "Non-regular Passenger Transportation" means the movement of all types of passenger vehicles of one country in the territory of other for the purpose of tourism, pilgrimage, marriage party, medical treatment, study tours, access to railway station and such other casual purposes.

(n) "Permit" means document issued by the competent authority of Contracting Party(ies), and countersigned by the other Contracting Party(ies) concerned authorizing the movement of a vehicle under this Agreement

(o) "Registration Certificate" when used with reference to a vehicle, means the certificate of registration issued under the Act of the Contracting Parties.

(p) "Regular Cargo Transportation" means transportation of goods undertaken by authorised operator of a Contracting Party for a destination in other Contracting Party(ies).

(q) "Regular Passenger Transportation" means passenger transportation undertaken by authorised operators of a Contracting Party to other Contracting Party(ies) for fare charges on previously agreed areas, trips, time tables and routes with pre-designated originating terminals, stopping points and final destinations.

(r) "Vehicle" for the purpose of this Agreement means any motor vehicle which is used to transport persons, passengers or goods, including containerized cargo, on the road.

ARTICLE-II

Vehicles

1. The Contracting Parties will allow the following vehicles registered in each Contracting Party to ply in territory of other Contracting Party(ies), subject to the terms of the Agreement:

(a) Cargo vehicles (including trucks, trailers etc. that could carry containerized cargo) for inter-country cargo including third country cargo.
(b) Passenger vehicles for both hire or reward; or personal vehicles.

2. Provided further that all regular passenger/cargo transportation will be allowed only through authorised operator(s).

ARTICLE - III

Permit

(1) All the vehicles of a Contracting Party will require a permit for plying through the other Contracting Party(ies).

(2) The permit will be issued in compliance of all the technical requirements and after verification of all the required documents as mentioned in Article-IV(2), except documents stated in Article-IV(2) (iv), (v) and (viii) of this Agreement. The availability of all relevant documents will be ensured at all time while plying in the territory of any Contracting Party(ies).

(3) A permit for regular passenger transportation for hire or reward will be issued by the competent authority of the respective Contracting Parties to the authorised operator as specified in **Form A**.

(4) A permit for regular cargo transportation will be issued by the competent authority of the respective Contracting Parties to the authorised operator as specified in **Form B**.

(5) A permit for personal vehicles other than regular passenger transportation as at sub-article (3) above will be issued by the competent authority of the respective Contracting Parties as specified in **Form C**.

(6) Non regular passenger vehicles will be permitted temporary admission on a case to case basis for a period of up to 30 days, provided that a permit for such journeys will be taken as specified in **Form D**.

(7) Permits for regular passenger transportation and regular cargo transportation will be multiple entries, valid for one year and renewable every year.

(8) A vehicle entering and plying into the territory of a Contracting Party or exiting from its territory under this Agreement will do so using authorised routes through authorised immigration check points and land customs stations as notified by the Contracting Parties concerned by mutual agreement. Any deviation from the route will be treated as violation of the permit conditions and of the relevant customs laws of the concerned Contracting Parties. Sector and the details of route, route maps, location of permitted rest or recreation places, tolls and check posts open for regular passenger or cargo transportation among the Contracting Parties will be specified in the Protocol in the format as at Annexure-I. Any addition or changes to the sectors and routes will be decided by the Contracting Parties concerned by mutual consent.

(9) A permit issued by one Contracting Party under this agreement will be countersigned by the competent authority of the other Contracting Party(ies) within a period of one month.

(10) Regular passenger transportation and non-regular passenger transportation for hire or reward will be operated on reciprocal basis. The competent authority of the respective Contracting Parties will, after mutual consultations, fix the number of such vehicles plying on different routes.

(11) The Contracting Parties will exchange the lists of authorised operators for both passenger and cargo transportation by 31st January of every year and whenever any new operator is authorised or existing operator ceases operation or earlier (on request).

(12) The competent authority under reference in sub-articles (3), (4) and (5) above will be specified in the protocol in the format as at Annexure-II. The competent authority for the purpose of sub-Article (6) above will be the Diplomatic Missions and also the designated Customs Officer or other authorities designated by the Contracting Parties.

(13) Installation of a tracking system on motor vehicles as well as containers at the cost of entering vehicle/container will be introduced within two years from the signing of the agreement subject to the mutual consent of Contracting Parties.

ARTICLE-IV

Documents Required

(1) A vehicle operated or used under this Agreement while entering into the territory of another Contracting Party will be so maintained as to be at all times under the effective control of the person driving it.

(2) The following documents will be readily available with a vehicle, either in English or in certified English translation, while plying in the territory of another Contracting Party:
   (i) A valid registration certificate.
   (ii) A valid certificate of fitness (wherever applicable).
   (iii) A valid insurance policy.
   (iv) A valid permit.
   (v) A valid "Pollution Under Control" certificate issued by a Contracting Party, certifying emission level and pollution under control of that vehicle in the Contracting Party, which has issued the certificate. The compliance of PUC check of the transit or destination state will be decided by the concerned Contracting Party(ies).
   (vi) A valid driving license issued by a Contracting Party or an international driving permit.
   (vii) Pre-verified passport of the crew containing inter-alia the photo identity of the crew.
   (viii) A passenger list (with details of their nationality) in case of regular passenger transportation and non-regular passenger transportation for hire or reward.
   (ix) An internationally recognized valid travel document as proof of identity for passengers.
   (x) A way bill providing a brief description of the cargo and destination(s), commercial invoice and packing lists.
   (xi) List of personal goods/articles in possession of the crew including accessories, spares and parts in the vehicle to account for customs duty exemption/assessment.

(3) All the documents referred to in sub-article (2) above will be in possession of the person driving the vehicle at the time of entering the territory of another Contracting Party as well as

during the entire period of stay in the territory of that Contracting Party and will always be available for inspection by any competent authority authorised to inspect the vehicle.

(4) The driving license or an international driving permit of the person who is driving or controlling the vehicle issued by the competent authority of one Contracting Party will be recognized by the competent authorities of other Contracting Parties.

(5) A conductor, helper and cleaner of a regular passenger / cargo transportation vehicle will be in possession of a valid certificate as per Annexure-III.

(6) If for any reason, a driver of a regular passenger/cargo transportation vehicle is unable to perform his/her duties in another Contracting Party, a driver who is a national of either Contracting Party-in possession of a valid driving license may drive the vehicle, subject to the condition that such a permission will be only as a substitute for one operation.

(7) At least one member of the crew of the vehicle must be able to communicate in English or in a language understood in transit or in the destination Contracting Party.

ARTICLE-V

Passport and Visa

Crew members will carry passports or relevant accepted documents which will be issued to facilitate frequent endorsement of visas and will be granted multiple entry visa, valid for at least one year, by the Contracting Party(ies) concerned.

ARTICLE-VI

Restrictions

(1) Vehicles registered in one Contracting Party and operating under this Agreement will not be permitted to transport local passengers and goods within the territory of other Contracting Party(ies).

(2) Nothing in this Agreement will be construed as exempting any person from the rules and regulations regarding entry permits, wherever applicable.

(3) No major repair work will be carried out in another Contracting Party except in the event of an accident or break down.

(4) Vehicles of either Contracting Party requiring an urgent repair while en-route will be allowed to have repairs done at nearby equipped workshop(s) in the other Contracting Party. In case of accidents, all consequential repairs may also be permitted in the Contracting Party where the accident occurred.

(5) In the case of an accident, the legal proceedings, if any, against the driver of the vehicle will be disposed of expeditiously under the relevant laws of the Contracting Party where the accident occurred.

(6) Contracting Parties will decide on the number of cargo and personal vehicles and volume of traffic under this Agreement through mutual consultation and agreement.

(7) The Border Check Posts, Land Ports/Dry Ports and Land Customs Stations of the concerned Contracting Party(ies) will endorse entry / exit particulars of the vehicles on the permit and these will be treated as the date of entry/exit for the purpose of this Agreement. Traffic between the two countries will be restricted only through existing notified Land Ports/Dry Ports and Land Customs Stations/Routes.

ARTICLE - VII

Fees and Charges

(1) In relation to border, land port/dry port formalities, customs and quarantine formalities, taxation and fees, the provisions of internal laws or agreements between Contracting Parties will be applied in deciding matters which are not regulated by this Agreement.

(2) The crew (driver, conductor, helper, cleaner etc.) will be allowed to carry baggage in accordance with baggage rules subject to such restrictions and prohibitions under laws of the respective Contracting Parties. The standard accessories of the vehicles, essential spares, fuel and oils contained in its supply tanks before entering in another Contracting Party should also be exempted from duties and taxes. However, in case of refuelling, the destination or transit Contracting Party(ies) may charge the unsubsidized price on a reciprocal basis.

(3) All fees and charges for issue of permit for the vehicle of one Contracting Party will be levied only at the entry point of another Contracting Party. The rates of such fees and charges (including the fee for vehicle in transit) will be decided and notified from time to time by Contracting Parties and informed to one another. Fees and charges will be paid in the currency of the Contracting Party in which the vehicle is entering. Nothing in this clause exempts the vehicles of another Contracting Party from the commercial charges payable on the highways, toll-ways, etc., so long as the same are equally applicable to the vehicles of the destination or transit Contracting Party. Any other charges to cover the cost of services provided for cross-border transportation between the Contracting Party(ies) may be levied on mutually agreed basis.

(4) No additional charges such as octroi, or local taxes will be levied on transportation of passenger vehicles of one Contracting Party while plying in the territory of another Contracting Party except those taxes/charges which are equally applicable to vehicles of the destination Contracting Party, and the transit fee applicable to vehicles of other Contracting Party (ies) in transit.

(5) Subject to the validity of the vehicle permit, the customs or relevant authorities of respective Contracting Parties will allow temporary admission to vehicles into their territory free from customs duty.

(6) In case of over-stay by a vehicle for a period more than the prescribed time limit as per the permit issued by customs/relevant authorities in a Contracting Party, the laws of the Contracting Party would be applicable.

(7) A Customs subgroup having participation from all the Contracting Parties will be set up to formulate the required Customs and other procedures and safeguards with regard to entry and exit of vehicles.

ARTICLE - VIII

Road Signs and Signals – Compliance with Traffic Laws

(1) The designated authorities of the Contracting Parties will provide international road signs and signals along the specified routes, wherever required.

(2) Vehicles of one Contracting Party are required to observe laws pertaining to traffic while in the territories of other Contracting Party(ies).

(3) The State Government or local authorities will not impose any restrictions or changes inconsistent with the provisions of this Agreement. However, this will not prevent State Government or local authorities from imposing such temporary restrictions as may be necessary to maintain law and order or to meet contingencies like natural calamities.

ARTICLE-IX

Force Majeure

In case of over-stay in any Contracting Party due to vehicle breakdown, accident, repair works or other unforeseen circumstances including natural calamities or disasters, a member of the driving crew will notify to the competent authority of that Contracting Party for the required period.

ARTICLE-X

Right to Inspect and Search

(1) Any authorised officer of the Contracting Parties such as the officers of the Department of Customs, Land Port/Dry Port, Police and other security agencies and the Transport Authorities will have the right inside their territory to inspect and search vehicles operating under this Agreement, its luggage, passengers and goods.

(2) Vehicle of one Contracting Party operating contrary to the provisions of this Agreement in the territory of other Contracting Party(ies) will be subject to the law of the destination or transit Contracting Party.

ARTICLE-XI

Insurance

(1) The non regular passenger transportation by vehicles to be operated under this Agreement will be insured by a registered Insurance Company against at least third party loss, in all the Contracting Party(ies) where the vehicle is allowed to ply.

(2) The regular passenger and cargo vehicle must have a comprehensive insurance policy.

(3) The appropriate authorities of each Contracting Party will provide facilities to the insurance company of the other Contracting Party to carry out all necessary steps such as survey, assessment, investigation, settlement of claims and remittance in connection with such operation.

(4) In the event of an accident resulting in damage to a third party's property or loss of life or injuries to third parties, appropriate authorities of each Contracting Party will extend all

assistance for expeditious settlement of the claims and provide facilities to the persons concerned, subject to the law of the Contracting Party.

ARTICLE - XII

Business Facilitation

(1) Persons or institutions operating regular passenger transportation or regular cargo transportation services in one Contracting Party will be permitted to open their branch offices or appoint their agents in the other Contracting Party(ies), on mutually agreed terms on reciprocal basis. The authorised operators will also obtain work permit for their employees deployed at a branch office in another Contracting Party from the competent authority of the respective Contracting Party.

(2) The authorised operators will be permitted to open bank account(s) in the other Contracting Party for remittance of funds generated by sale of bus tickets and receipt of money as a result of transportation of goods and for meeting local expenses.

(3) The appropriate authorities of the Contracting Parties will provide all possible facilities to the vehicle of the other Contracting Party, which may be disabled on the roads. The owner of the vehicle will be permitted to make necessary remittances through banking or other permissible channels, on account of expenditure incurred on such rescue operation/repair.

ARTICLE - XIII

Consultations

(1) The Contracting Parties will consult each other as and when necessary, in connection with the implementation of the Agreement.

(2) In order to facilitate effective and harmonious implementation of the Agreement, the Contracting Parties will consult each other at a mutually decided place and date.

(3) Differences, if any, regarding the interpretation and implementation of this Agreement will be resolved through consultations.

ARTICLE - XIV

Applicability of Local Laws

(1) The Contracting Parties agree not to permit the movement of goods which are either prohibited or restricted under the prevailing laws and regulations of the respective countries, and any negative/sensitive list agreed upon by the Contracting Parties.

(2) The National laws of the respective Contracting Parties will govern matters other than those mentioned in this Agreement.

(3) The Contracting Parties will cooperate effectively with one another to prevent infringement and circumvention of the laws, rules and regulations of their respective countries in regard to matters relating to the movement of vehicles.

(4) This Agreement will not affect the rights and obligations arising from other international commitments of the Contracting Parties.

(5) This Agreement will not affect the existing bilateral agreements or arrangements between the Contracting Parties.

ARTICLE-XV

Dispute Settlement, Entry and Withdrawal

(I) ***Dispute Settlement***

(1) Any dispute arising out of interpretation and/or implementation of this Agreement shall be resolved amicably among the Contracting Parties. If unresolved, the Contracting Parties may refer the dispute to a mutually agreed dispute resolution mechanism.

(2) The Contracting Parties will cooperate effectively with one another to investigate infringement and circumvention of any law and to conduct proceedings for enforcement of local laws as applicable in the other Contracting Party.

(II) ***Entry and Withdrawal***

(1) Any other country may enter into this Agreement subject to consensus among the existing Contracting Parties. Any Contracting Party may withdraw from this Agreement at any time after its entry into force, and shall inform the other Contracting Parties of its withdrawal. The withdrawal shall be effective on expiry of six months from the date on which a written notice thereof is received by the other Contracting Parties. Withdrawal from the Agreement by a Contracting Party will not affect the application of the Agreement for the other agreed Contracting Parties.

(2) The rights and obligations of the Contracting Party which has withdrawn from this Agreement shall cease to apply as of that effective date.

(3) Following the withdrawal application by a Contracting Party, the Transport Secretaries of the Contracting Parties shall meet within 30 days to consider action for intervention in view of the implications of the withdrawal.

ARTICLE - XVI

Entry into Force, Amendments and Review Mechanism

(1) This Agreement will enter into force on completion of formalities including ratification by all the Contracting Parties and upon issuance of notification through diplomatic channels.

(2) The provisions of this agreement shall be reviewed by Contracting Parties after a period of three years from the date of entry into force of this Agreement or earlier as mutually agreed by Contracting Parties. The review process will suggest amendments, modifications or improvements in the provisions of this Agreement.

ARTICLE - XVII

Depository

Each Contracting Party shall keep an original of the Agreement.

IN WITNESS WHEREOF, the undersigned being duly authorised thereto by their respective Contracting Parties have signed this Motor Vehicles Agreement for the Regulation of Passenger and Cargo Vehicular Traffic between and among Contracting Party(ies).

DONE in Thimphu, Bhutan on the Fifteenth day of June of the year 2015, in four originals in the English language.

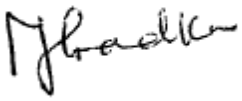
For the People's Republic of Bangladesh

Obaidul Quader
Minister of Road Transport and Bridges

For the Royal Government of Bhutan

D. N. Dhungyel
Minister of Information and Communications

For the Government of India



Nitin Jairam Gadkari
Minister of Road Transport and Highways, and Shipping

For the Government of Nepal

Bimalendra Nidhi
Minister of Physical Infrastructure and Transport

Form A

A FORM OF PERMIT

(As Per Article III (3) of the Agreement)

Permit for Regular Passenger Transportation

(One copy will be endorsed to each designated Customs Officer of the authorised Land Customs Station).

PART- I (To be filled up by the applicant)

(a) Name, Address and Nationality of the owner(s) of vehicle.
(b) Name, Address and Nationality of the authorised operator of vehicle.
(c) Registration number of the vehicle. (d) Make, Model and year of manufacture of the vehicle.
(e) Engine number of the vehicle.
(f) Chassis number of the vehicle.
(g) Seating capacity including driver and other staff.
(h) Particulars of Insurance Policy.
(i) Particulars of certificate of Fitness.
(j) The starting and terminal points in each country.
(k) The sector and routes to be followed by the vehicle.
(l) Amount paid. _____
(m) Permit issued on_____
(n) Valid up to: _____
(o) Land Customs Station(s) of entry and exit.

Signature of applicant. _____

PART-II (For Office use)

Signature, designation and seal of the competent authority of the country of origin _____

Signature, designation and seal of the competent authority of the country of transit, if any _____

Signature, designation and seal of the counter signing authority of the country of destination _____

Permit renewed from _____ up to _____.

Signature, designation and seal of the competent authority of the country of origin _____

Signature, designation and seal of the counter signing authority of the country of destination _____

Note:

1. No additional charges such as octroi or local taxes will be levied on the vehicles of one country carrying this permit while plying in the territory of the other country except those taxes/charges which are equally applicable to vehicles of the destination country.

2. Registration papers and other documents such as insurance policy, fitness certificates, etc. will be carried by the vehicle and made available for inspection on demand by the competent authority or any officer duly authorised.

3. The said passenger vehicle will have painted in English and in the official language of the respective country/state in orange colour on white surface on both the left and the right side of the said vehicle, with each letter being not less than one inch (2.5 cms.) high and one inch (2.5 cms.) wide, legibly painted on a plain surface or a plate or plates affixed to the said vehicle, namely, name of the country, the starting & terminal points in each country and the route.

Form B

FORM OF PERMIT

(As Per Article III (4) of the Agreement)

Permit for Regular Cargo Transportation

(One copy will be endorsed to each designated Customs Officer of the authorised Land Customs Station).

PART- I (To be filled up by the applicant)

(a) Name, Address and Nationality of the owner(s) of vehicle.
(b) Name, Address and Nationality of the authorised operator of vehicle.
(c) Registration number of the vehicle. (d) Make, Model and year of manufacture of the vehicle.
(e) Engine number of the vehicle. (f) Chassis number of the vehicle.
(g) Particulars of Insurance Policy.
(h) Particulars of certificate of Fitness.
(i) The starting points in each country.
(j) The sector and routes to be followed by the vehicle.
(k) Amount paid. _____
(l) Permit issued on. _____
(m) Valid upto _____
(n) Land Customs Station(s) of entry and exit.
(o) Maximum axle load (metric tons),

Signature of the applicant: _____

PART-II (For Office use)

Signature, designation and seal of the competent authority of the country of origin _____

Signature, designation and seal of the competent authority of the country of transit, if any _____

Signature, designation and seal of the counter signing authority of the country of destination _____

Permit renewed from _____ up to _____.

Signature, designation and seal of the competent authority of the country of origin _____

Signature, designation and seal of the counter signing authority of the country of destination _____

Note:

1. No additional charges such as octroi or local taxes will be levied on the vehicles of one country carrying this permit while plying in the territory of the other country except those taxes/charges which are equally applicable to vehicles of the destination country.

2. Registration papers and other documents such as insurance policy, fitness certificates, etc. will be carried by the vehicle and made available for inspection on demand by the competent authority or any officer duly authorised.

3. The said cargo vehicle will have painted in English and in the official language of the respective country/state in orange colour on white surface on both the left and the right side of the said vehicle, with each letter being not less than one inch (2.5 cms.) high and one inch (2.5 cms.) wide, legibly painted on a plain surface or a plate or plates affixed to the said vehicle, namely, name of the country, the starting & terminal points in each country and the route.

Form C

FORM OF PERMIT

(As Per Article III (5) of the Agreement)

Permit for Personal Vehicles

(One copy will be endorsed to each designated Customs Officer of the authorised Land Customs Station).

PART- I (To be filled up by the applicant)

(a) Name, Address and Nationality of the owner(s) of transport vehicle.
(b) Registration number of the vehicle.
(c) Make, model and year of manufacture of the vehicle
(d) Engine number of the vehicle.
(e) Chassis number of the vehicle.
(f) Particulars of Insurance Policy against third party risk.
(g) The sector and routes to be followed by the vehicle.
(h) Amount paid. _____
(i) Permit issued on. _____
(j) Valid up to _____
(k) Land Customs Station(s) of entry and exit.

Signature of the applicant: _____

PART- II (For Office use)

Signature, designation and seal of the competent authority of the country of origin _____

Signature, designation and seal of the competent authority of the country of transit, if any _____

Signature, designation and seal of the counter signing authority ,of the country of destination _____

Note:

1. No additional charges such as octroi or local taxes will be levied on the vehicles of one country carrying this permit while plying in the territory of other country except those taxes /charges which are equally applicable to vehicles of the destination country.
2. Registration papers and other documents such as insurance policy, fitness certificates, etc. will be accompanied by the vehicle and made available for inspection on demand by the competent authority or any officer duly authorised.
3. Since these are one-time permits, as such at the time of crossing the border, these will be stamped and initialed by the Customs authorities at the Land Customs Stations on the border at the time of entry and exit so as to prevent multiple uses.

Form D

FORM OF PERMIT

(As Per Article III(6) of the Agreement)

Permit for non-regular passenger vehicles for duty free up to 30 days
(One copy will be endorsed to each designated Customs Officer
of the authorised Land Customs Station).

PART- I (To be filled up by the applicant)

(a) Name, Address and Nationality of the owner(s) of vehicle.
(b) Registration number of the vehicle.
(c) Make, model and year of manufacture of the vehicle
(d) Engine number of the vehicle.
(e) Chassis number of the vehicle.
(f) Particulars of Insurance Policy.
(g) Particulars of certificate of Fitness.
(h) The sector and routes to be followed by the vehicle.
(i) Amount paid. _____
(j) Permit issued on. _____
(k) Valid up to _____ from date of issue.
(l) Land Customs Station(s) of entry and exit.

Signature of the applicant: _____

PART-II (For Office use)

Signature, designation and seal of the
competent authority of the country of origin _____

Signature, designation and seal of the competent
authority of the country of transit, if any _____

Signature, designation and seal of the counter
signing authority of the country of destination. _____

Note:

1. No additional charges such as octroi or local taxes will be levied on the vehicles of one country carrying this permit while plying in the territory of other country except those taxes / charges which are equally applicable to vehicles of the destination country.
2. Registration papers and other documents such as insurance policy, fitness certificates, etc. will be accompanied by the vehicle and made available for inspection on demand by the competent authority or any officer duly authorised.
3. Since these are one-time permits, as such at the time of crossing the border, these will be stamped and initialed by the Customs authorities at the Land Customs Stations on the border at the time of entry and exit so as to prevent multiple uses.
4. Competent authorities for the purpose of this schedule will be Embassies/Consulates of the country of Destination.

Annexure -I

Protocol containing details of route, route maps, location of permitted rest or recreation places, tolls and check posts for passenger or cargo transportation

S. No.	Name of Land Custom Station/ Immigration Check-post/Other relevant details	Sector/Route Agreed	Number of Permits for the! Sector/ Route for Each country
1.			
2.			
3.			
4.			
5.			
6.			

Annexure - II

The competent authority under reference in Article - III (12) of this Agreement will be the authorities to be specifically designated as under. List of Competent Authorities may be mentioned specifically by each Contracting Party.

S. No.	Name of Land Custom Station/ Immigration Check-post	Name of Authorities
1.		
2.		
3.		
4.		

Annexure - III

FORM OF CONDUCTOR'S/CLEANER'SIHELPER'S IDENTITY CARDIDOCUMENT
GOVERNMENT OF _____

Sl. No.:_____

Date of Issue: _____

1. Issuing Authority
2. Name of Conductor/Cleaner/Helper
3. Father's Name
4. Date of Birth
5. Address

   Permanent Address:
   Present Address:
6. Nationality

PHOTO

(_____)
Signature of the Conductor/Cleaner/Helper

7. Details of Conductor's/Helper's/Cleaner's license:

   License No.
   Vehicles Class
   Valid till
   Issued by
8. Name and address of owner of passenger vehicle

   Name
   Address
   Present Address:
   Permanent Address:

(_____)
Signature of the owner of the passenger vehicle

Identity card/document valid from _____ to_____

(_____)
Signature and Seal of Competent Authority

Note: Competent Authority for the above will be the permit issuing authority.

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