



IS JOINT BORDER PROCESSING FEASIBLE IN EAST/CENTRAL ASIA?*

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1. The Common Action Plan proposed that an examination should be undertaken of the technical, financial and economic feasibility of developing joint border processing. The Working Group in Almaty recognized, in principle, the potential benefits to be gained from joint border processing in terms of enhanced services and the more effective use of border facilities. However, there was not a comprehensive understanding of what joint border processing actually involved and of the differing implementation options.

2. There are currently no joint border posts in operation in the region, so there is a lack of practical experience of the concept. Concern was expressed at the potential implications of such systems on the basis of the existing legal jurisdiction, how the other border organizations would be involved and how such systems would operate in practical operational terms in East/Central Asia.

3. A key role for all modern Customs organizations is trade facilitation. Despite this, Customs are still perceived by the trade and transport industries as a barrier to trade and transport development. It is only since the 1990s that these new barriers were put in place at the borders. This has resulted in delays that have driven transport costs up to some of the highest levels in the world, despite low fuel costs, and leads to rising trade costs.

4. Substantial investment has been undertaken on the development of the primary and some secondary border crossings throughout the region but despite this investment users still complain that border transit speeds and procedures have not changed substantially over the last twenty years. The current conditions are not compatible with the objectives of development of region trade and cooperation and consequently new approaches should be considered. It is important to note that joint processing is only one of the potential methodologies to enhance border crossing performance and others should also be considered.

5. The principle of joint processing is to reduce the number of stops incurred in a cross border movement by combining the activities of both countries border organizations at either a single common location or at a single location in each direction (juxtaposed facilities). Current border procedures resemble an "obstacle" race whereby one has to go through a number of "obstacles", drive a few hundred metres and then start again with a fresh set of obstacles. Joint processing is principally about placing all the obstacles in one place and then trying to reduce them by eliminating the amount of processing duplication. Consequently, it is a two-stage process – establishment followed by rationalization.

6. Joint processing can be considered for both road and rail borders, though it is recognized that the principle benefits are achievable at road borders. It is generally not suitable for maritime borders.

7. The reasons why countries in the region should evaluate the potential to introduce joint processing relates to following benefits:

- Enhanced Border Performance;
- Lower Infrastructure and Operating Costs; and
- Compliance with International Conventions.

8. The main reason why overall transit times have improved in recent years is principally due to the reduced volume of trade caused by the adverse economic

climate in parts of the Region. Unit processing times for individual vehicles and trains have not altered significantly. Thus, as the economic conditions continue to improve generating higher levels of regional trade the extended waiting times at borders will return.

9. With joint processing, even if the current border procedures remained unchanged, the border transit speeds would improve using a single processing location. The elimination of movement and parking-up times would result in an overall improvement in units processed per hour and consequent enhancement in border performance over the current separate BCZ methodology, even if each country were only to achieve existing unit processing speeds.

10. Border infrastructure is expensive both in terms of the physical infrastructure and technical equipment. An additional problem in the region is that the majority of border crossings tend to be in remote locations meaning that border development is more expensive than normal.

11. The current position whereby each country has to provide major infrastructure for its own specific border processing requirements involves a duplication of investment at frontiers. There is potential for combined investment that can be achieved through the implementation of joint processing.

12. Many of the borders in the region are in remote locations. This results in higher manning costs, both to encourage personnel to locate at these crossings and the need for the provision of accommodation. The joint processing concept provides a more continuous workflow resulting in higher productivity due to the lower idle time, and consequent potential to reduce staffing levels, especially at these remoter locations.

13. There is an ever increasing demand for ICT development at border crossings. Most countries in the region already have an Automated Customs Clearance System (ACCS) or are in the process of developing and installing such systems. Significant potential exists for a border interface whereby exit data from one country can represent input data to the next country without the necessity to key in new data with the resultant transposition errors. If the systems can be connected through a LAN system within a single site, this would be significantly easier than a physical cross border data transfer.

14. The legal force in promoting joint customs processing is the collection of international agreements relating to the simplification of customs procedures and the harmonization of border controls. The most important is the "Revised Kyoto Convention", prepared by WCO and agreed to by the WCO member states. The Convention provides the international benchmark for reform and modernization of Customs, including the introduction of joint customs controls.

15. The issue of joint processing is specifically addressed in Chapter 3 of the General Annex to the Convention that binds the parties to implement the following standards:

"3.4 Transitional Standard

At common border crossings, the Customs administrations concerned shall, whenever possible, operate joint controls.

3.5 Transitional Standard

Where the Customs intend to establish a new Customs office or to convert an existing office to a common border crossing, they shall, wherever possible, co-

operate with the neighboring Customs to establish a juxtaposed Customs office to facilitate joint controls".

16. The concept is further defined in the guidelines on the interpretation of the General Annex as follows:

"The customs controls of the exporting administration are conducted at the same time as the customs formalities of the importing administration (or near simultaneously) by officers from both customs administrations; and

The customs controls are conducted within a common area where customs offices of both administrations are established, whether in separate buildings or in a single facility."

17. It is clear therefore that joint processing has been identified as a specific concept to be promoted within these international Conventions that are used as a "roadmap" to the development of modern border operations.

18. Joint Processing involves a single methodology based on by combining the activities of both countries border organizations at a common location. However the implementation of the concept has a number of different variants or options based on the specific environment at that location.

19. The standard joint processing routines are as follows for a cross-border movement from State A to State B:

- Pedestrians: enter BCZ from State A, subject to exit controls by Customs A and Border Police A, followed by entry controls Border Police B and Customs B and exit from BCZ into State B;
- Passenger Cars: drive into BCZ from State A, subject to drive-thru exit controls by Customs A and Border Police A, followed by drive-thru entry controls Border Police B and Customs B and Ministry of Transport (MOT) prior to exit from BCZ into State B;
- Freight Trucks: drive into BCZ from State A and park up in a common parking area. Driver exits vehicles and undertakes the administrative exit controls by Customs A and Border Police A, followed by administrative entry controls by Border Police B and Customs B and MOT prior to returning to vehicle. Vehicle then subject to inspection/examination either in the parking area or at inspection area prior to exiting from BCZ into State B;
- Passenger Trains: undertaken on a walk-thru by Customs from State A, followed by Border Police from State A, Border Police from State B and Customs from State B. This can be undertaken when train is either held locked in a station or undergoing bogie transfer or, more commonly, in transit between border stations; and
- Freight Trains; train held in a border station/siding and processes by Customs, Border Police and State Railways from State A followed by border processing by Customs, Border Police and State Railways from State B.

The activities of the other border organizations, such as Veterinary, Phytosanitary etc., are integrated into the above processes either directly or on a delegated arrangement.

20. It can be seen that the processes are almost identical to current procedures at the separate national facilities. The initial difference is only that of the location. However, the benefits to the users are significant in terms of reduced transit times. The benefits to the border organizations mainly occur in Stage 2 when it is possible to rationalize the operations to reduce duplication of workload through the physical

presence of both countries organizations within the one location using such techniques as joint inspections, enhanced ICT transfers etc. and the mutual recognition of procedures that allows one party to provide services for another.

21. In considering the introduction of joint processing the following factors need to be assessed:

- Existing Infrastructure;
- Current Procedures;
- Topography of the site/area;
- Nature of the traffic – road/rail, passenger, freight, volumes and peaking factors;
- Risk factors – country, users, goods etc. and
- Demands for reciprocal treatment/facilities.

22. Whilst it is possible to have joint processing of Customs in isolation, in practice the benefits of joint processing are unlikely to be achieved unless the joint processing also involves all the major border organizations. However, Customs are the main organization at the borders in terms of processing times and they can act as the promoter of joint processing.

23. There are 4 main joint processing options that mainly relate to the locational environment:

- Straddling Facilities;
- A Common Border Facility;
- Juxtaposed Borders Facilities; and
- Country of Entry Processing.

24. If joint processing offers potential benefits to both Customs and the users, why is it that there is as yet no joint processing being undertaken in the Region? The probable answer to this is as follows:

- Lack of understanding on joint processing and its adoption as a potential border development strategy;
- A perceived clearer understanding of the potential constraints to implementation of joint processing – i.e. a negative approach;
- The requirements for all border organizations to commit themselves to the concept for its successful introduction; and
- Inadequate or unsuitable infrastructure.

25. The legal aspects of joint processing that require Customs officials from both countries to execute the control process for import and export goods at the same time (or nearly simultaneously) within a common area is often cited as the key constraint by Customs administrations. This is because of perceptions that existing Customs legislation would not permit Customs officials from State B to perform their control process according to their foreign laws within in State A's territory or similarly for State A to operate outside their own territory in State B. As a result, the different Customs administrations are not empowered with the appropriate authority to perform such functions, unless new laws permit them to do so were provided.

26. The primary legislation in each country is the Customs Code. In most cases the Customs Code does not indicate approval of joint processing regimes. However, conversely, it may not specifically disallow joint processing. Each of the Customs Codes in the Region need to be examined in detail to identify whether there are legal constraints enshrined within the existing Codes.

It is considered that secondary legislation, such as Customs Notices and Decrees, can normally be changed without referral to Parliament and therefore should not represent such a significant barrier to implementation. They could be relatively easily amended to incorporate joint processing.

27. Many of the countries that have undertaken joint Customs controls, or are preparing to do so, have faced this situation. While the political systems of these countries vary, each country has recognized that national laws have to be adjusted to incorporate new provisions that accommodate Customs functions to be performed extra-territorially. Hence, an enabling legislative framework may be necessary to facilitate this change. This legal framework rests on a foundation comprising the following:

- An international (or bilateral) agreement on joint controls between two or more states sharing a common border; and
- Adequate national legislation supporting the implementation of joint controls, either primary or secondary.

28. Other than in a situation where a new border crossing is to be opened, the border crossings within the Region are already established and countries have made investments in national border facilities. The three major infrastructure constraints are considered to be as follows:

- Border Separation;
- Border Post Design; and
- Utilities/Communication

29. The potential for joint operation is greatest the closer the two national BCZs are to each other. Indeed, the ultimate is where they interface each other over the border enabling a straddling facility to be developed. Unfortunately, this is not generally a common situation in the Region with both road and rail border BCZs are often significantly distant from each other, in many cases several kilometres apart.

30. The existing border facilities were designed and constructed solely to meet national requirements. Thus, the layout and office configuration was specific to that role. There would be a requirement to make adjustments to these in order to introduce joint processing regimes with both countries border organizations together.

31. In the region many of the primary and secondary border crossings tend to be in remote locations with difficult access to reliable supplies of electricity and communication. The implementation of joint processing places a greater reliance on the need for power and communications.

32. It is not considered that there are any significant procedural constraints to Stage 1 implementation of joint controls as border organizations should undertake all of their existing procedures and processes as at present. The implementation of joint Customs controls within a common BCZ will require decisions by the Customs administrations of both countries with regard to the management and operation of facilities. The implementation of Stage 2 of joint processing will require more difficult decisions in addressing the current border processing

33. Based on an initial audit of border crossings it is not considered that the technical, legal or operational constraints could not be resolved and that joint border processing is a realistic option in compliance with international agreements. It is therefore proposed at a pilot project is developed to confirm the viability of this processing to the benefit of both users and border organizations in the Region.