ISSUES PAPER
on
DEVELOPMENT OF BORDER POSTS AND FACILITIES[*]

In recent years substantial investment has been made in the development of the primary border crossings throughout the region. Despite this investment, the transport industry and other users complain that border transit speeds and procedures have not changed substantially over the last twenty years. Whilst this may not be completely true, the fact that user perceptions remain negative clearly suggests that the value of these investments has been limited.

The secondary border crossings remain to be developed and Customs officers are having to work in difficult conditions located in harsh terrains with resultant high smuggling levels and poor enforcement profiles. Such crossings involve long delays and have the highest level of illicit payments to expedite transits and transits of prohibited goods.

Clearly, the current conditions are not compatible with objective of development of region trade and cooperation. It requires a realistic assessment of why such investments are not generating the positive results in terms of both performance and image and what can be done to bring the smaller crossings up to a reasonable standard. Evidently, as demonstrated where major investment has been made in new facilities and equipment, capital expenditure is not the key factor, though it is important. There have to be other factors that need to be considered.

The primary constraint relates to the procedures undertaken within the border control zone and the number of organisations present. As a freight user, transiting a border is like participating in an obstacle race. Each fence involves visiting some authority, submitting a wealth of documents, paying some money, obtaining stamps before moving onto the next organisation. Finally, when you have finished you drive 500 metres and start again in the other country with a more or less identical process.

Customs are seen as the primary organisation at the border, though Border Police are often responsible for overall operations. The problem is that users see the delays as principally Customs-related, even though in most cases this is not true. This requires Customs to take a lead in attempting to resolve many of these difficulties, even those related to external parties.

Even passenger transits appear to convey a similar negative image to users. Though transit speeds have increased at many borders, they are still not comparable with "best practice" as indicated in the Tacis TRACECA study on "Harmonisation of Border Procedures" or are compatible with recommendations in the Revised Kyoto Convention.

The procedures in most cases relate to an environment that no longer exits and to a Customs environment that was focused on centralised control, rather that encouraging trade through trade facilitation.
The secondary constraint is poor border design. Border facilities in the region have usually been developed on the basis of overall demand being determined by Customs and then this being translated into a design by a design institute with no practical experience of border

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operations. In border design "form follows function" with form being the infrastructure and function being the operations. In modern border design the operations or functions are determined and designed, with the form merely being a covering over that function. In the CARs the institute tends to determines the form based on planning norms and the functions have to "fit into" that form. As a result, many border crossings are difficult to operate and have a shortfall of facilities in one area and a surplus in another. For example, most are "mirror" terminals in that the outward facilities are identical to the inward facilities, when clearly the operational demands differ significantly. Customs are often not involved in the detailed design providing their operational input to ensure that the end-product achieves its objectives.

The third main constraint is that all the various border organisations, up to nine at many crossings, work in isolation. The user perceives a border crossing as a series of sequential activities or "obstacles". The service providers, including Customs, often tend to see their activities in isolation. In developed countries there is more emphasis on integrated border management systems that seek to encourage border organisations to work as a team and reduce the number of organisations present. This is principally implementation of single window routines with Customs taking on the responsibilities of some of these other organisations. Examples of this are screening for veterinary, phytosanitary and sanitary services with Customs undertaking the document checking routines and directing them inland to designated locations in the event of problems. Customs in some CIS countries are also collecting road tax and checking permits on behalf of the Ministry of Transport. The result is less organisations working together.

The principle of the one-stop processing is in reality confined to freight traffic. Passenger traffic will always be a sequential process based on the vehicle moving forward past a series of kiosks with the driver and passengers remaining within the car. The truck driver has a more complex routine and is required to exit his cab. The principle of the single window or one stop is that he can accomplish all the controls without having to move his vehicle, such that when he returns to his unit he is cleared to proceed subject to confirmation checks. Whilst this is being achieved at some CARs borders, the design of the facilities requires constant backtracking of the user in the processing buildings rather than a continuous sequential process.

The recommendations in the Revised Kyoto Convention promote the use of joint processing. This is the ultimate in the one stop concept in that all processing by both countries is undertaken at a single location. The three main variants are to either have country of entry processing only, juxtaposed facilities or a single common site on the territory of one country.

The country of entry processing is being used in Europe. Under this system there is no processing of outbound passengers or freight, other than random checks and minimal controls in relation to freight, such as stamping and collecting of carnets and declarations. This system places additional responsibilities on the country of entry, as it is becomes the sole control body. This system works on the principle that Customs are less concerned about what goes out than what comes in. In practice, the country of entry would have to do no more controls than present, given the high level of inspections and examinations at CARs borders.

The juxtaposed system is based on processing in one direction being undertaken by both authorities at a single location in one country and in the other direction by both countries in the other country. Because of the emphasis on inward controls the joint control tends to be in the inward country. This simplifies the legal issues in that most offences occur in relation to import movements, rather than exports. There are a number of examples of this system even in the CIS, thus the legal system is not seen as a major constraint.

The single common site is the ultimate in that it minimises the duplication of investment in border facilities. Under this system the Border Control Zone is a common or neutral territory in legal terms and the "national" borders are the entry and exit gates. The border organisations within the zone work sequentially for passenger traffic but for freight have a single facility where processes are completed by both organisations. Such facilities are present in Eastern Europe.

The key issues in considering joint border crossings are to agree the conceptual model, examine how the facilities need to be designed to accomplish that concept (form follows function) and to develop protocols to cover the specific circumstances of this crossing.

There is as yet no template for such joint border agreements but progress is being achieved based on experience where such crossings have been opened. The key concern tends to be the issue of jurisdiction. If an offence is committed on the territory of another country what rights do the organisations of the non-resident country have in terms of enforcement? Additional issues are the carriage of arms by border officials and responsibility for maintenance of the facilities.

It is recognised that the development of joint processing is not easy in a region that is still reliant on tradition control procedures and has inflexible border design mechanisms. However, there is a willingness to examine the potential of such systems. The concept of a pilot facility is attractive as is would not create a precedent in that it could be abandoned if it proves to be unworkable. If it proves beneficial then the concept could be expanded to encompass other crossings. The requirement is for a border crossing that has sufficient volume to make it a realistic trial but not so large that significant constraints to bilateral trade could result during the trail period when operations problems are being resolved.

The Customs Cooperation Committee has endorsed the piloting of joint process in the region, probably at one of the Kazak borders. The Kyrgyz-Kazak border may not be suitable for trail purposes because both are members of the Eurasian Customs Union and are already subject to simplified procedures, thus it has less credibility as a trail site.

The key issues to be decided by the Working Group are as follows:
- Site selection;
- Development of Protocols; and
- Design criteria.