

Bangladesh-Bhutan-India-Nepal Motor Vehicles Agreement

Unlocking the Potential for Vibrant Regional Road Freight Connectivity

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Abstract

On June 15, 2015, Bangladesh, Bhutan, India, Nepal (the BBIN group of countries) signed a sub-regional Motor Vehicles Agreement (MVA) for facilitating easy cargo movement across their borders. It is expected to reduce trade transaction costs significantly and can be an effective tool to realise their trade and investment potentiality. In turn, it will generate new economic opportunities, particularly in border areas and, through their multiplier effect will help promoting sustainable and inclusive development through employment generation and increase in purchasing power.

The BBIN MVA has put in place a good framework for facilitating transit and transport within four countries of Bangladesh, Bhutan, India and Nepal. It has aptly capitalised on the present political clout for sub-regional integration and quickly put on the table a framework that can provide a much awaited push towards economic integration for the sub-region. Among others, it has included appropriate clauses to look at insurance, permits, visa (multiple-entry), applicability of local laws (a more detailed analysis will be important), business facilitation and the likes.

However, the potential benefits and political will notwithstanding, there remains many a gap in terms of access (particularly small players), understanding, interpretation and application of various procedures, regulations and rules (information asymmetry) among both officials and practitioners across the borders, absence of policy harmonisation amongst contracting parties (the four nations).

Hence, there is the requirement to accede to international conventions, preparedness of the contracting parties in terms of enabling domestic policies that can dovetail into international conventions for transport and transit facilitation, acceptance of trade facilitation measures across stakeholders and buy-in of policy directives at various level of the stakeholder chain.

This Discussion Paper analyses how the regulatory objectives of this motor vehicles agreement can be achieved. It provides roadmap on operational issues and solutions for cross-border movement of vehicles as well as customs procedures.

Introduction

The Bangladesh-Bhutan-India-Nepal (BBIN) Motor Vehicles Agreement (henceforth BBIN MVA)¹ is a major step forward in reducing the costs of overland connectivity between these countries. The inability of trucks to cross borders requiring trans-shipment of cargo added a layer of costs and delays creating an impediment to the development of seamless supply chain integration in this region. There are great supply chain potentialities in South Asia, whether in textiles, yarn and ready-made-garments (RMG) linking production networks in Indian Punjab and western India with Bangladesh, or in the trade of agro-processing linking India, Nepal, Bhutan and Bangladesh.

However, the effective integration of these supply chains and their development into production networks pre-supposes reduction of connectivity costs. In this context, the BBIN MVA is a force-multiplier to regional economic integration.

It is to be noted that the actual impact of an agreement, especially agreements whose objectives are to facilitate trade and reduce the costs of doing business across borders, are critically dependent on: a) the design of these agreements, and b) the quality of implementation.² The design of agreements refers to the ability of an agreement to incorporate the micro-level operational issues related to trading and doing business. The quality of implementation refers to the ability of an agreement to incorporate solutions and procedural norms that resolve such micro-level operational impediments.

The following analyses provide an overview of legitimate regulatory objectives of governments and government agencies that can lead to micro-level operational impediments in the context of cross-border vehicular movement,³ the element agreement design that can pave the way for easing such impediments, and related procedural solutions that can potentially balance the legitimate regulatory objectives of government with ease of doing business. This paper concludes with a detailed discussion on the existing micro-level challenges being faced at regional borders.

Regulation of Cross-border Movement of Vehicles and Cargo

Legitimate Objectives of Regulators

Motor vehicles agreements that regulate cross-border movement of vehicles typically aim to ensure that following objectives:

- Visiting foreign vehicles do not violate designated routes assigned for their movement thereby undermining the host countries ability to provide necessary security to such vehicles while at the same time ensuring that foreign vehicles are not in contravention of the primary objectives for which such movement has been allowed
- Relate to the above issue of non-violation of routes is the regulation of the domestic market for cargo carriage. Authorities need to ensure that foreign trucks are not using their visits to host country as an opportunity to service domestic trucking needs.

¹ More precisely, the MVA for the Regulation of Passenger, Personal and Cargo Vehicular Traffic between Bangladesh, Bhutan, India, and Nepal

² For a detailed discussion on criticality of design of agreements and implementation issues see Banerjee, Pritam (2013) "Trade in Professional Services and Technical Barriers to Trade in India's Preferential Trade Agreements", Dissertation, School of Public Policy, George Mason University, available at <http://digilib.gmu.edu:8080/xmlui/handle/1920/8276>

³ Specifically, movement of vehicles carrying cargo

- Foreign vehicles adhere to vehicle-related standards (regulations on axle size, emissions etc.) applicable in the host country.
- Foreign vehicle operators (i.e. driver and associated support staff operating vehicle) are fully trained and equipped, and in no way compromise the road safety requirements in the host country. Such operators are also not in violation of any immigration related rules.
- Foreign vehicle operators are not undertaking any activities that can cause a challenge to national sovereignty, safety, and security of the host country (issues related to terrorism, smuggling, and trafficking of contraband and people)
- In addition, customs regulations (and allied regulations on product quality) and procedures in place for monitoring the overland cross-border movement of goods aim to achieve the following broad objectives. These are:
 - ✓ prevention of revenue leakage through intentional violation of customs rules and requirements (for e.g. mis-declaration of value/quantity/classification);
 - ✓ ensuring consumer health and safety by enforcing statutory standards on traded goods entering (and in some cases leaving) the border; and
 - ✓ ensuring national security (social, economic and political) by preventing the trafficking of contraband goods (for e.g. narcotics, weapons).

In order to achieve these regulatory objectives, a variety of enforcement tools are put in place by governments. These tools, if not properly designed and without the integration ease of business solutions in their implementation process, can pose significant operational challenges at the micro-level for businesses. Table 1 lists some of the regulatory tools for both vehicular movement and flow of goods (i.e. customs related) in the broader Asian context (but applies more specifically to the BBIN MVA) and associated operational issue on the ground.

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

Regulatory Objective	Enforcement Tool	Operational Challenge
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 for large fleet operators, and even smaller operators. 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; for e.g. not allowing separate registration for tractors and	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 on this score

Regulatory Objective	Enforcement Tool	Operational Challenge
	trailers thereby allowing only on or the other to cross the border (typically the trailer crosses the border)	
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 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 Electronic Data Interchange (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 (less than truckload, i.e. multiple shipment in single truck) cargo	Increases cost of both shipping and trans-shipping (i.e. transit to third country) smaller shipments, and leads to significant delays.

The desired operational flexibilities indicated in the extreme right column in Table 1 are not irreconcilable with the regulatory objectives, but require some modification in the enforcement tools through the use of risk management systems and integration of technology. The next section discusses some of the specific solutions in this regard that can be considered with respect to BBIN MVA and overland cross-border customs related procedures that would integral to the cross border road freight business development.

BBIN Motor Vehicles Agreement

Suggested Reforms in Agreement Design and Implementation Procedures

The reforms suggested can be put in two distinct buckets. The first bucket is related specifically to the agreement design and implementation norms applicable to BBIN MVA and applies to the operational issues of cross-border movement of vehicles. The second

bucket relates to customs procedures that while not part of the BBIN MVA *per se*, are critical to the success of the BBIN MVA as a conduit for the development of regional road freight facilitation.

I. Operational Issues and Solutions for Cross-border Movement of Vehicles

Dispensing with journey specific permits

A key problem with most standard bilateral motor vehicle agreements (BMVA) in Asia is that the process of getting journey-wise permission for the vehicle to operate across borders (cargo permit) with the associated requirement to identify the designated operator (i.e. driver)⁴ for that journey. The need for getting a permit for every occasion that trucks need to cross borders would make the system very cumbersome and add significantly to transaction costs.

Furthermore, the need for having one single designated driver for the entire journey adds to operational inflexibility. There should also be flexibility to change drivers at the border, or during the course of the journey. It might make more sense for a truck to be driven by an Indian driver in the Indian leg of journey (language, familiarity with routes, rules and regulations etc.), and say a Bangladeshi driver for the Bangladesh leg of the journey. By requiring the identification of the designated operator of a specific vehicle in the permit form for trucks (thereby implying that only that operator can drive that specific truck) this flexibility is lost.

Policy Recommendation

The recommendation, therefore, is to move to independent and periodic authorisation of trucks. Such approved trucks would be given a certificate that indicates they have been authorised to make cross-border journeys (by meeting all safety and technical norms). They would also have a special license plate/markings attached (along with their national registration) that indicates the same. The authorisation should typically be valid for two years with some technical caveats.

Similarly, drivers with adequate heavy vehicle operational skills mutually recognised by BBIN MVA signatories, should be given periodic authorisation to make cross border journeys and operate authorised trucks (subject to visa norms).

There should not be any need to obtain journey wise permits as long as authorised truck driven by an authorised driver is making the cross-border journey. As discussed in the preceding point, route declarations should be dispensed with in favour of allowing trucks to ply all designated routes. All the border authorities (i.e. customs would need to do is make an electronic noting of the registration of the authorised truck and license number of authorised driver that is crossing the border.

Further, flexibility shall be given allowing for change of drivers at the border.

⁴ Typically, the notified form for getting approval for a vehicle to serve across border includes a data point asking for the operator or driver of the vehicle. This pre-supposes that separate permission for every journey would be required to be obtained

Designating access to key corridors and dispensing with the process of need for journey specific route approvals

The need for identification of and approval of the route a truck would take for every journey is a regulatory burden, especially for large fleet operators who would be managing several trucks at once. It also reduces operational flexibility. There are frequent occasions of congestion, accidents that lead to roads being blocked, and natural and other calamities (for e.g. an underground pipeline burst leading to flooding of a section of the road) that require changing of route on an urgent basis. There might be business requirement to change route (i.e. customer wants delivery in a go-down other than the one initially considered). Operational flexibility to make some changes in route plan is a key to the development of any sustainable road freight business.

In a system defined by journey specific approvals of routes, monitoring whether or not trucks are keeping to the identified route or not would always be a challenge without the use of technology⁵ such as Global Positioning System (GPS). This, in turn, can lead to poor implementation of such a regulatory requirement and even sporadic acts of rent seeking.

Policy Recommendation

Instead of reliance on documentary submission of route plan for every journey and the physical display of such a route plan on the vehicle, supported by manual observation and monitoring, a much more trade facilitative approach would be a combination of: a) universal access to designated routes for approved vehicles; and b) a system of GPS monitoring.

Specifically, a set of highways, arterial roads, and urban and industrial cluster access roads should be identified by each signatory country (taking into account the location and access requirements for the main economic clusters, as well as key airport and ports for development of multi-modal freight). This set of identified roads would be accessible to all registered operators and their registered vehicles (see preceding discussion on registration and permits for cross-border trips). Deviation from these designated roads would not be permitted under any circumstances save those related human and natural emergencies. Enforcement would depend on integrating a GPS monitoring system in trucks that ply across borders (this would be a pre-requisite).

GPS technology is integrated into cell phones and has become relatively cheap. ALL the major economic nodes in BBIN have cell phone coverage. So it stands to reason that designated roads that cover such economic clusters would have cell phone coverage as well. Technology and cost cannot be reasons for not insisting on this solution. While BBIN does makes its intention to introduce GPS monitoring systems, the specifics of such integration in terms making GPS tracking an enforcement tool is missing. There is also no deadline for implementation of GPS tracking. This augurs poorly and reflects sub-optimal agreement design. Typically any stated good intentions in international agreements, which are not backed by a specific set of enforcement targets and a deadline, seldom come to fruition.

⁵ While BBIN MVA has made reference to the integration of monitoring systems, such as GPS in the compliance and monitoring mechanism, the signatory countries have not established a deadline or a specific work programme for the same

Allowing for independent tractor-trailer cross-border permit

There is no facility in the agreement to get an independent permit for just a trailer to cross the border. This would mean that only the trailer (containerised or otherwise) crosses the border, the tractor and operating staff, i.e. driver and helper of the tractor, do not. The trailer would then be attached to another tractor at the border for remainder of the journey.

Allowing just trailers (that are independently registered) to cross the border would bring in an element of flexibility in road freight operations. For example, the operators might want to use an Indian tractor up to the border, and then want a Bangladeshi tractor to operate the container trailers in the Bangladeshi part of the journey. It needs to be noted that some work needs to be done in BBIN MVA signatory countries in clarifying the national regulatory regimes for the independent registration of trailers (as opposed to combined registration of tractor and trailers as one unit together).⁶

Policy Recommendation

Allowing independent movement of trailers across borders would require: a) a clear national regulatory regime in BBIN MVA countries for independent registration of tractors (and associated standards by which such technical approval for road fitness, safety, axle related approvals etc. would be given); and b) that a facility for approving trailers for cross border movement would need to be present in the agreement (including a separate permit form developed exclusively for tractors).

Norms for specified periods of entry and exit, and liability regime for such non-motorised vehicle that is not self-propelled would also have to be integrated into the agreement.

II. Operational Issues and Solutions for Customs Procedures

As indicated earlier, operational issues related to customs are not directly related to BBIN MVA, but have a major impact on the success of BBIN MVA as a catalyst for cross-border road freight development. The following paragraphs, instead of going into the details of existing customs processes in different BBIN MVA signatory countries, would instead focus on some common challenges and suggested solutions.

Seamless movement of bonded trucks (minimal inspection regime at border)

Customs procedures should make provision for custom sealed, i.e. sealed in custom officers' presence (at an inland location) and bonded truck (or independent trailer) to cross the international border without any need for physical inspection at the border. The truck would have the facility to undergo customs clearance in the presence of customs officers at any port, airport, Inland Container Depot (ICD) in the destination BBIN region country that is most convenient for the shipment.

⁶ For a detailed exposition of the Indian regulatory regime in this context, see Annexure 1 of this Note

The following integrated customs procedures would need the following to be in place to provide facilitation and seamless movement:⁷

- BBIN member states develop a standard protocol for inspection and sealing of trucks at inland locations. For e.g. export cargo in India have the facility for sealing of trucks in the presence of excise circle officers
- Adoption of high quality electronic seals that ensure greater degree of security
- Message exchange system between BBIN member country customs would transmit information about the truck, container, seal identifier, and shipment details to customs in the destination country (and in the transit country, if transit is involved).⁸ Till the time message exchange systems are not operational, adequate physical documentation norms should be put in place. Documents (related to seal and bond under customs inspection) duly signed and endorsed by one customs administration should be accepted by other BBIN custom administrations (thereby ensuring that no physical inspection takes place at the border in the importing country side as well).
- At both sides of the border, customs administrations would only check if seals are intact (in the rare case, would insist on opening of seal and inspection based on RMS/specific intelligence)
- Truck would go to the nearest (or most convenient) customs clearance location (port/airport/CFS/ICD/SEZ/FTWZ etc.) in destination country where customs would again check seal and subsequently do clearance as per standard norms
- In order to add an extra layer of security, such bonded truck movement would be permitted only for trucks that are equipped with CCTV that automatically record footage every time the truck makes a stop greater than a specific amount of time (say 3 minutes). This would ensure that any attempt to unload cargo or load cargo en-route would be recorded. The cost of such technology has come down drastically and such security measures are being adopted in many parts of Asia
- If bonded truck has to transit a BBIN member country to reach its destination, customs in the transit country would only check seal at entry and exit

Treatment of LTL cargo

LTL cargo, i.e. a truck carrying a consolidated cargo of several different shipments (multiple consignors and consignees) is 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 RMS environment, the probability of some or other shipment in an LTL truck being picked for physical inspection and through check would be very high. This would essentially require unloading of shipments and physical inspection of the truck adding to delays.

⁷ Currently, Indian exports to Nepal and Bangladesh through LCS (land customs station) are allowed to undergo customs clearance at a nearby ICD or CFS, and sealed container from ICD/CFS transports the shipment to LCS (under bond and security provided by transporter). What is being outlined here is a more facilitated version of the same where a) clearance can take place at any inland customs location that has adequate facilities (such as an airport or port) and even at factory and b) that the other customs administration in the destination (or transit countries) respect the sanctity of the customs sealed container and allow clearance at an inland customs location in the final destination country

⁸ Developing a message exchange system (as opposed to platform integration) between BBIN MVA signatory countries should be a priority

The solution for such LTL trucks is to allow consolidators (i.e. freight forwarders and express firms) to have bonded (and sealed) truck movement across regional borders with actual clearance happening at an inland customs station (i.e. port/airport/ICD/CFS/SEZ/FTWZ etc. with customs presence) of convenience. If required cargo can be consolidated, loaded onto a truck and sealed in customs presence. A trusted agents program where selected consolidators with good reputation are allowed self-seal bonded trucks could also be considered. Essentially points 1 through 6 made in context of the preceding point on seamless movement of bonded trucks holds good for the LTL related movement as well.

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 of 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.

For example, a truck (or trailer) could carry shipments from Bangladesh for eastern UP and Nepal. Even with points 1 through 7 suggested in the context of seamless movement of sealed containers in bonded trucks (or trailers) are adopted, this would still require customs clearance of both Nepal and India bond goods at the Indian border and the re-export. Direct trans-shipment 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.

The suggestion is for developing an efficient trans-shipment model for mixed cargo. Trucks/containers/trailers containing mixed (i.e. multi-country destination) cargo is allowed the facility of stuffing and sealing in customs (or excise as the case may be) 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 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 onto 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 bonded truck/trailer that is customs (or excise acting on behalf of 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 of details that should be made available through EDI message exchange as suggested earlier).
- The truck would then travel onto 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 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).

The motor vehicle movement and customs related facilitation discussed here can have a tremendous developmental impact by integration and development of existing supply chains. The developmental impact would not be incremental but exponential since trade and logistical facilitation not only allows existing businesses to expand and flourish but creates opportunities for entrepreneurs to develop entirely new businesses. There is great likelihood that the existence of an efficient and enabled road freight network in itself would lead to the development of entirely new regional supply chains creating jobs and prosperity all across the BBIN trade lane, and creating new global champions.

It is not inconceivable that BBIN participants develop globally competitive production networks centered around the creative use of multiple fibres that are regionally sourced and processed (for e.g. silk, cotton, wool, and jute) or develop a globally successful organic agro-processing industry. But the first step is connectivity and development of low-cost, reliable and regular road freight solutions and that in turn need the facilitations outlined in the previous sections.

Annexure 1

Need for Clarification on Allowing Multiple-Trailer Single Horse (MTSH) Mode of Trucking under the Indian Regulatory Framework

A logical extension of the tractor-trailer trucking model is what is known as Multiple Trailer Single Horse (MTSH) model. This essentially allows a truck to have the flexibility to pull any tractor (i.e. trailer). The adoption of this model can lead huge cost savings and operational efficiency. Specifically:

- Reduces idle time for trucks substantially, as they do not need to wait at a location while goods are being unloaded or loaded. Loading and unloading can account for up to 40 per cent of the total time trucks spend, and allowing a truck to drop off a tractor to be loaded/unloaded while it heads off to make another journey can lead to huge operational efficiency gains
- Allows greater flexibility in terms of tractor design. Supply chain managers can afford to maintain several tractors with specialised needs (i.e. different shelf design, locking mechanisms, and compartmentalisation) depending on the type of cargo they carry, without having to maintain a similar number of trucks to pull them, thereby reducing fixed costs of operations substantially.
- Operational flexibility in pick and drops allows optimising routes, reducing fuel consumption, and reducing transit times, all of which lead to cost reduction, as well as reducing carbon footprint per unit of freight carried.

However roll-out of the MTSH model in India is being prevented by the fact that regional transport offices (RTOs) interpret the Motor Vehicle Act provisions on tractor-trailers differently. The provisions of the Motor Vehicle Act (Chapter IV, 61-Application of Chapter to Trailers) clearly states that trailers can be registered separately and be assigned to be drawn by any vehicle with the proviso that:

- The drawing vehicle displays the registration mark of the trailers
- The trailers display the registration mark of the drawing vehicle

While some state RTOs allow MTSH, i.e. allow separate registration of truck and trailer, some do not. This different interpretation of the same Motor Vehicles Act provisions prevents larger trucking and 3PL companies for going for a national roll-out of the MTSH model.

Therefore, we request the Ministry of Road Transport and Highways, Government of India to issue a clarification note to all RTOs to facilitate independent registration of tractors and trailers to enable firms to implement MTSH models on a national scale. Our request is to also clarify that the requirement is for ensuring that the registration marks of the tractor and trailer are legibly displayed on each other, but this does not mean that different trailers cannot be hitched to different tractors allowing flexibility as per requirement.