

BORDER INTEGRATION
(presented by Dr. José Luis Moreno Guerra)

1. Mandate

The Inter-American Juridical Committee decided by consensus at its meeting held on March 9, 2012, during its 80th regular session, to include the study of border integration guidelines on the agenda for its next session, under the powers vested in it in Article 12, c) of its Statutes, with a view to subsequently developing a model bi-national treaty on the subject. At that same meeting, a rapporteur was appointed to submit a preliminary document to the Juridical Committee for analysis and debate.

2. Preliminary considerations

Somebody once rightly said that integrating means recovering a lost unity.

Integration is the shortest path to take and the most expeditious mechanism for achieving the economic growth of the countries involved, combined with the social development of their peoples in a framework of equity and inclusion.

Because states tend to follow centralized development models, the impact of government is barely felt on the periphery, where economically depressed areas abound. To make matters worse, they are often contiguous with impoverished areas on the other side of the border.

As with other construction processes, the idea is to build on what exists, to add rather than subtract. Ultimately, border integration is the first and most important prerequisite for all other forms of integration. The consolidation and gradual expansion of border integration paves the way for binational integration. The next step is to incorporate new members and progress to subregional integration. That opens up the possibility and the necessity of achieving regional integration. The ultimate goal of hemispheric integration is then within reach.

The key to the whole process is acknowledging that the bottlenecks are at the border: Gordian knots calling for prompt and pressing solutions.

Unlike other forms of integration, border integration covers and caters to the whole range of human needs, way beyond commercial or tariff considerations, in such a way that the residents of border zones become not just the chief targets, but also the protagonists, of the actions undertaken.

Border integration involves not just states with adjacent lands, but also island states with maritime boundaries.

Because it has such far-reaching implications and involves so many new arrangements, border integration needs to be amply supported by the potential stakeholders and beneficiaries, to such an extent that unnecessary and predictable resistance to it, particularly from official institutions (such as Customs, the Armed Forces, the police, immigration authorities, and others)

can be overcome. These have become accustomed to thinking of borders as closed, as barriers and walls against the outside, and as opportunities for intimidation and extortion.

It will also be essential to inform and persuade the vested interests that have exploited enclaves and established monopolies – especially in freight and passenger land transportation services – of the obvious advantages of border integration.

Given that no two neighboring countries are ever at an identical stage of economic development, evening out the differences cannot be made a prerequisite for initiating or insisting on border integration.

Nor should internal integration be made a condition for border integration; on the contrary, international integration generates and expedites internal integration within states.

Finally, we must understand and accept that borders constitute points of encounter, facilitation, help, support, coordination, assistance, protection, and collaboration until the day arrives when global integration overcomes the cruelty of the divisions carved between states.

3. Border integration zone

To establish a border integration zone, neighboring states would, by agreement, designate the political constituencies within the contiguous boundary line (provinces, departments, or states) in which they can pursue joint activity.

As the border integration is consolidated, the parties would add new political constituencies to the zone, until the whole territory of both countries is covered, culminating in binational integration.

4. Legal fiction

The residents of border integration zones can move about freely and easily, and with guarantees – even across borders – just as if they were in their own country. Under legal fiction, each country's jurisdiction is allowed to extend towards the zone's outer limits, which explains the juxtaposition of domestic efforts to benefit the less developed regions to compensate for years of neglect or indifference.

Under this type of legal fiction departure taxes and passport and visa requirements are removed within the border integration zone; and domestic rates may be granted for cross-border ground, water, and air transportation, as well as for telephone, postal, Internet, and other services.

5. Neighborly relations commission

Each party would appoint members to its national neighborly relations commission, which would coordinate fully with the neighboring country's commission. Together, the two commissions form what is called a "good neighborly relations commission," which manages the entire border integration process, with the Foreign Affairs Minister of the meeting host country serving as chair.

At the domestic level, the foreign affairs minister chairs the national commission, assisted by a Council comprising one private sector representative, the executive secretary, and an equal number of representatives of official institutions and civil society organizations. The secretariat would serve as the national executing agency, with an executive secretary, a coordinator, consultants, and project managers.

The role of executive secretary would be performed by a senior Foreign Service official (Ambassador or Minister) from each country, whose primary responsibility is to prepare draft bilateral treaties and regulations; propose plans, projects, and activities; and monitor everything the two sides have agreed on.

The commission is vested with powers to create standing or temporary technical committees for every binational plan or project, and could also establish operations committees to manage specialized technical plans, with ongoing supervision by the secretariat.

The neighborly relations commission is not meant to be a bureaucratic body, and needs no office or budget of its own. It would have no permanent staff except for the executive secretaries, coordinators, and project managers; would function as a mechanism for coordination, support, and follow-up; and its purpose is not to replace any official institution nor is it to pretend to do their job.

Neighborly relations commissions have already proven themselves useful, efficient, and productive in South America in the 1990s but, unfortunately, were discontinued because there was no legal framework or support from existing organizations in the Hemisphere, a role that the OAS could very well have fulfilled.

6. Working method

The neighborly relations commission, the council, and the committees would meet on a regular basis and at alternating venues in one country or the other; a rapporteur would be appointed for each regular or special meeting; and at the end of meetings, minutes would be drafted with conclusions and the pertinent recommendations.

The commission's work, and the executive secretary's in particular, is akin to a shuttle on the loom producing fabric, constantly moving back and forth: personal contact is maintained with officials from both sides, and with representatives of unions, businesses, and non-governmental organizations, among others, to hear first-hand the concerns, priorities, fears, and aspirations with respect to bilateral projects, plans, activities, and instruments under negotiation, deliberately avoiding written positions that would be hard to amend or withdraw later.

In order to expedite the process of joint decision-making and avoid unnecessary deadlock, it would be useful for each party to clean up the various national positions before taking them to binational meetings on neighborly relations.

7. Binational works

While works to be undertaken in the border integration zone – including legal, physical, technical, financial, and contractual work – would be binational in nature, binational works are not the sum total of the domestic components; the responsibilities would be shared and alternating, that is, if one party is handling design, the other would handle domestic and international bids, the former being responsible for construction and the latter, oversight.

Since the national laws of both sides cannot be applied to the same binational project at the same time, one quick, pragmatic solution is for the applicable law to be that of the country responsible for the activity; since various autonomous actions can be clearly identified for each binational project, everyone would be governed by the domestic laws of one party, or, alternately, on the border line or inside the other country, regardless of where the work is being undertaken.

Furthermore, where it was agreed that binational projects would be constructed on land belonging to one of the parties, following the same alternating system, which is to say that if the first project was built on lands in country A, the next one would be on lands in country B.

Financing for binational projects is more expeditious than for domestic projects, not only because two countries have to agree on budgets for them but also because international lending institutions are more interested in them.

8. Issues

Among the seemingly endless list of possible areas of activity on border integration, we will highlight the following issues, in no particular order of priority, leaving open the possibility of new issues, depending on the specific characteristics of the region or the countries.

9. Environment

The basins of international boundary rivers or rivers following an uninterrupted course could be managed and monitored via a binational commission, just as with a shared maritime or lake region.

Treatment of solid waste from border towns in both countries would be more economical and technically more efficient if jointly managed.

Binational nature parks and reserves would be managed by a binational technical committee set up by the Commission for that specific purpose.

Environmental issues are very important given their impact on the two neighboring countries that have different regulations; all projects to be executed in the border integration zone must be vetted by the binational technical committee, to examine the usefulness, priority, location, characteristics, adverse effects, and remedy.

10. Basket of goods

It would be useful for the amount, value, and units of free trade goods that visitors may purchase duty-free to take back to their country for an unlimited number of times per day – called the "basket of goods" – to be established as a matter of utmost urgency. One quick way of establishing the maximum amount would be to peg it to a percentage of the minimum wage. The basket would basically contain foods, fruit, delicacies, apparel, footwear, house wares, craft items, books, and music, among other things.

11. Training

An important part of the success of the integration process is training for public border officers using the new approach and for new roles they are to assume, in addition to training for certain workers for new niches to be created and expanded. Priority would be given to groups engaged in occupations that would disappear under border integration (baggage and cargo handlers are organized at borders where taxis or buses are not allowed to cross); and teachers in the integration zone should be trained through essential curriculum courses and binational texts to be introduced.

The commission should focus on training teachers at every institution that has border officers, for them to be able to handle the new responsibilities and ultimately be the ones to train the teams that are rotated periodically at checkpoints.

12. Cebaf

The original idea was for each country to build a facility at each main artery border, to house consular, immigration, police, customs, currency exchange, telecommunications, animal health, intelligence, tourist information, insurance, and miscellaneous services. This complex is called a "national border care center" (CENAF).

It was subsequently noted that it would be better to build just one center where the various agencies from both sides could deliver all of the services. This would make interconnection easier and the agencies would collaborate with one another to fight attempts at bribery and other acts of corruption. These facilities are called "binational border care centers" (CEBAF).

13. Cooperation and assistance

Good neighborly relations demand ongoing coordination, cooperation, and mutual assistance on every level, and this cannot be sporadic or discretionary, but rather should be ongoing and mandatory, especially when it comes to health issues, since diseases and epidemics respect no borders. The same applies to natural or man-made disasters.

Cooperation on judicial matters involves recognition of judgments, evidence transfer, and repatriation of prisoners and convicts to serve out their sentences in their country of origin and close to their relatives, among other measures.

Technical and scientific cooperation is based on the belief that every country has best practices it can showcase and achievements it can share. It is also an area that provides fertile ground for public and private institutions to establish partnerships; and, thanks to binational cooperation, vehicles stolen in one country can be located and recovered in the other.

14. Economy

Special focus should be placed on bilateral trade by offering facilities, removing barriers, opening up new border crossings, providing modern infrastructure, extending the hours for people, vehicles, and cargo to cross and return uninterrupted, simplifying procedures, and adopting a single document format.

So-called small-scale smuggling should be validated. It does not affect either country's economy in any way but creates jobs and helps to significantly reduce cost of living for residents of the zone – an issue discussed under the section entitled "basket of goods."

The border integration zone would be activated on a phased basis with the planning of fairs or street markets in communities on both sides of the border on week days, as centers for trading goods, with free movement of the countries' currencies.

Fostering binational business meetings would be a first step towards understanding; to build and diversify them through proper coordination with trade, craft, food, and other types of fairs.

It would undoubtedly be useful to establish binational free trade zones and industrial parks with clearly-defined rules, tax incentives, and openness to workers from both countries.

At the macro-economic level, sovereign decisions taken in one country affects its neighbor, and *vice versa*. In border integration, the parties should therefore first harmonize their positions on monetary, exchange, financial, fiscal, credit, labor, energy, investment, and foreign trade policies, to cite a few.

15. Education, culture, and sports

In the area of education, the primary commitment would be to recognize courses of study pursued in the zone, at all levels, with the only requirement being for the competent authority in the respective country to certify qualifications. Recognition of degrees and diplomas awarded for professional or technical practice would function similarly throughout the border integration zone.

A technical committee would be asked to develop binational textbooks for use in the zone and submit them for the Commission's consideration. It would also coordinate training for bilingual teachers, where necessary, and syllabi and study schedules would be harmonized.

It would be useful for schools in the zone to be declared binational, and for new ones to be built – as binational ventures – in regions that need them. The same policy would apply to binational universities, in order to decentralize specializations to make them available on either side of the border, creating new ones to meet current and future needs.

The preservation and development of the various cultural expressions of the different ethnic groups of the zone warrant being managed on an ongoing basis. Both sides should agree on an annual calendar of activities, build an inventory of existing infrastructure, and develop a list of vital facilities to be completed or put in place.

The promotion of sports in the zone should be used as an expeditious tool for twinning and for harmonious coexistence, linked to education and culture of border area residents, with the possibility of organizing regional Olympiads, contests, competitions, championships, and presentations at alternating venues every year.

16. Main arteries

Nobody ever builds roads that go nowhere, and so when a government decides to build a road from the interior to the border it should ensure that it is joined to existing roads on the other side. Otherwise, they should agree to execute the binational main artery with the same technical features.

Binational main arteries are the stitches that hold together the loose parts of a blanket, bring an end to the isolation of peoples, shorten distances, streamline trade, generate employment, and significantly improve the quality of life. Main arteries can and should be built as binational ventures.

17. Binational companies

Small or fragile local companies operating in the zone deserve tariff incentives and legal, technical, and financial assistance to enter into partnerships to become binational companies that can significantly improve service, and expand, modernize, and increase profits, by dispelling past misgivings on either side.

Particular effort should be made to set up binational companies to transport passengers, tour groups, and cargo, by land, water, or air. The binational corporation mechanism would apply as well to trade, services, banking, and much more, and part of the incentive would be tax exemption for a reasonable period of time, and elimination of double taxation.

18. Energy

The binational plan for the zone should include provision of the energy needed to ensure a comfortable life and industrial development, seeking to take maximum advantage of local sources, such as geothermal, wind, thermo-electric, or hydro-electric, or by interconnecting

national systems. Preferential rates would be offered to encourage manufacturing plants to come in, and to create enough jobs to discourage migration.

19. Border fairs

The parties would do well to draw up an annual calendar of multiple or specialized fairs and expos at alternating venues in cities in the zone, to attract entrepreneurs, industry leaders, importers, exporters, suppliers, investors, producers, and the general public. These border fairs would, as expected, offer an opportunity to introduce folk groups, artists, musicians, singers, orchestras, theatrical works, and other cultural events inside and outside the zone.

20. Interconnection

National systems of power lines, telephone services, television signals, Internet, postal, and parcel delivery should be interconnected at the border and standardized, and local rates established; and, thanks to interconnection, new towns would be able to access those vital services.

21. Immigration

Given how complex the issue and its implications are, we suggest handling them separately, based on general guidelines to produce a proposed model binational treaty, liaising more and more until the citizens of our Hemisphere are covered under a single process.

22. Public works

The Commission would set the priorities for binational public works needed in the zone, including ports, airports, heliports, silos, bridges, feeder roads, medical and veterinary clinics, sports facilities, venues for street markets, fire stations, police stations and guard posts. These would be executed as binational projects, based on the principle of rotation.

23. Border crossings

For every border crossing in operation, there are dozens of so-called "underground" ones, built by locals with their own money and taking risks. Border residents have always been engaged in integration despite obstacles and institutional resistance.

The crossings in operation need upgrading; bridges should be extended and reinforced to accommodate bigger trucks. But, most of all, underground crossings should be opened up and illegal crossings modernized with the necessary security.

24. Twin cities

Any new main artery in the border integration zone will create spontaneous, chaotic human settlements in the town centers. Before embarking on a road or bridge construction on the border, both sides could plan where to put what have been called "twin villages," through timely expropriation of lands for urban development, areas for future expansion, and for basic services they will need, all under the purview of a "binational project."

25. Health

Poverty among the marginalized manifests itself in a serious way in health; and all sanitation, prevention, and human, animal, and plant health programs should be binational, as should the installation of fixed and mobile health clinics, public outlets for basic medicines, public campaigns against epidemics and pandemics, special care for vulnerable groups, and nutritional health.

26. Social security

The parties could draw up memorandums of understanding for social security agencies to exchange benefits when their subscribers move, temporarily or permanently, to the neighboring country and continue to contribute. Publicity campaigns on the rights and obligations of the insured would be useful, and should aim to extend social security coverage to those working through an institution or who are self-insured.

27. Security

Public security is one of the factors that determine quality of life. While facilitating the expeditious flow of people, cargo, vehicles, ships, and aircraft, border integration should monitor local criminals trying to leave the country or criminals from the other side who could potentially cross the border, and information-sharing should be used as a tool to avoid treating visitors as if they were all undesirables or dangerous.

Preferably, mixed patrols should be organized along border rivers, at border crossings, and along maritime strips. The border should operate on shifts so it can stay open 24 hours a day, every day of the year; and it would be useful for inoperative fixed checkpoints to be dismantled because they hinder mobility and are abused. It would be useful for checkpoints to be mobile and random.

The Commission could craft a binational plan to tackle organized crime, racketeering, hired guns, drug trafficking, gangs, paramilitary groups, terrorists, forced prostitution, human trafficking, kidnapping gangs, money launderers, smugglers, and front men, among others.

28. Free movement

Unlike other processes in which free movement pertains to trucks, cargo, fuel, investment, technology, currency, goods, and services, but not people, at the heart of border integration are people, who must carry identification.

The facilities in the area would cater to people moving about as pedestrians, on horse back, as cyclists, or in private cars, public transport, or in group tour buses, ships, and aircraft.

Freight transport by road from one country to another within the area would be regulated with a minimum of procedures and paperwork, by user-preferred means, whether by direct transport, change of vehicle, or transshipment.

In the integration zone, freight – by land, water, or air – would be charged the same as domestic freight.

In order to improve and develop cross-border air traffic, the parties could declare existing airports as alternative airports, so that aircraft can use them, regardless of which country they are from, according to needs or contingencies. An issue of utmost importance will be planning and construction of binational airport.

29. Tourism

Border integration zone transit facilities will have an impact on sustained tourism growth and its spin-off benefits in creating new jobs, in trade, in the economy, and in investment, infrastructure, and services, but especially in bringing residents closer together, to establish bonds of friendship; in the appreciation of the scenic richness; and in opening up new spaces for recreation.

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