



BULLETIN

FAL

FACILITATION OF TRANSPORT AND TRADE IN LATIN AMERICA AND THE CARIBBEAN

Facilitation of transport: experience with binational dialogue between the Republic of Haiti and the Dominican Republic

Background

The lack of international transport facilitation is one of the principal determinants of logistics and transportation costs in the Latin American and Caribbean region. Excessive paperwork and controls of both vehicles and crews, or the lack of transparency in such procedures at border crossing points, increase costs and delays for carriers, the sectors that generate freight and final users. It also impairs economic and social development in general and at every level from local to regional. Furthermore, the shortage of economic, human and technological resources and the permeability of the border for lack of formal controls by the authorities facilitate informal and illegal trafficking in persons and smuggling of merchandise, undocumented crossing of the border or contraband.

While this poses a challenge for all countries in the region, the costs, delays and other obstacles to the smooth flow and security of cross-border operations are particularly damaging for the Republic of Haiti, the least developed country in Latin America and the Caribbean.¹ In that context, ECLAC has sought to support local initiatives geared to facilitating ground transportation in Haiti through binational dialogue and proposals for joint tools with the Dominican Republic. This bulletin describes the progress made in this area in order to place on record the activities that have been carried out and to lay the foundations for future initiatives relating to Dominican-Haitian cross-border transport. Thus, the first section provides a broad outline of the context; the second describes the principal activities relating to the binational dialogue on ground

This issue of the *FAL Bulletin* describes the main findings and proposals to emerge from the binational Haiti-Dominican Republic dialogue supported by the Economic Commission for Latin America and the Caribbean (ECLAC), with a view to facilitating ground transportation between the two countries. The purpose of this document is to place the activities undertaken on record and lay foundations for future initiatives relating to cross-border transport between Haiti and the Dominican Republic. The document also presents a proposal for a bilateral ground transportation protocol, which the countries are currently considering.

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The views expressed in this document are those of the authors and do not necessarily reflect the opinions of the Organization.



Background



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UNITED NATIONS

ECLAC



¹ The 2016 Human Development Index of the United Nations Development Programme (UNDP), which focuses on three key dimensions of development, ranks Haiti 163rd and the Dominican Republic 99th out of 188 countries in the world. For further details, see *Global 2016 Human Development Report* (UNDP, 2016).

transportation conducted with ECLAC support; and the third section presents one of the main outcomes, namely the proposal for a binational ground transportation protocol. Finally, the conclusions highlight key lessons learned in the process and matters worth bearing in mind for continuing the binational cooperation on ground transportation.

I. The overall context of Haitian-Dominican cross-border transport operations

Bilateral trade between the Dominican Republic and Haiti has increased significantly in recent years. According to COMTRADE (2016) data, Haiti received 7.9% of all exports from neighbouring Dominican Republic in 2016, making it the third most important destination after the United States (47%) and Canada (8.7%). For Haiti, its imports from the Dominican Republic accounted for 27% of its total imports in 2016, while its exports to that country (95% of them textile sector products) accounted for 4.6% of its total exports. Just over one-third (35%) of that binational trade stems from the textile industry, involving cotton harvested in Haiti for re-export to the United States, with scant value added. Agricultural products account for 22% and are mostly traded across the border. Next comes plastic, with 11%, mainly in the form of plastic bags for supermarkets and plastic for wrapping manufactured textile industry products.

Since they are neighbouring countries, sharing 400 km of border, ground transportation is used for the bulk of binational trade transactions. That share of ground transportation has been increasing as a result of the 2010 earthquake which caused the collapse of Haitian port infrastructure and reduced the use of Dominican ports for importing and exporting merchandise and raw materials from Haiti. The earthquake also resulted in increased demand by Haiti for construction materials, food products and other agricultural and livestock products exported by the Dominican Republic.

Of the four official border-crossing points (Anse-à-Pitre/Pedernales; Malpasse/Jimani; Belladere/Elías Piña; Ouanaminthe/Dajabón), one (the Jimani–Malpasse pass) connects the two capitals and accounts for almost half all freight and passenger traffic. Several studies have highlighted not just the poor quality of infrastructure but also the sluggishness and bureaucracy associated with border-crossing processes due to the critical state of the crossing points, which hampers government oversight, as well as other issues, such as failure to stick to operating hours, lack of both security and transparency, and the dire need for a basic legal framework. The lack of system oversight leads to gaps in data gathering and compilation and between US\$83 million and US\$184 million in forgone tax revenue, according to Haiti's Centre for Investment Facilitation.

One of the factors complicating measures to improve cross-border transport is the multiplicity of government agencies involved on the Haitian side of the border, with overlapping mandates and low levels of coordination and transparency, among other issues.

Other challenges have to do with the security (protection) and reliability² of cross-border transport. Worth stressing is the close connection between insecurity and the imbalances in the positioning of Haitian and Dominican carriers, with the latter offering higher-quality services, more modern vehicles, and better sectorial organization: a state of affairs that has frequently triggered conflicts between trade unions and carrier associations of the two countries. On many occasions, these conflicts have led to partial or total blocking of border crossingpoints on the Haitian side and have increased transport costs. Several national and binational stakeholders and development agencies in Haiti had worked earlier on normalizing Haitian-Dominican ground transportation services, trying to improve the regulatory framework and build both parties' institutional capacities.

In 2012, cross-border transport was singled out as a priority on the Bilateral Dominican-Haitian Commission (CMBDH³) agenda. At that point, the first bilateral document signed was a memorandum of understanding on cross-border transport between the two countries, which CMBDH defined as a priority on its agenda. In 2013, a study of cross-border transport issues in Jimaní, conducted with the support of UNDP and the European Union at the request of the Executive Secretariat of CMBDH provided an updated diagnostic assessment and an outline of a protocol for regulating ground transportation between the two countries. However, on the Haitian side, little was done to follow up on the study.

In 2015, following a strike at the Haitian border for over one month, organized by Dominican carriers, Haiti's Cross-border Technical Commission, together with the Haitian Presidential Commission for the Modernization of Public Transportation and the CMBDH Secretariats requested support from ECLAC with strengthening bilateral cooperation relating to cross-border transport operations between Haiti and the Dominican Republic. To that end, a technical assistance program was drawn up that envisaged ECLAC participation in national and binational working meetings to evaluate the state of cross-border ground transportation operations, present best regional and global practices, facilitate dialogue between the two countries' transportation sectors and to assist with putting forward proposals for improving the framework for international transportation transactions between the two countries.

² Heavy-duty Dominican freight carriers travelling to Haiti complain of a lack of personal security for drivers and their cargo.

³ Initiatives between the two countries began in 1979 and the Bilateral Dominican-Haitian Commission was established in 1996.

Over the medium and long terms, the idea is to support binational dialogue at both the technical and the political level, while helping Haiti and the Dominican Republic to handle asymmetries and structural, financial and regulatory imbalances in the transportation sector; to offset the imbalance or regulatory flaws for cross-border ground transportation operations; and to help align the interests of the public and private institutions involved in the transport and logistics sector with a view to strengthening that sector, by enhancing the conditions needed to ensure security and sustainability and bolstering trade. The objective is likewise to forge an opportunity to reflect on regional integration in a cross-border cooperation context, tapping the experience and lessons learned in Latin America and other parts of the world; and to analyse the impact of coming up with an integrated and sustainable public policy for logistics and mobility, geared to more ample and better access to services, greater connectivity in respect of both persons and freight and greater territorial integration. The underlying purpose behind all that is to boost the country's economic competitiveness, a goal that requires constant dialogue among the various public and private actors to create and maintain an atmosphere of trust among all the (economic and financial, institutional and social) agents involved.

Here it is worth pointing out that, within this process, the Government of the Dominican Republic, too, has focused on the issues relating to transportation and the multiplicity of government agents involved in it and has fostered a revamping of its former ground transit Law No. 241. These efforts resulted in Law No. 63-17 on Mobility, Land Transport, Traffic and Road Safety, adopted by the Congress of the Dominican Republic on 10 February 2017, which established the National Institute of Traffic and Land Transportation (INTRANT), as a decentralized, administratively autonomous agency attached to the Ministry of Public Works that brings together five formerly separate institutions working in the area of ground transportation.

To support the work done by INTRANT, the Law creates the Directorate General of Traffic Safety and Land Transportation (DIGESETT), as a specialized, technical directorate reporting to the National Police, whose operations will follow policies set by the Ministry of the Interior and Police, and INTRANT. Law No. 63-17 underscores the following:

- Public ground transportation of passengers will be considered a public utility, regulated and managed by the State, through INTRANT and the city councils;
- Drivers of vehicles used for urban and inter-city passenger transportation shall have to meet quality requirements and shall only be allowed to take on board passengers waiting at official stops;

- Drivers who break the law shall be fined between one and 20 minimum monthly wages; and those whose imprudence results in lamentable accidents will have their licence withdrawn for a given period of time.

This law was also passed months after the Superior Administrative Court handed down a judgment ordering the Dominican State to prevent a monopoly in the country's transportation sector, a demand backed by the National Private Enterprise Council (CONEP) against public transport trade unions. The business sector's motive was to break the monopoly in freight transportation from the country's docks, which, until that judgment was handed down, had been handled exclusively by the National Federation of Dominican Transport (FENATRADO).

Businessmen in the freight and public passenger transportation sectors and users pointed to the need for greater investment to improve the services provided in those sectors, but the lack of order and of transparent rules to regulate the actions of the parties involved led to a series of problems that detracted from both the quality of services provided and incentives for investing.

II. Binational dialogue on cross-border transport: 2016–2018

From a practical perspective, there were three stages in the dialogue process leading to the proposed protocol. First, two technical workshops were conducted at the national level, one in Port-au-Prince and the other in Santo Domingo, in June 2016, combining technical presentations by ECLAC with debate and group work on the challenges and opportunities posed by cross-border cooperation. In the second stage, a binational meeting was organized at the Jimaní border crossing point on 26 and 27 July 2016 attended by representatives of the transport sector in both countries. It focused on cross-border cooperation and integration issues identified during the working sessions held in each country. Technical work then began on instruments and mechanisms to improve cross-border transport with another look at the proposed bilateral protocol on ground transportation between the Republic of Haiti and the Dominican Republic.

(a) The national workshops in Port-au-Prince and Santo Domingo

The national workshops in Port-au-Prince and Santo Domingo took place on 3 and 6 June, respectively.

The official launch took place in Haiti on 2 June, organized by the Executive Secretary of the Technical Border Commission assisted by the Minister of Economy and Finance, and with the participation of the Secretary of State



for Public Works, the Director General of the Ministry of Economy and Finance (MEF), the National Commission for the Modernization of Public Transport, the representatives of the Ministry of the Interior and Local Governments and of the Ministry of Trade and Industry, the Prime Minister's Office, the transport sector trade unions (FENATRAH and the National Federation of Haitian Carriers), representatives of the diplomatic corps, MINUSTAH, Spanish Cooperation and the Haitian National Police.

The technical workshop took place the next day with 50 participants, including representatives of the National Federation of Dominican Transport (FENATRADO), who, as agreed on 27 August 2015, came with every intention of entering into a pragmatic and constructive dialogue with their Haitian counterparts aimed at devising ways to regulate and harmonize cross-border transport.

The technical workshop was held in Santo Domingo on 6 June, with 30 participants. An official delegation from the Republic of Haiti, comprised of the Executive Secretary of the Technical Border Commission and representatives of the Ministry of Economy and Finance, also attended.

The national workshops included technical presentations and discussion of topics relating to logistics as an aspect of national competitiveness and sustainable development; to the integrated and sustainable policies on logistics and mobility approach fostered by ECLAC; and to best practices in the facilitation of transport and trade. The presentations and discussions also touched on security and road safety issues in cross-border transport operations.

Several areas of consensus emerged from the discussions in the two workshops, including agreement on:

- The link between the framework for cross-border operations and each country's national logistics and mobility policy, whereby cross-border cooperation

depends on and is coordinated through the strategic framework for the national and regional mobility system. It was noted that neither country has yet finished formulating such a policy.

- The need to replace the current approach and mind-set with a holistic and sustainability-oriented perspective, taking a broad view of the freight and passenger mobility logistics sector and paying sufficient heed to all the dimensions of sustainable development and its integrating economic, social and environmental components. The workshops highlighted cross-cutting issues of physical and freight security and road safety, as well as connectivity and territorial integration, which are especially in evidence at border crossing points but which affect sustainable development in both countries and across the region.
- The severe impact of asymmetries and imbalances in terms of infrastructure and regulation.
- Organization of the market for transportation and logistics services between Haiti and the Dominican Republic.
- The severe impact of insecurity and of the lack of facilitation in logistics chains on competitiveness and sustained development in the two countries.
- The road safety challenge that both countries share, as one of the areas generating most externalities.

The plenary session debates underscored the importance of regional integration through cross-border cooperation in logistics and mobility based on best international practices, but tailored to the history and specific circumstances of relations between Haiti and the Dominican Republic.

In the discussions in working groups and in a separate survey conducted in each workshop, the idea was to identify priorities for cross-border cooperation. The findings of both the discussions in working groups and in the separate surveys are summarized in tables 1 and 2.

The findings that emerged from the working group discussions and individual surveys revealed considerable compatibility between the positions taken by Haitian and Dominican participants on most priority issues regarding the improvement of cross-border operations. In particular, it is worth highlighting the following points of consensus with respect to infrastructure, regulation and facilitation. See table 3.

Table 1
Republic of Haiti: priority issues for improving cross-border operations

Infrastructure and investment	Regulation and organization of the market	Cross-border facilitation and security
<p>Issues identified in working groups:</p> <ul style="list-style-type: none"> The poor quality of the road network, which does not meet international standards. The lack of road infrastructure shared by Haitians and Dominicans. The lack of cross-border logistics platforms. The lack of bus terminals. The failure to implement toll road systems for carriers. The failure to renovate the vehicle fleet (trucks, buses, cars) (for instance, through guarantee funds to support industry players). 	<p>Issues identified in working groups:</p> <ul style="list-style-type: none"> The existence of non-tariff barriers to the entry of Haitian products. The need to organize and modernize ground transportation. The lack of familiarity with traffic and road safety laws among carriers from both countries. The absence of technical supervision for vehicles traveling between Haiti and the Dominican Republic. The non-existence of a ground transportation directorate in Haiti. The absence of specific legislation covering ground transportation. 	<p>Issues identified in working groups:</p> <ul style="list-style-type: none"> Disturbances at border-crossing points: strikes, theft. Misuse of authority by government officials. The lack of a strategy for facilitating freight and passenger exchanges. The absence or ineffectiveness of border authorities. Road safety problems (vandalism) on the Santo Domingo-Port-au-Prince route. The lack of road safety at the border. Carriers' lack of training.
<p>Additional issues mentioned in individual surveys:</p> <ul style="list-style-type: none"> The absence of a truck weighing station and toll station at the border. The need to develop a national highway network plan providing for properly marked roads, road shoulders and separate bicycle lanes. 	<p>Additional issues mentioned in individual surveys:</p> <ul style="list-style-type: none"> Inequality in the distribution of freight. Lack of controls to detect and prevent overweight Dominican vehicles that damage highways in Haiti. The absence of any opportunity to share freight transportation through freight exchanges at border crossing points. The need to organize a ground transportation cooperative to enhance competitiveness. The lack of a national ground, maritime and air transport plan. 	<p>Additional issues mentioned in individual surveys:</p> <ul style="list-style-type: none"> On the Haitian side: political disturbances. On the Dominican side: theft, misuse of authority by government officials and immigration, Customs, military and police officers. Strikes at border crossing points. Lengthy border control procedures. Obsolescent Customs procedures. Safety issues at highway and port border crossings. Lack of prior identification of common hazards. The lack of intergovernmental transport agreements. Lack of standardization of processes and regulations. Lack of employee rotation to facilitate night-time operations. Failure by Customs and police to exchange information to lower the risk of theft.

Source: Economic Commission for Latin America and the Caribbean (ECLAC), on the basis of group discussions and individual surveys, June 2018.

Table 2
Dominican Republic: priority issues for improving cross-border operations

Infrastructure and investment	Regulation and organization of the market	Cross-border facilitation and security
<p>Issues identified in working groups:</p> <ul style="list-style-type: none"> Need to improve road infrastructure in border areas (especially from Jimani). Artibonite and Massacre river water supply security. Lack of dry ports at border crossing points. Lack of supporting infrastructure for officials and all transport stakeholders of both countries. 	<p>Issues identified in working groups:</p> <ul style="list-style-type: none"> Lack of strategic guidelines on road safety. Failure by Haiti to issue written insurance documents. Absence of a ground transportation directorate. Need to foster information and idea-sharing on the two countries' logistics policies. 	<p>Issues identified in working groups:</p> <ul style="list-style-type: none"> Lack of a ground transportation protocol. Lack of a Freight Exchange to facilitate trade with Haiti. Need for better all-round coordination among governmental institutions of the two countries with respect to facilitation.
<p>Additional issues mentioned in individual surveys:</p> <ul style="list-style-type: none"> Lack of feasibility studies of the international highway and border crossing point connectivity. 	<p>Additional issues mentioned in individual surveys:</p> <ul style="list-style-type: none"> Lack of binational management of the Artibonite River Binational Basin. Shortcomings in the organization of border markets. Freight vehicle insurance (current requirements generate cost overruns without actually providing insurance). Regularization of informal transportation services. 	<p>Additional issues mentioned in individual surveys:</p> <ul style="list-style-type: none"> Lack of familiarity with logistics costs. Need to tighten sanitary and phytosanitary measures governing cross-border trade. Lack of coordinated border management. Harmonization and standardization of procedures and working hours.

Source: Economic Commission for Latin America and the Caribbean (ECLAC), on the basis of group discussions and individual surveys, June 2018.

Table 3
Shared challenges for improving cross-border operations

Infrastructure and investment	<ul style="list-style-type: none"> • The need to improve border crossing point facilities by crafting a trans-border infrastructure development plan negotiated by the two countries. • The need to develop all aspects of trans-border infrastructure. While road infrastructure is a priority, considerations should be given to the provision of ancillary infrastructure services (water and energy supply) along with the other components of logistics infrastructure (such as administrative buildings suitable for coordinated management of cross-border processes, logistics platforms, bus terminals, and so on).
Regulation and organization of the market	<ul style="list-style-type: none"> • The challenge of regularizing the transport sector with stakeholder participation by establishing sound technical and trade-related regulations. • The importance of road safety regulations in the transport sector. • Improving the framework for third party liability insurance in cross-border transport operations. • Supporting the organization and formalization of the logistics sector in both countries.
Cross-border facilitation and security	<ul style="list-style-type: none"> • Importance of an agreement or formal protocol on the facilitation of ground transportation. • Promoting cooperation among agencies at the border (harmonization of working hours and procedures, joint identification of threats, and so on). • Coordinated measures to ensure the smooth flow and security of trans-border operations. • Cooperation and synchronized road safety rules.

Source: Economic Commission for Latin America and the Caribbean (ECLAC), on the basis of national workshop reports.

The Dominican Republic proposed reaching an agreement on a ground transportation protocol based on the findings of prior studies of cross-border transport issues in Jimaní (Sheiker, 2013). The signing of a ground transportation protocol would help harmonize and facilitate procedures at all legally established border crossing points authorized to handle regular trade transactions between the two countries and would address most of the issues identified in the working group discussions and individual surveys.

Attention has been drawn to the fact that the proposed protocol regulating ground transportation reflects the intention of Haiti's Technical Border Commission to come up with a protocol to harmonize transport and the interests of the various stakeholders in the trade and transportation sector and thereby boost cross-border trade, bring about a steadier and safer trade flow and organize the performance of the actors involved, as well as economic and legal aspects.

Based on the outcomes of the national workshops and to bring in local players and authorities, the agenda was drawn up for the binational meeting in Jimaní and included presentation of the findings of the preparatory workshops in Port-au-Prince and Santo Domingo; general presentations on the challenges for transport and cross-border operations; international experience with regional cooperation in joint planning of physical infrastructure; harmonization of procedures; facilitation of inspection and control processes at the border; and road safety. The objective of the binational meeting was to present the proposed protocol for cross-border transport and to analyse it in light of the best practices found in bilateral ground transportation agreements and in group work on the articles of the Protocol.

(b) The binational meeting in Jimaní, on 26 and 27 July 2016

The national meetings from 3 to 6 June 2016 served to identify the main players in both countries involved in regulating transport, as well as the economic operators and carriers with whose help a list was drawn up of priority needs for improving cross-border transport operations between the Dominican Republic and Haiti. In a second round of talks, on 26 and 27 July of that same year, the factors singled out in the first round were fleshed out and tied in with a proposed protocol for cross-border ground transportation that the Secretariats of the Joint Commission presented to the participants.

The technical secretariats of the Bilateral Dominican-Haitian Commission (ST-CMBDH), the Presidential Commission for the Modernization of Public Transport in Haiti (CNMTC) and the Technical Commission on Borders (CTF), with ECLAC support, acted as moderators and facilitated the participation of institutions present at the border and of carriers and transport sector trade unions. The talks provided an opportunity to discuss cross-border ground transportation problems and served to revitalize binational cooperation in this field.

The meeting was attended by more than 50 public and private sector participants from the two countries, including several Haitian institutions, such as the General Tax Bureau, the General Customs Administration, the National Ports Authority and their Dominican counterparts, as well as the Secretary of State for Transport of the Republic of Haiti. Given the concern at the lack of participation of Haitian and Dominican carriers, who were unable to attend due to coordination issues, participants stressed the need to

work on incorporating trade unions in the discussion and ensuring their active and constructive participation in the binational dialogue.⁴

At the opening ceremony, there were words of welcome from the Haitian Secretary of State for Transport, the National Commission for the Modernization of Public Transport in Haiti, the Secretariats of the Bilateral Dominican-Haitian Commission, the technical coordinators of Haiti and the Dominican Republic and from representatives of the Infrastructure Services Unit of ECLAC. The inaugural speeches underscored the cross-cutting impact of cross-border transport for the sustainable development of both countries, the importance of the meeting in Jimaní for strengthening binational dialogue and, finally, the usefulness of holding the meeting at a border crossing point so that participants could see the border area and its activities for themselves.

The first two sessions were devoted to presentations by ECLAC on the crafting of a national logistics and mobility policy focusing on sustainability and on the outcomes of the preparatory meetings in Santo Domingo and Port-au-Prince and to national presentations on the overall framework for national transport and logistics policy in the Dominican Republic and in Haiti and its implications for cross-border transport.

In the debate following the presentations, speakers stressed the need to tie in the discussion on co-modal national and cross-border ground transportation policy with an integrated and sustainable vision, as proposed by ECLAC. In particular, participants agreed on the importance of bearing the broader context of ground transportation operations in mind, analysing the part it can play in combination with other modes and taking into account the changing geography of supply and demand for transportation services at the national, regional and global levels. In that context, participants were keen to hear the presentation by the Haitian National Port Authority on the port reform under way in Haiti.

Another important point to emerge from the discussions was that the two countries are at very different stages with regard to the forging of an integrated binational policy, given that in Haiti the national dialogue about it was only recently launched by the National Commission

for the Modernization of Public Transport in Haiti, on the occasion of a national conference on ground transportation held in September 2015. At the same time, the Dominican side stressed that, although its regulatory and institutional framework was more complete, major institutional and regulatory changes were under way with regard to ground transportation, altering the overall transport and logistics policy framework.

Sessions 3 and 4 sought to facilitate information sharing about international experience with regional cooperation in ground transportation operations and to identify the principal challenges they face. ECLAC gave a presentation on key concepts in regional integration and best international practices with respect to joint planning of physical infrastructure, facilitation of border inspection and control processes, harmonization of border crossing point procedures, road safety, co-modal transport systems, the sustainability of logistics chains and ground transportation accessibility and connectivity.

Against that backdrop, participants assessed the state of ground transportation operations between Haiti and the Dominican Republic and concurred with the broad diagnostic assessment of critical issues at border crossing points that had emerged from the preparatory meetings.

The following challenges were highlighted during the discussion:

- Difficulties with organizing agricultural (perishable produce) exports and loss of produce during ground transportation.
- The growing importance of environmental issues, such as deforestation in border areas, waste management and water supply.
- The special challenges facing small enterprises and individual operators in the logistics sector.
- The need for facilitation and harmonization of cross-border procedures.
- The need to establish a local development strategy for border areas tailored to their specific characteristics.
- The need for reliable and up-to-date statistics and information on the performance of cross-border operations and procedures applied in practice.

Particular attention was paid to this last point about the need for data, information and performance indicators for transport and logistics operations in a cross-border context. Given the limitations of available international indicators, participants recommended keeping joint track of performance at the border via regular meetings with the participation and involvement of local, border area stakeholders. Such meetings would be tantamount to a joint observatory on cross-border operations. Based on that discussion and best practices in cross-border

⁴ To follow-up on the debate, on 28 July, a meeting was held between the ECLAC delegation, the Haitian Secretary of State for Transport and representatives of Haitian trade unions at the office of the Technical Border Commission in Port-au-Prince. Its purpose was to bring them into the dialogue launched in Jimaní and to decide on the next phases for continuing consultations and forging proposals for organizing the transport sector in Haiti (especially at the border), establishing new strategies for upgrading carriers' equipment and vehicles and identifying what is needed to enhance training for transport sector trade unionists. Separately from the meeting in Jimaní, members of the National Federation of Dominican Transport (FENETRADO) issued a statement supporting the binational dialogue on the subject and calling for greater cooperation between the Haitian and Dominican trade unions with a view to ensuring ongoing participation and contributions to both countries' efforts to develop a cross-border transport system facilitating development and trade.

cooperation, participants proposed a series of binational steps worth considering with a view to developing more in-depth regional cooperation in the following areas:

- Improving the official crossing points and creating virtual points (online processing).
- Technical and financial assistance for logistics enterprises so as to enhance the quality of the services they provide.
- Greater use and development of technological tools (smartphones, location of goods, online publication of supply and demand for transport services, and so on).
- Introducing online Customs declarations.
- Standardization and facilitation of Customs procedures and the establishment of expedited services in special cases, such as perishable goods.
- Simultaneous reforms of Customs and logistics services.
- Introduction/improvement of IT systems at border crossing points.
- Formulation and implementation of a border area development plan.
- Improvement and harmonization of methods for garnering trade and cross-border transport statistics.

Finally, the second part of the workshop (session 5) addressed the topic of possible new commitments aimed at developing trade and boosting local development. In that context, the Technical Coordinator of the Executive Secretariat of the Bilateral Dominican-Haitian Commission presented the findings of the binational study on cross-border ground transportation issues between Jimaní and Malpasse and the proposed protocol for cross-border transport. The protocol would aim to address not only the transport problems reported by Dominican and Haitian carriers, but also certain regulatory and operational matters of importance for establishing a predictable framework for the movement of passengers and freight over the Dominican-Haitian border.

In their comments on the presentation, both Dominican and Haitian participants expressed keen interest in and support for the idea of a ground transportation protocol. At the same time, they provided updates and made changes to the information provided in the study, especially as regards the description of Customs and other procedures and the changes made to the institutional framework in the Dominican Republic.

ECLAC contributed to the discussion by sharing international experience in the area of bilateral agreements aimed at facilitating ground transportation and underscoring the following major challenges:

- Ensuring an inclusive and participatory process so that all relevant actors and beneficiaries of the agreement are closely involved in the discussions.

- Tying the agreement in with the major border development goals, such as the establishment of more efficient markets, lower trade costs, and so on, in such a way as to incorporate the agreement in the overall framework of regional cooperation and integration.
- Addressing core issues, such as the scope of the agreement, management of traffic permits and rights, international traffic and coasting trade, and so on.
- Promoting the principle of freedom of transit and non-discriminatory treatment.
- Imposing qualitative rather than quantitative restrictions.
- Introducing or extending the use of international standards with respect to vehicles, drivers and traffic regulations.
- Providing transparent and harmonized rules for cross-cutting matters, such as insurance, visas and security issues.
- Creating a robust and sustainable institutional framework.

Based on the technical presentations and preliminary discussion, working groups were established to comment on and provide initial inputs for the content of the proposed bilateral ground transportation protocol. In their general comments, the working groups underscored the usefulness of agreement on ground transportation and mentioned that the same effort should be made in respect of other forms of transport, such as maritime transport. One suggestion was to improve definition of the competent authorities in areas included in the protocol and complete its list of authorities, which would now take the form of an annex to the proposal.

The working groups also touched on some of the more technical observations and comments on the text of the protocol. In the final debate, participants called for proactive follow-up to the matter of a ground transportation protocol at subsequent meetings in Santo Domingo and in Port-au-Prince and at binational follow-up meetings in the capitals and at other border crossing points.

III. The proposed binational ground transportation protocol: principal ingredients

While several previous studies and initiatives highlighted the flaws in the regulatory framework for cross-border operation between Haiti and the Dominican Republic, the most concrete and advanced text proposed for a bilateral protocol was put forward in the aforementioned Jimaní study based on the major concerns identified in that study and on analysis of international and regional experience.

Following the general review of the study's recommendations at binational meetings and meetings of the above-mentioned joint working groups, groups of experts began working on the subject via exchanges and national and binational meetings. Of those meetings, particularly worth highlighting is the second binational meeting on cross-border transport held in Cap-Haïtien in May 2017. The Joint Commission secretariats likewise held several working meetings in Santo Domingo and Port-au-Prince. Authorities from both countries, along with trade unions and market participants in the transport sector, began discussions and negotiations on a proposed cross-border ground transportation protocol prepared with input from the institutions forming part of the Subcommittee on Transport and Communications of this Joint Commission.

A third binational meeting was held at the Ministry of Foreign Affairs of the Dominican Republic to continue talks on the proposed ground transportation protocol. A delegation of technical staff and Haitian government officials took part thanks to financial assistance from ECLAC. At this third meeting, the proposal was examined article by article. A fourth meeting was also proposed to finalize review of the 18 articles in the draft protocol, 12 of which have been agreed upon by consensus. Pending review are a few linguistic (Spanish/French) issues; determination, in article 12, of certain terms and conditions for the transit of goods; the proposed preamble to the protocol; and annexes I and II, which are to form part of the protocol.

After being postponed once for reasons that have nothing to do with CMBDH, negotiation and re-examination of the above-mentioned protocol was put off till the end of 2018, when a meeting is to be held with both parties present. Following that meeting, the idea is to submit the draft to political organs for signature and subsequent adoption by Congress and/or Parliament.

The proposed text for the Cross-Border Ground Transportation Protocol⁵ seeks to address not just the transport issues reported by the Dominican and Haitian carriers that were consulted but also a number of regulatory and operational aspects needed to establish a predictable framework for conducting cross-border transport activities.

The cross-border nature of the protocol is regarded as an opportunity to overcome precarious national rules and to design a set of provisions aimed at providing certainty and transparency in respect of the conditions and requirements of both sides for vehicles, carriers and freight to cross the border. Moreover, the protocol would allow border activities to be addressed, not from the point of view of a

market between marginalized communities but rather as a point of transit for international operations requiring improvements to infrastructure, training for services personnel and new investment projects, such as assembly and storage facilities, parks for coupling and uncoupling trailers and containers, facilities for the packaging, distribution and labelling of merchandise and so on.

In that regard, the main objectives of the protocol are to provide: (i) measures to enhance the security and protection of carriers, goods, passengers and vehicles; (ii) border liaison and institutional liability mechanisms in cross-border transport and security policies; and (iii) proposed mechanisms for the peaceful settlement of disputes.

The currently proposed protocol, as mentioned above, consists of 18 articles, the principal content and objectives of which are as follows:

Article 1 (*Border crossing points*) seeks to define the geographical scope of application of the protocol and, as currently drafted, it would harmonize procedures at all formal, existing and future, crossing points.

Article 2 (*Operating Hours*) seeks to establish the same operating hours for land border crossing points, as well as the joint time zone for both countries' border crossing authorities and agents. It should be pointed out that, currently, the time zone difference between the countries and the changeover to winter time causes complications and inefficiencies in cross-border operations. This article likewise provides that no means of transport may be in the border control area outside working hours and that any vehicle that has gone through the border crossing point shall be attended to by the competent authorities on the other side.

Article 3 (*Smooth flow of transport and trade*) provides for the competent authorities of the two countries maintaining communication and cooperation until border crossing procedures have been completed. The aim is to ensure that all entry and exit procedures for persons and vehicles are completed before the facilities close, so that no person, vehicle or merchandise is left in the cross-border control area for lack of attention by the corresponding authorities.

Article 4 (*Foreseeable grounds for border closure*) provides that only the High Contracting Parties may decide on total or partial closure of the border and it spells out the procedure for notification of a unilateral border closure. The purpose of this provision is to prevent private persons or organized groups from obstructing, closing or interrupting normal cross-border traffic, as has been the case during strikes organized by the trade unions for Haitian or Dominican carriers.

⁵ Summary of the proposal based on the draft dated 31 July 2018.

Article 5 (*Documents required*) stipulates that the requisite documents regarding activities to be carried out must be submitted for any means of transport that is to cross over into the territory of one of the High Contracting Parties and it states that the Contracting Parties shall communicate and publish all the requirements that need to be met for cross-border mobility. The previous draft of the protocol contained a list of the two countries' competent authorities. However the two countries still need to confirm and update their list, which will figure in Annex I of the proposed protocol. For the moment, the working groups are considering the possibility of attaching this list as an appendix to the protocol.

Article 6 (*Verification mechanisms*) urges the High Contracting Parties to establish an expeditious, simplified mechanism for normal and special crossing of the border for official, emergency or humanitarian crossings that updates the mechanism contemplated in the Automobile Transit Agreement of 21 May 1927.

Article 7 (*Motor vehicle insurance*) addresses a traditionally irksome aspect of cross-border operations that has led to several complaints about the poor quality of services offering the third party insurance required for travel on Haitian soil (Sheiker, 2013). The article seeks to foster free competition in the insurance market by calling upon the High Contracting Parties to promote the participation of public, private and mixed vehicle insurance companies in the provision of adequate protection to users of cross-border transport services. While the article confirms that it is the Office d'Assurance de Véhicules contre Tiers (OACVT) that delivers third party civil liability insurance valid for the Republic of Haiti, the idea is also to enhance the quality of its services by asking OACVT to issue a receipt confirming coverage, to provide a contact and emergency telephone number and to have an official available at border crossing points to deal with claims made in person or via telephone. The article also provides that, to improve the coverage offered to vehicles coming from the Dominican Republic, the Haitian side will encourage the presence of Haitian companies offering the same services at the border or on line.

In Article 8 on *Taxes and Service and Crossing Charges*, both countries commit to facilitating the provision of services and to guaranteeing the transparency of related operations with receipts for all payments made. In Annex II to the protocol, countries are expected to provide a list of the main, not necessarily all, taxes and service charges collected at the border.

According to Article 9, on *Procedure for Amendments*, the other party must be notified of any changes to the requirements for entry, charges, taxes or procedures listed

in the protocol through the Secretariats of the Bilateral Dominican-Haitian Commission.

Article 10 on *Cross-border transport service* stipulates that any individual or legal entity providing a cross-border transport service for either passengers or freight shall be expressly authorized to that end by the corresponding authorities of both countries.

Article 11 describes *Customs procedure for international land transport*. Under this provision, countries undertake to facilitate, harmonize and simplify the Customs procedures used for international overland transit operations. It confirms that goods in international transit are not subject to the tariffs, quotas, duties and taxes applicable in the transit country, with the exception of border crossing fees or duties, tolls, weighing fees, or other transit-related service fees. Nevertheless, both countries will continue discussions regarding certain taxes that the Government of Haiti levies on goods in transit.

Article 12 on the *Transport of goods in international transit* provides that, upon arrival at their port of destination, goods in international transit shall be withdrawn by transport companies registered by the competent authorities in both countries. The article specifies that permission may be given for goods in international transit en route to the Republic of Haiti that arrive at ports in the Dominican Republic to be withdrawn by Haitian carriers authorized by the National Traffic and Ground Transportation Institute (INTRANT) of the Dominican Republic. Likewise, permission may be given for goods in international transit en route to the Dominican Republic that arrive at ports in the Republic of Haiti to be withdrawn by carriers of the Dominican Republic authorized by the Ministry of Public Works, Transport and Communications (MOPCT) of the Republic of Haiti or the transport regulation institute designated by law.

Article 13 is devoted to *Road Safety* and provides that the authorities of the High Contracting Parties shall quickly and without obstruction ensure compliance with the requirements for vehicles used for cross-border transport, in line with technical safety rules (properly functioning brakes, headlights, tyres in good shape, number plates, and a proper licence, or the requirements relating to the goods transported (tarpaulins, rope or fasteners to secure cargo, weight, maximum height, and so on), in accordance with each country's road traffic rules. The article confirms the responsibility borne by the police in each country to duly register incidents relating to cross-border transport, motor vehicle accidents and the rights of the carried affected and to ensure that "...the vehicle is able to reach its destination safely or, if it cannot be moved, that it is guarded so as to protect both the vehicle and its cargo"

and that “the carrier is allowed to inform the company, organization and/or the authorities in his country or diplomatic channels of the situation he is in” (Scheker, 2013, p. 68). Another aim of this article is to provide for the arrest and prosecution of the perpetrators of acts of vandalism against carriers, their vehicles or freight, in accordance with the relevant laws of each country.

In article 14, on *Citizen Security on Roadways*, the countries commit to taking effective steps to guarantee the security of people, vehicles and freight travelling by road and to provide, to that end, emergency helplines for filing/receiving complaints and reports of incidents and to ensure immediate assistance by the National Police or Defence Ministries of the two countries, as well as by any other public security institution.

In article 15, both parties commit to assigning an adequate number of police officers to respond effectively to cross-border ground transportation incidents.

Finally, articles 16–18 contain final provisions regarding dissemination of the protocol (a commitment to disseminate it as broadly as possible), interpretation of the protocol and settlement of disputes (through the Ministry of Foreign Affairs in both countries, in writing or using any electronic medium that can officially notify receipt), and entry into force (90 days after it is signed).

A reading of the proposed protocol in light of best regional and international transport facilitation practices, as well as the practices required under bilateral treaties on ground transportation (Jaimurzina, 2014; Kunaka and others, 2013) confirms that the protocol addresses issues that are germane to transport facilitation, such as the harmonization of procedures, greater transparency, international insurance and transit rights. The content of its articles is in line with traditional transport facilitation recommendations and broader facilitation provisions contained in recent global agreements, such as the Agreement on Trade Facilitation of the World Trade Organization (WTO). Accordingly, the proposed protocol is a tool that, if it is signed and implemented, could really impact the costs, travel times and security of cross-border transport between the Dominican Republic and the Republic of Haiti.

IV. Lessons learned and next steps

Binational, systematic and regular dialogue on cross-border transport between the Republic of Haiti and the Dominican Republic is undoubtedly essential for improving border crossing operations, facilitating binational trade and human mobility. The exchanges supported by ECLAC provided an opportunity to consolidate cooperation in this field through the training of staff in transport regulation bodies

and of public policymakers in this area in both countries, as well as the sharing of the information and experience needed to achieve a more in-depth and culturally sensitive understanding of the issues and a rapprochement between pertinent sectors in the two countries. Apart from these traditional spinoffs from cooperation, it is worth underscoring a number of facets and practices pursued in this process that could prove useful going forward.

First, the practice of conducting binational meetings at the border, and not just in the capital cities, proved invaluable. Apart from affording an opportunity for in situ visits and a better grasp of the situation on the ground, those meetings helped draw attention to and empower local public and private actors. Legal frameworks and solutions must not only match international border-crossing needs and requirements. They must also derive from a gradual convergence and ownership of those needs by all the players involved and, especially, the local communities who live with all the bustle of that environment and very often depend for their livelihood on cross-border operations. In that sense, holding technical meetings at the border can enhance the quality of discussions, bring in new actors, new subject matter and fresh approaches, and make it easier to gauge proposed solutions against circumstances on the ground.

Second, given the institutional and political changes under way in both Haiti and the Dominican Republic, preserving a certain informality, open to all stakeholders and with the presence of outside experts lent continuity to the discussions and facilitated the inclusion of a variety of institutional and individual perspectives. At the same time, the linking of activities to the bodies established through bilateral cooperation, via the Bilateral Dominican-Haitian Commission, provided a connection that was essential for identifying key actors and taking initial steps down the institutional, formal path to concrete proposals for action.

Third, the discussions at the national and binational workshops demonstrated that it is increasingly difficult to separate cross-border transport issues from the much broader framework for formalizing and regulating the transport sector in both countries and from the challenges posed by institution-building and public–private dialogue, which, as participants in the workshops pointed out, are prerequisites for any form of governance and comprehensive policy.

Compared with the memorandum signed in 2012, progress has been made on cross-border issues, notably in the establishment of a commission and the start of bilateral negotiations that have persisted over time despite the vicissitudes endured since then. A channel for communication and coordination between the two countries is now in place for solving sector issues.

Moreover, irrespective of the still pending final outcome, working on the bilateral protocol has itself strengthened collaboration and exchange, refined understanding of different perspectives and interests and highlighted other transport facilitation challenges and options. That being so, the very process of debating and disseminating the contents of the protocol should facilitate its acceptance and practical implementation by all parties involved.

Nevertheless, the challenges for trade facilitation between the two countries make it indispensable to come up with a set of binational transport regulations and to publicize them for all parties—the industry itself, related activities (insurance companies, freight generators, and so on) and government institutions. Their dissemination, enforcement and implementation will constitute another phase in the process, in which it is recommended that the Dominican and Haitian governments continue and strengthen dialogue and cross-border cooperation in this and other matters forming part of a broad and cross-cutting agenda encompassing connectivity to the benefit of trade, investment and sustainable mobility on both sides of the island.

V. Bibliography

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