Collaborative border management

Chappell Lawson and Alan Bersin

Abstract

This article challenges the conventional approach to border management, which despite many innovations in recent decades still involves unilateral efforts to protect territorial boundaries. A better alternative for neighbouring country-dyads, wherever the prospect of war has become implausible, is collaborative border management. This approach involves extensive, deep collaboration to facilitate legitimate trade and travel through authorized ports of entry, combat transnational criminal activity, and manage cross-border ecological resources.

Introduction

Borders are a defining element of the modern nation-state system. They serve to separate politico-legal regimes and allow countries, at least in theory, to control what moves in and out of their jurisdictions. Governments tenaciously defend these lines in the name of sovereignty, even when they have friendly relations with their neighbours. But in the 21st century, this 'hold the line' approach to borders has a number of drawbacks. Inspections at the border impose costs on legitimate travel and commerce, often without clear benefits to public safety. Lack of coordination with neighbours creates gaps that transnational criminal organisations and terrorists can exploit. Unilateral thinking also impedes intelligent management of critical infrastructures (such as pipelines or electricity grids) and natural resources (such as water systems and habitats) that span borders. In short, 19th and 20th century notions of sovereignty clash jarringly with the imperatives of globalised commerce, international law enforcement, critical infrastructure protection, and modern environmental management.

Most policymakers seem aware of these issues at an abstract level. For instance, rhetoric on border management sometimes acknowledges the value of working with foreign governments, 'pushing out the border', or creating a 'security perimeter'. High-level declarations between the United States and both Mexico and Canada, in particular, have indicated a willingness to explore much deeper cooperation in North America (White House, 2010, 2011; see also Longo, 2016). But even the most forward-leaning policies still fall short of a coherent alternative approach to borders.

In this article, we assume that political boundaries will (and should) remain defining features of the global landscape but argue that they can be much better administered. Specifically, I outline how governments can move away from a unilateral, ad hoc and defensive posture to borders, towards a more systematic, proactive and cooperative approach. I call this approach collaborative border management (CBM).

The next section of this article sketches how border management has evolved, highlighting the changes over the last 20 years that have rendered sovereignty-based approaches obsolete in much of the world. The third section focuses on operations at legal crossing points (known as ports of entry, or POEs). The fourth section addresses infrastructure planning, including ports of entry, the roads and bridges leading into them, as well as electricity and pipeline networks. The fifth section addresses operations between the POEs, as well as law enforcement cooperation among investigative agencies. The sixth section addresses natural resource management. The final section identifies barriers to the adoption of CBM and suggests ways in which they could be overcome.

The evolution of border management

Before the 19th century, border management was rarely focused on defending physical frontiers. Some borders were fortified—as evidenced by Roman *limes*, the Great Wall of China, The Pale in Ireland, and so forth—but these were exceptions rather than the rule; most fortification was limited to certain areas *within* countries (such as walled cities). Even when boundaries were clearly demarcated, governments generally focused on asserting state control over specific transportation nodes (major roads, bridges or ports) that represented opportunities to collect revenue without much attention to entry or exit at other locations. For instance, one of the oldest federal agencies in the United States, now called the Office of Field Operations within US Customs and Border Protection, was created to collect duties on imported goods arriving at major American ports (CBP, 2014); another ancient agency, the Revenue–Marine (now called the US Coast Guard), was created one year later to prevent smuggling of dutiable items along the coast near these ports (Evans, 1949).

In the late 19th and 20th centuries, governments in Europe and some other regions increasingly embraced the notion of stopping people and things at the jurisdictional line of the border. One event exemplifying this trend was the invention of barbed wire in 1874 in the American West and its spread worldwide after the Boer War at the turn of the century (Krell, 2002; McCallum & McCallum, 1965). Border management thus became a question of how many enforcement resources governments were willing to deploy at their physical frontiers. Where borders remained unpoliced, it was normally only because states lacked the capacity to do so—or, because of their economic policies, the inclination (Gavrilis, 2010, 2017). Defending a line unilaterally became the default posture (Bersin, 2012).

The conventional approach to borders represents the triumph of this mentality over the mutual gain that results from collaborative management of borders. Virtually all countries have an interest in preventing transnational criminal organisations from operating with impunity, processing safe travellers and goods as efficiently as possible, using the maximum available information and most up-to-date techniques to determine which people or shipments pose a threat to public safety, swift and safe repatriation of those who cross the border illegally, and keeping their agents safe from assaults from the other side of the border (see Longo, 2018). But these outcomes cannot be fully realised when countries focus their resources on unilaterally defending a physical line and fail to coordinate with their counterparts on the other side of that line.

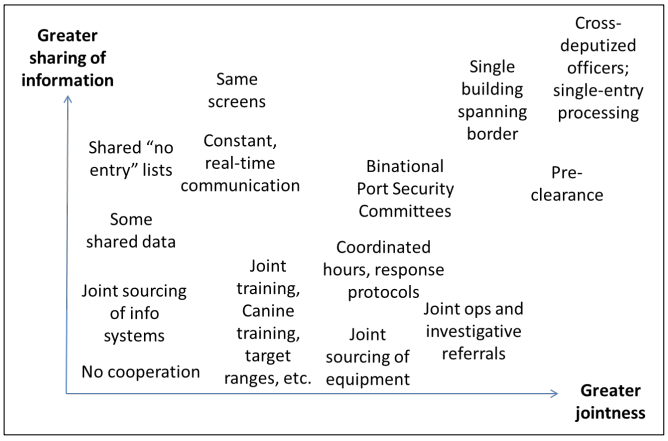
At the POEs

In the traditional view of border management, governments operate POEs, more or less independently, on opposite sides of a border. Each government follows its own policies—search procedures, emergency protocols, information and duty collection, risk management strategies, staffing levels, and perhaps even hours of operation—with little in the way of communication between officials on opposite sides of the border. In the extreme case, lack of coordination defeats the purpose of having a POE in the first place: people or shipments could theoretically pass through one side's portal but be denied entry at the other. In a less extreme case, POEs are misaligned, causing constant traffic flow problems.

Even in less extreme cases, lack of coordination leads to duplication of effort and imposes unnecessary costs on legitimate shippers and travellers. At a land border, exit from Country A equals entry into Country B. However, people crossing the border normally have to interact with two separate groups of authorities (one from each country). The costs of this exercise in redundancy could be eliminated entirely through single-entry processing, in which whatever one government did was automatically counted by the other government; costs could be greatly reduced if governments agreed on what customs officials in each country were supposed to be doing and on how they were supposed to be doing it.

Figure 1 illustrates the ways in which governments can improve cooperation in managing POEs, both in terms of greater information sharing (the vertical axis) and increasingly joint operations (the horizontal axis). In the lower left corner, there is no coordination: each side is focused on what comes into its country and generally gives little thought to what goes out. There is no communication between officials on one side and their counterparts on the other; no common procedure for handling an incident at a POE (e.g. an overturned truck or a chemical spill); no notification if a potential felon might be headed into the other country; and no sharing of knowledge about techniques used by smugglers in the area.

Figure 1: CBM at ports of entry



In the upper right-hand corner, by contrast, there is single-entry processing by cross-deputised officers: each crossing is recorded once for the benefit of both governments. A slightly less ambitious version of this approach would be to co-locate officers from the two countries in a single building, with a divider or line on the floor indicating the international boundary; in this scenario, each country would still maintain its own officers at the port at all times, but they would work literally a few feet from each other.

In between these two scenarios lie many less ambitious but still meaningful measures. In terms of information-sharing, for instance, one approach would be for officials on both sides of the border to receive the same information about travellers and shipments on their screens at the same time, with real-time communication between the two sides, even though they sat in separate buildings and processed the information independently. Customs officers could also meet regularly to share information, develop response protocols, plan coordinated inspection operations, and jointly assess potential threats (as in the case of the Port Security Committees along the US–Mexico border and the Port Operations Committees on the US–Canada border). Training and equipment purchases could also be done jointly to ensure that officers on both sides had similar levels of professional preparation and used interoperable systems. Two mundane examples that have come up in North America concern training of canines—who are strikingly effective in detecting a wide variety of contraband—in a single facility that serves more than one country and reciprocal use of firearms training ranges.

CBM also involves a similar approach to risk management. Segmenting flows of goods and people by the potential danger they pose lies at the heart of customs operations. With the possible exception of the Triborder Region between Paraguay, Argentina and Brazil at some times, legitimate trade and travel dwarf smuggling almost everywhere. At the supposedly crime-ridden US–Mexico border, for instance, 97 per cent of people and 99 per cent of shipments are fully compliant with all laws and regulations[1], and most of the 'non-compliant' entries involve minor infractions (e.g. driving across the border without remembering that there is an orange in the glove compartment of the car or inadvertently listing the wrong number of ball bearings per container on a customs declaration form). Identifying true threats to public safety is akin to searching for a needle in a haystack (Stodder, 2020; Lawson, 2020).

In this environment, adopting a uniform screening policy—in which every single person, vehicle and container is subjected to the same sort of inspection—would impose very high costs. The alternative 'risk management' approach, which has been adopted almost everywhere for cargo and in most places for people, consists of two separate strategies.

The first consists of blowing some of the hay off the haystack—that is, taking out of the mix those shipments and travellers who pose very little risk (e.g. the executive from a large software company who drives from Seattle to Vancouver each Tuesday, or a shipment of pharmaceuticals from one subsidiary of a company to another subsidiary of the same company that occurs on the same schedule each month). The principal manifestations of this strategy are vetted shipper programs (such as the American Customs-Trade Partnership against Terrorism, or C-TPAT), in which businesses secure their own supply chains (as verified by customs officers through occasional inspections) in exchange for expedited processing, and trusted traveller programs (such as Global Entry), in which individuals voluntarily provide information about themselves in exchange for not having to pass through normal customs screening most of the time. With the exception of occasional random inspections designed to 'keep the honest honest', law enforcement officers at the border can then devote their attention to risky or unknown shipments and travellers. Because a relatively small number of unique individuals and shippers account for a sizeable portion of all entries, trusted traveller and shipper programs can blow a great deal of hay off the stack (see Lawson, 2020).

The second strategy consists of getting better at finding the needle in the pile of remaining hay, something known in law enforcement parlance as 'targeting'. Targeting ranges from the obvious (following up on alerts from investigative agencies about specific shipments) to the primitive (knowing that smugglers favour white vans) to the extremely sophisticated (e.g. complex network analyses aimed at identifying previously unknown members of terrorist organisations).

In CBM, these efforts would be undertaken jointly. Membership in vetted traveller and shipper programs would be reciprocal (as is the case with the United States' Global Entry program and similar initiatives in other countries); supply chains would be jointly verified by both governments; and candidates for trusted traveller or shipper programs would be checked against law enforcement databases in both countries. At the other end of the risk spectrum, both countries would develop shared 'watchlists' or 'blacklists' for suspected criminals or terrorists entering either country from a third country. Cargo would be targeted for compliance by looking at trends and link analyses from previous seizures in both countries. Finally, targeting algorithms would be jointly developed based on information about criminal organisations collected by law enforcement agencies in both countries.

Into the POEs

The discussion so far has focused on POE operations, but CBM would also encompass binational planning for POEs, as well as the roads and bridges leading into them. Although the proverbial 'port to nowhere' (in which one country tries to establish a border crossing before the other has completed construction) is a rarity, mismatches in infrastructure investments leading into crossing points is rather common—for instance, when a multilane highway leading to a brand-new POE outfitted with modern technology dumps traffic into a potholed, two-lane road on the other side of the border or to a stoplight that immediately backs traffic up into the other country's inspection areas. In such cases, a marginal dollar of capital investment would be much better spent on the side where resources infrastructure or personnel were lacking than in one's own country. It was this realisation that prompted Canadian authorities to offer to pay the bulk of construction costs on *both* sides of a new bridge in the Detroit–Windsor area (see Battagello, 2013).

In an ideal world, partner countries would have a shared set of infrastructure priorities developed through some rational analysis of costs and benefits. This plan would be accompanied by a binational process

to ensure that POEs received all appropriate permits in a reasonable time frame. Finally, each project would be designed and managed by a binational group and (conceivably) built by binational work teams to ensure that construction proceeded at the same pace on both sides of the border.

Cross-border infrastructure includes pipelines and electricity grids. The unification of electricity grids represents an extraordinary mutual benefit for neighbouring countries because it permits load-sharing, thus increasing overall grid reliability. The gain is similar for gas pipelines, with the corollary advantage of back-stopping gas pipeline networks that terminate in a seaport on one side of the border but not on the other.

Between the POEs

In general, transit across stretches of a land border between authorised ports of entry is illegal. The law enforcement response is therefore conceptually straightforward: stop everyone and everything from going in or out. But law enforcement between the ports of entry can be extremely difficult in practice, particularly when there are vast swathes of territory to patrol. The challenge, therefore, is to use resources in the most effective way possible by coordinating activities on both sides of the border.

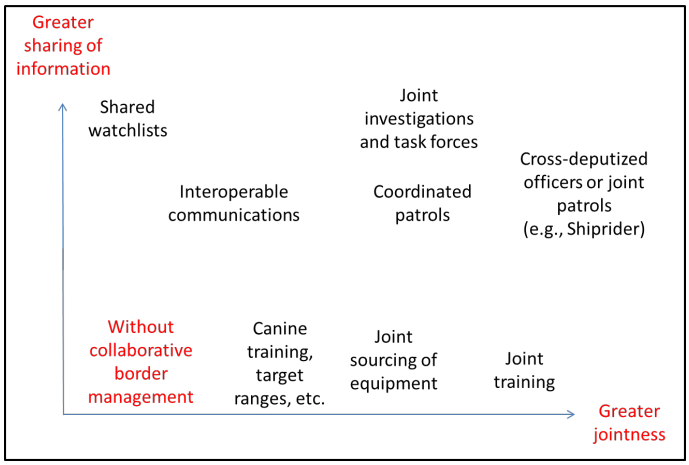
CBM means that both sides do not need to patrol every piece of territory; each government can take a different stretch, with either a rapid response capability on the other side or reciprocal 'hot pursuit' authority. Where hot pursuit authority is not politically feasible, simultaneous operations on each side of the border can prevent criminal organisations from fleeing across the border when confronted with a significant presence on one side or openly staging operations. Another option would be joint patrols. On the Great Lakes, for instance, US and Canadian officers staff the same boats, with command shifting from one member of the binational team to another as their boat crosses the invisible maritime boundary. (This program is called "Shiprider".) Whatever formula is used for any specific piece of the border, CBM also entails binational operational and strategic planning across the whole frontier. (See Figure 2.)

An example from North America illustrates the benefits of coordination. On the Mexican side of the US southwest border, there is no counterpart to the US Border Patrol. Individual Border Patrol station chiefs try to make ad hoc arrangements with whichever Mexican agencies or individuals seem most trustworthy and competent in their zone—local police, state police, federal police, the military or some other entity. In practice, there is often no partner on the other side of the border, and even when there is, communication equipment is not interoperable. Where coordinated operations have been conducted between the Border Patrol and vetted units of the Mexican federal police, the results have been impressive: attacks on Border Patrol personnel from the Mexican side have dropped precipitously, migrant safety has been enhanced while overall crossings have diminished, and cartel activities have been seriously disrupted.

Behind the POEs

In the traditional approach to borders, governments focus on what comes into their territory, considering what goes out only passingly if at all. But what goes out often comes back in, in some form or another. At the US–Mexican border, for instance, illegal drugs tend to flow northward while guns and billions of dollars in bulk cash are smuggled south. Because northbound and southbound flows are controlled by the same criminal organisations, which require both streams of contraband to operate, it makes little sense for law enforcement agencies to focus exclusively on one side; rather, both governments should work together to target the weakest links in the entire chain. Governments will be far more effective if they think in terms of illegal smuggling networks and supply chains, as criminal organizations do, rather than in terms of particular 'entries'. Figure 2 summarises these sorts of options for closer collaboration between the POEs and with respect to investigations.

Figure 2: CBM between and behind the POEs



At most borders, there are typically two different types of law enforcement agents. The first—represented in the United States by US Customs and Border Protection (CBP)—are in charge of interdiction. A separate set—represented in the United States by Immigration and Customs Enforcement (ICE); the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); the Drug Enforcement Administration (DEA); and the Federal Bureau of Investigation (FBI) and by state and local police—handle investigations. This division between 'patrol officers' and 'detectives' exists in almost every law enforcement agency. Additionally, many countries have separate agencies responsible for different elements of border management, which predictably creates coordination problems and bureaucratic conflict. It is common for countries to have a customs agency that oversees the movement of goods, a migration agency that oversees the movement of people, and separate police, military, or paramilitary agencies that are responsible for security between the ports. (There may also be additional agencies at the POEs for livestock inspections, enforcement of phytosanitary requirements, and so forth). The agencies that apprehend illicit crossers may also be better resourced for their mission than the agencies that must repatriate them, overwhelming detention capacity and leading to either inhumane conditions at detention centers or abdication in the form of 'catch and release' policies.

In CBM, investigation and interdiction would be coordinated by unified border management agencies. To make this coordination sustainable, partner governments would develop arrangements on how arrests and prosecutions would be divided even-handedly among law enforcement agencies in each country. Equally important, there would be procedures for de-confliction when an investigation conducted by an agency in one country crossed with that of an agency from the other country, as well as shared rules for handling information obtained from interrogations and managing confidential informants.

Under and along the border

Natural resources—habitats, oil fields, aquifers, lakes and bays—sometimes span national boundaries. In such cases, adhering to separate management strategies makes little sense. Toxins dumped into one side pollute the other; migratory species deprived of the northern or southern half of their corridor or ranging area may as well be deprived of both. The imperatives of cross-border environmental management are patently obvious to residents of metropolitan areas that span a national border (e.g. San Diego–Tijuana, El-Paso–Juárez, Copenhagen–Malmö, Seattle–Vancouver, Singapore–Johor Bahru), but cognizance of CBM's importance tends to drop the further one gets from the frontier and the closer one gets to national capitals.

Nowhere is the challenge of cross-border resource management more pronounced than with surface water. The consensus environmental policy prescription for riverine-lacustrine systems today is 'integrated watershed management' (or 'comprehensive watershed management')—that is, considering the health of an entire system, from water generation upstream to water use downstream, and addressing the quality as well as the volume of water in the system (Wang et al., 2016; Blomquist & Schlager, 2005; Bonnell & Koontz, 2007; Kerr, 2007). This perspective is motivated by the fact that human activities at one point in such a system—upstream deforestation, changes in snowmelt patterns, water generation projects, dam construction, seepage of chemicals, release of invasive species, etc.—have effects at other points. International boundaries notoriously complicate comprehensive watershed management. Most obviously, upstream countries frequently extract water to the detriment of downstream countries and the river system. A 'race to the bottom' on water quality is also likely wherever rivers from both countries flow into a shared body or where rivers are themselves the border; there is little point in adhering to strict environmental standards if the other side is polluting. In the case of common pool resources like cross-border aquifers or fish stocks, both sides may rush to grab as much as possible before it is all gone. Perhaps the most remarkable case is the Caspian Lake, the world's largest body of fresh water, where caviar-bearing sturgeon populations have collapsed over the last two decades. Intelligent binational stewardship, by contrast, would preserve a shared resource.

One entity that illustrates the promise of CMB is the International Boundary and Water Commission (IBWC) between the United States and Mexico. A product of the 1944 Water Treaty, the IBWC manages the flow of water from the Rio Grande/Rio Bravo and Colorado River systems. Although officially *bilateral* (each member belongs to either the US or the Mexican side), in practice the IBWC operates as a truly *binational* entity (in which members from both countries all work together as a coherent group). With the US Commissioners reporting to the Assistant Secretary of State for Western Hemisphere (and a similar arrangement on the Mexican side), the IBWC is highly insulated from electoral politics, an essential ingredient to its success as a technical body.

Over the last seven decades, the Water Treaty has been updated through a process of 'Minutes', or minor amendments, which are typically developed by the IBWC and then approved by both countries through the administrative branch. The cumulative effect of this process—there were 324 Minutes as of November 2019—has been to allow the IBWC to take up the challenge of water management more effectively. Unfortunately, many issues still lie outside the IBWC's mandate, such as aspects of water quality, ill-conceived policies on water use at the state level in the US and deforestation upstream. A more robust binational water authority would be better able to address the challenges of water management in this fundamentally arid region of the world with growing demands on freshwater supplies. But the IBWC represents a remarkable improvement over the status quo in most parts of the world, where whatever frameworks that have been developed remain inadequate to the task of protecting common-pool resources.

Getting there from here

Despite its manifest benefits, there are a number of potential challenges to CBM. The most obvious and important concerns areas where the threat of war between neighbouring states remains real: parts of the former Soviet Union, Pakistan–India, Israel's borders with Lebanon and Syria, and China's borders with most of its neighbours. In such circumstances, military preparation and intelligence collection will dominate other objectives, with logical consequences for trade, travel and law enforcement cooperation. But even when war remains a possibility, CBM may still be partially applicable. For instance, despite a longstanding history of military conflict, Ottoman and Greek officers regularly collaborated against bandits operating along their border in the 19th century (Gavrilis, 2008, 2010). In fact, elements of CBM can be used as confidence-building measures to help resolve interstate conflict, as with elements of the Brasilia Accords between Ecuador and Peru (St John, 1999, pp. 43–49). CBM mechanisms may also

be the only approach that can rescue some of the world's largest lakes and river systems, even if the nations that border the Caspian, the Jordan River, the Dead Sea, and so forth are unable to sustain deeper collaboration on other issues.

Another hindrance to CBM concerns state capacity. For neighbours to derive much benefit from cooperation, they must both be able to provide basic policing and administrative services (issuing identification cards, processing forms, etc.). When 'border control' consists of a ten-year-old boy holding a frayed rope across a dirt road, it is tempting to conclude that not much can be done. But state capacity does not have to match developed-world standards to be effective; it simply needs to match the challenges governments face on the ground. For instance, the Commission of Coordination between the Tunisian and Algerian armed forces recently established 20 joint military checkpoints along their frontier as part of a coordinated effort to combat insurgents operating across the border—an effort that has proven effective against lightly armed and scattered guerrilla forces (Smadhi, 2013).

State capacity can also be built collaboratively. One crucial insight from CBM is the fact that an additional dollar allocated by one country might be more efficiently invested on other side of the border. For instance, the United States currently has close to 20,000 Border Patrol agents on its side of the US–Mexican border. By contrast, Mexico has virtually no law enforcement presence between the ports of entry along the same 1,951-mile stretch of territory. The result is that Border Patrol agents have no one to call when the smugglers they are chasing flee back into Mexico or miscreants pelt them with rocks from the Mexican side. This situation changed dramatically in 2010, when the Mexican government sent 300 vetted members of the Mexican Federal police to participate in joint operations with the Border Patrol at one section of the Arizona–Sonora frontier. Unfortunately, vetted units of the Federal Police are in short supply, and joint operations dropped off. Meanwhile, the US Congress voted to increase the size of the Border Patrol. Helping the Mexican government to establish a dedicated, professional law enforcement presence in the Sonoran Desert would be a better investment of US government funds.

A final objection concerns lack of shared interests between neighbouring countries. Most countries want trade with their neighbours, but not all. Likewise, most governments want to prevent smuggling, but in some governments, officials control the smuggling networks. Fortunately, as in cases where state capacity is thin, the policies outlined here can be adopted piecemeal; there may be room for deep cooperation on some issues, even in places where conditions might not at first appear auspicious.

CBM challenges governments' notions of sovereignty and often elicits reflexive nationalist reactions. But such bureaucratic and emotional responses must be tempered by 21st-century realities and, above all, by the prospect of mutual advantage. Citizens benefit from trade, and cooperation at the border facilitates legitimate commerce. Governments promise to control crime, and joint law enforcement efforts enhance public safety. Binational resources that are worth preserving must be managed binationally. CBM may feel uncomfortable or revolutionary, but it is simply common sense.

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Notes

1 These estimates are based on findings from random secondary inspections in the United States by US Customs and Border Protection officers, in which a portion of entries that have no 'flags' and would otherwise go unexamined are selected at random for closer scrutiny.

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