



Brussels, 31.5.2017
SWD(2017) 194 final

PART 2/2

COMMISSION STAFF WORKING DOCUMENT

IMPACT ASSESSMENT

Accompanying the document

**Proposal for a Regulation of the European Parliament and of the Council
amending Regulation (EC) No 1071/2009 and Regulation (EC) No 1072/2009 with a view
to adapting them to developments in the sector**

{ COM(2017) 281 final }
{ SWD(2017) 195 final }

Annex 1: Procedural information concerning the process to prepare the impact assessment report and the related initiative

Lead DG

The lead DG for this initiative is DG MOVE. This impact assessment report concerns two initiatives with Agenda planning references 2015/MOVE/029 - "Access to the road transport profession – Reg. 1071/2009" and 2016/MOVE/022 - "Access to the EU road haulage market – Reg. 1072/2009".

Foreseen adoption date: 31 May 2017

Organisation and timing

The initiative was validated in March 2016 and the impact assessment work started immediately afterwards. It lasted until April 2017.

The Inter-service Steering Group was chaired by the Secretariat-General with the close involvement of DG MOVE. All consultations of the associated DGs were closely coordinated between the two services. Besides from the current initiative (revision of Reg. 1071/2009 and Reg. 1072/2009), the Inter-service Steering Group was in charge of the revision of Directive 2006/1/EC on the use of hired vehicles in international road transport.

The following DGs participated in the Inter-service Steering Group: LS, DG HOME, DG ECFIN, DG CNECT, DG COMP, JRC, DG RTD, DG GROW, DG EMPL, DG ENV, DG TAXUD and DG CLIMA.

Four Inter-service Steering Group meetings were held on 14 April 2016, 15 December 2016, 17 February 2017 and 5 April 2017¹.

Consultation of the Regulatory Scrutiny Board

The Regulatory Scrutiny Board ("RSB") was consulted on 29 March 2017. The RSB issued a positive opinion with reservations. The main points raised were the following:

- The Impact Assessment report did not sufficiently demonstrate the size of the problems, in particular how illegal cabotage and letterbox companies affect the market and how operations with light commercial vehicles ("LCV") are developing.
- This being a REFIT initiative, the scale of existing regulatory burdens should be better quantified and their link to the proposed policy options better justified.
- The report should better explain the rationale and different components of certain policy options.
- The report should explain better the interactions between this file and the initiative on road social legislation.

These points were addressed in the following way:

- Additional quantitative and qualitative information was added in the problem definition on the impacts of letterbox companies, illegal cabotage, regulatory burdens for hauliers and enforcement costs for national authorities. This included, for example, a rough estimation of the impacts of letterbox companies in terms of lost revenues for the Member States where the hauliers should be established (i.e. the

¹ With the exclusion of meetings intended to discuss exclusively the revision of Directive 2006/1/EC.

Member State where they actually operate). On illegal cabotage, a rough estimation of the damage on compliant hauliers was calculated on the basis of the sanctions set by Member States for cabotage infringements. The evolution of LCVs was improved, but quantitative data remains limited.

- The REFIT nature of the initiative was further emphasised in the problem definition, where a quantification of the regulatory burdens for hauliers and enforcement costs for national authorities was retrieved from the ex post evaluation and from a study performed in the context of the eCMR protocol. The impacts of the proposed policy measures on regulatory costs are also better captured.
- Regarding the policy options, the rationale for the structure of the policy options was improved and several policy measures were better explained.
- The interactions between this initiative and the initiative on road social legislation were better explained in the problem definition and baseline. Notably, the relation between this initiative, the ongoing revision of the Posting of Workers Directive (Commission proposal already adopted) and the intended proposal concerning the application of posting rules to transport, which is currently being considered under the social initiative, were explained. The interaction in terms of impacts of the different measures under the internal market and social file were also further explained, whenever relevant.

Several other points which were revised:

- Regarding LCVs, it was better explained why this is an issue in the absence of solid quantitative data. The link with ex post evaluation was included and the political context was better presented. The preferred option of a "light touch approach" and the choice of criteria on access to profession extended to LCVs were also better justified.
- A series of indicators for the future ex post evaluation of the revised Regulations were added.
- The policy measure concerning the pre-notification of cabotage was moved out of policy option 2, leading to different impacts of the different policy options.

Data used in impact assessment and external expertise

The Commission sought external expertise in the economic field through a contract for a support study with Ricardo et al. The findings of the support study fed into the final impact assessment report². In the course of the support study, a wide range of stakeholders was consulted to confirm the scope and the magnitude of the problems and to provide their views on the potential solutions to these problems³. This IA support study itself followed up from the support study for the ex post evaluation of Regulation (EC) No 1071/2009 and Regulation (EC) No 1072/2009 carried out by the same consultant⁴. In parallel to the external studies, the

² [Insert link once published].

³ See Annex 2 with the Synopsys report of the consultation activities for further details.

⁴ <http://ec.europa.eu/transport/sites/transport/files/facts-fundings/evaluations/doc/2015-12-ex-post-evaluation-regulations-2009r1071-and-2009r1072.pdf>

This study was the main basis for the Commission's ex post evaluation of the Regulations:

Commission services sought further expertise and input from stakeholders by means of dedicated meetings throughout the impact assessment, an open public consultation⁵, as well as a dedicated Road Transport Forum co-organised by the Commission and the European University Institute (Florence School of Regulation) on 23 January 2017.

Other sources of data used included:

- [Report on the State of the Union Road Transport Market](#) (COM(2014)222) adopted in April 2014;
- Draft Impact Assessment accompanying a possible proposal for a Regulation amending Regulations (EC) No 1071/2009 and (EC) No 1072/2009 (April 2013; unpublished);
- [Report of the High Level Group on the Development of the EU Road Haulage Market](#) of June 2012;
- [Final reports by AECOM](#) in preparation of the Impact Assessment above and the Report on the EU Road Transport Market below ([February 2014](#));
- EP study "[Development and implementation of EU road cabotage](#)" of March 2013;
- [Results of public consultation by High-Level Group](#) in 2011;
- [Member State reports](#) on the activities of the competent authorities delivered to the Commission under Article 26 of Regulation (EC) No 1071/2009;
- Member State reports on the activities of the competent authorities delivered to the Commission under Article 17 of Regulation (EC) No 1072/2009 (unpublished; fed into the Report on the State of the Union Road Transport Market prepared by the Commission mentioned above).

<https://ec.europa.eu/transport/sites/transport/files/swd20160350.pdf>

⁵ http://ec.europa.eu/transport/modes/road/consultations/2016-review-road-regulations_en

1. Introduction

This report provides a summary of the outcomes of the stakeholder consultation activities which were carried out as part of the study to support the impact assessment.

It provides a basic analysis of the range of stakeholder groups that were engaged in those activities and a summary of the main issues which they raised.

The objectives of the consultation activities were to:

- Provide to the wide public and stakeholders an opportunity to express their views on the importance and severity of the problems and issues related to the current legal framework, as identified in the ex post evaluation study, in order to help formulate and refine the problem definition;
- Gather specialised input (data and factual information, expert views) on specific aspects of the legislation from the enforcement community and from the industry; and
- Gather input (data and/or estimates, expert views) on the expected impact and level of support of a set of measures intended to address issues and problems identified in the current legal framework.

The consultation activities included:

- An open public consultation organised by the Commission services which was launched on 15/06/2016 and lasted until 15/09/2016 (12 weeks);
- An SME panel survey organised by the Commission services launched on 26/09/2016 and which lasted until 11/11/2016 (8 weeks);
- A survey of road transport operators organised by the consultant responsible for the support study, which was launched on 07/11/2016 and remained open until 16/12/2016 (6 weeks);
- A survey of national authorities responsible for implementation and enforcement of the legal framework organised by the consultant responsible for the support study, which was launched on 07/11/2016 and remained open until 16/12/2016 (6 weeks);
- 31 telephone interviews with a number of stakeholders, including industry representatives, trade unions, national authorities and individual hauliers conducted by the consultant responsible for the support study and its partners, which took place during the period 15/11/2016 to 13/1/2017;
- Stakeholder seminars and discussions at several different events.

2. Methodology

2.1. Open public consultation (OPC)

The objectives of the OPC were to help verify the problems faced by the sector, as identified in the ex-post evaluation, validate the objectives of the possible policy intervention and obtain the opinion of stakeholders on the appropriateness and expected impacts of the possible policy measures to address those problems.

A total of 175 responses were received, covering a variety of stakeholder groups, as shown in Table 2-1.

Table 2-1: Classification of stakeholders responding to the public consultation

| Stakeholder category | Number of responses | % of responses |
|---|----------------------------|-----------------------|
| Medium and large hauliers (road transport and shipping enterprises with 50 or more employees.) | 23 | 13% |
| Small hauliers (road transport and freight forwarding enterprises with 49 or fewer employees) | 18 | 10% |
| Logistics industry representatives (associations representing shipping, freight forwarding and combined transport mode enterprises) | 17 | 10% |
| Associations representing road transport workers and individual workers | 33 | 19% |
| Transport operators' associations (associations representing road transport operators, the transport chain and contracting authorities) | 48 | 27% |
| National authorities and relevant associations (enforcement authorities, national ministries and Inter-governmental organisation) | 18 | 10% |
| Other | 18 | 10% |
| Total | 175 | 100% |

Notes: "Other" is based on the respondents' choice and includes: Non-governmental transport organisations (five respondents), individual citizens and consumers (four respondents), consultancies (two respondents), trade associations (two respondents), a motoring organisation, a tachograph analysis provider, an association representing SME's and a national business organisation.

Responses were received from respondents residing in, or organisations based in, 22 EU Member States (Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Italy, Latvia, Lithuania, Malta, Netherlands, Portugal, Poland, Romania, Slovenia, Slovakia, Spain, Sweden and the United Kingdom), as well as from Serbia, Switzerland and Norway. 65% of responses were from EU-15 Member States.

Moreover, as part of the public consultation 22 position papers were received from a variety of stakeholders including industry associations, workers organisations, national authorities, enforcement organisations, NGOs and experts.

2.2. SME Survey

The Commission SME panel survey focussed on issues around the use of light commercial vehicles (LCVs) in road transport and the potential impact of policy measures related to the extension of the scope of the legal framework to cover LCVs.

A total of 17 responses were received, including 7 providers of road freight transport services using owned or hired vehicles for hire and reward, 7 firms that use owned or hired goods

vehicles for the transport of their own goods ("own account operators") and 8 users of road freight transport services⁶, as shown in the table below.

The respondents represented a range of firms operating domestically and internationally, from six different Member States. The majority of the responses came from firms with less than 10 employees (11 respondents, 65%). Only 5 respondents (29%) were firms with 10-49 employees and there was only 1 response (6%) from a firm with 50-249 employees. The small sample size made it difficult to draw significant conclusions from the SME survey.

2.3. National Authority and Haulier Surveys

In the course of the study, by the consultant responsible for the support study carried out two surveys: one of national transport ministries and national enforcers and one of individual hauliers.

The **survey of authorities** aimed to obtain the views of the national authorities on the proposed policy measures in terms of their expected impact on the implementation and enforcement of the legal framework and to obtain data or estimates of the possible costs for authorities from the proposed measures. A total of 18 responses were received, covering 16 Member States⁷ and 1 from Euro-Contrôle-Route.

The **survey of hauliers** was intended to obtain relevant data from transport operators on costs and characteristics of operations that could be used in the assessment of the impacts (as part of the baseline scenario) and also their views and estimates on the costs or savings from the policy measures under consideration.

A total of 80 firms responded to the survey of hauliers. As Table 2-3 shows, the majority of the responses were received from two EU-13 countries - Poland (39% of the responses) and Bulgaria (31% of the responses). Responses from EU-15 countries were limited despite the fact that national associations in a number of them (DE, DK, IE, UK, FR) encouraged their members to contribute. Overall, the number of responses is considered low, although it still provides a basis for assessing impacts of different measures and, critically, making comparisons between hauliers based in EU15 and EU13 Member States.

Table 2-2: Responses to the hauliers' survey

| Member State | Number of responses | Percentage |
|---------------------|----------------------------|-------------------|
| EU13 | 55 | 69% |
| Poland | 31 | 39% |
| Bulgaria | 24 | 31% |
| EU15 | 25 | 31% |
| Belgium | 13 | 16% |
| Denmark | 2 | 3% |
| France | 1 | 1% |
| Germany | 7 | 9% |
| United Kingdom | 1 | 1% |
| Ireland | 1 | 1% |
| Total | 80 | 100% |

⁶ Respondents could indicate more than one type of activity. Some hauliers operated both for hire and reward and for own account. This is why the total number of hauliers having responded (17) does not match the sum of the respondents in each category

⁷ BE, BG, CY, DE, EE, EL, FI, HR, HU, LU, LV, NL, PL, RO, SE, UK.

2.4. Stakeholder interviews

The telephone interviews included 5 initial exploratory interviews (three EU-level organisations and two national enforcement authorities) to get information necessary to prepare the effective consultation activities, followed by 31 more semi-structured telephone interviews covering a range of stakeholders across the EU – at national and EU level (see Table 2-4).

The aim of the interviews was to gather more detailed insight on the stakeholders' experiences with regard to the different measures under consideration, obtain data or estimates on costs and views on possible issues and difficulties that may arise in relation to each measure. In some cases, the interviews built on the input provided by the same stakeholders to the survey of authorities or hauliers.

Table 2-3: Summary of interview programme

| Type of Stakeholder | Number of interviews completed | Member States covered |
|---|---------------------------------------|--|
| Transport Company | 4 | BG, DE, DK, ES |
| International transport Companies | 1 | EU wide |
| National Transport companies Associations | 16 | BG, CZ, DE, DK, ES, FR, IT, LV, NL, PL, RO, UK |
| National Authorities (Transport Ministries and Enforcement Authorities) | 6 | BG, DE, LV, PL, RO, UK |
| International Association of Transport Companies | 2 | EU wide |
| Total | 31 | |

2.5. Seminars and other discussions

The Commissioner in charge of Transport Policy and DG MOVE organised several stakeholder seminars, meetings and other events during the course of the ex post evaluation and impact assessment of this initiative, involving the social partners. They also participated in several initiatives organised by the social partners, notably:

- Seminar on internal market policy initiative in September 2015;
- Meeting between Commissioner Bulc and the European Transport Workers Federation (ETF) on 17 December 2015;
- ETF working group meeting on 13 January 2016;
- Sectorial dialogue committee in road transport on 19 January 2016;
- ETF meeting as part of the targeted consultation on the ex-post evaluation of social legislation in road transport on 15 March 2016;
- Sectorial dialogue committee on road transport on 15 June 2016 and 16 November 2016;

- Florence Road Transport Forum on 15 July 2016 organised by the European University Institute, with the participation of Commissioner Bulc and follow-up seminar on 23 January 2017;
- Meeting between Commissioner Bulc and ETF on 24 January 2017.

The objective of these initiatives was to involve from an early stage the social partners in the discussions, so that their input was taken into account in the design of the possible policy intervention.

2.6. Conclusions and limitations

The objectives of the consultation activities have been largely achieved. All relevant stakeholders groups representing all EU Member States have been consulted and most provided their views, together with some quantitative information, where available, related to existing issues and the policy measures under consideration.

The information collected corresponded in general to the objectives and expectations of the consultation activities defined for each stakeholder group, although in a number of cases stakeholders were unable to quantify the expected costs or savings of the proposed measures. Furthermore, the number of responses to some of the consultation activities were below expectation. The responses to the SME panel survey were limited (17) and as a result it was not possible to draw significant conclusions from the analysis of the responses. The responses to the hauliers survey were also relatively limited (80) and the majority of the responses were received from two Member States - Poland (39% of the responses) and Bulgaria (31% of the responses). Still, it provided a basis for assessing impacts of different measures and, critically, making comparisons between hauliers based in EU15 and EU13 Member States. The targeted interviews with individual firms and other stakeholders helped address some of these data gaps, at least to some extent.

3. Summary of input

3.1. Stakeholder input on problems with current legislation

Stakeholders provided significant input that helped validate and elaborate the definition of the problem and the areas where changes are considered necessary. Input in this area came primarily from the OPC and the SME panel survey and to a lesser extent from the other stakeholder engagement tools used.

The sections below summarise the inputs provided that covered the problems and what are considered to be the underlying causes and drivers of these problems.

- Presence of an uneven playing field between resident and non-resident operators;
- High regulatory burden of current legal framework;
- Inconsistent and ineffective enforcement of the legal framework;
- Differences in the implementation of the rules among Member States in a number of areas.

3.1.1. Factors undermining fair competition between resident and non-resident transport operators

The majority of stakeholders supported the view that letterbox companies represent a problem. Among the OPC respondents, 43% considered it widespread practice for operators

to set up subsidiaries that do not actually conduct their own operations and only 9% indicated that this is only a minor issue. The most concerned groups were road transport workers' associations, small hauliers and individual workers. It was largely felt that this leads to a competitive disadvantage for hauliers from some Member States, with 70% of responses indicating this.

As regards cabotage, 126 respondents (75%) to the OPC questionnaire considered that the cabotage rules are insufficiently clear with little variance of opinion between respondent groups. The underlying reasons for the presence of illegal cabotage are considered to be inconsistent enforcement and lack of clarity of rules.

3.1.2. Regulatory burden of the current legal framework

There are different views among stakeholders as to the regulatory burden of the legal framework. 43% of respondents (65 out of 153 respondents) consider the costs of compliance for transport operators to be at least important, whereas 62 respondents consider the costs to be of little importance or not significant at all. Hauliers, national authorities, and consumers consider the compliance costs for transport operators are important. Medium and large hauliers display the greatest agreement, with 13 of 18 respondents (72%) considering these costs as at least important to road transport operators (4 respondents suggested they were very important). By contrast, responses from associations representing road transport workers and individual workers consider the costs to be of little importance, with 10 of 16 respondents indicating this. Whereas respondents did not report on the reasons why they think that costs for hauliers to comply with the Regulations are high or not, it can be presumed that hauliers are in a better position to judge about the importance of the costs they incur to comply with the Regulations than other categories of stakeholders. This could be the situation in particular in the case of drivers hired by medium and large hauliers, who are less acquainted with the administrative and accounting parts of the business.

Respondents from EU-13 Member States felt that the costs of compliance are more important for road transport operators. 25 of 32 respondents (78%) from EU-13 States felt the costs to be at least important, whereas, by contrast, only 27 of 90 respondents (31%) from EU-15 States felt the same way. This is also a picture from the hauliers survey where, according to the input provided, only 4 out of the 25 (16%) EU-15 respondents considered the costs of Regulation (EC) No 1071/2009 to be above 5% of their annual operating costs, while in the case of EU13, 31 out of 55 (56%) respondents considered the costs to exceed 5%. In the case of Regulation (EC) No 1072/2009, the respective answers were 4 out of 25 (16%) for EU-15 and 17 out of 55 (30%) for EU-13.

3.1.3. Inconsistent and ineffective enforcement of legal framework

Stakeholders pointed to a number of areas where there is inconsistent and ineffective enforcement of the legal framework.

Lack of cooperation between Member States was identified as one of the underlying causes. 125 of 167 (75%) respondents to the OPC suggested there were at least some cases of Member States not cooperating in relation with compliance with the stable and effective establishment criterion. This view was consistent across all respondent categories, although the share of those who believe that Member States in general are not cooperating well varies. For example, respondents from associations representing road transport workers and individual workers felt strongly that Member States are generally not cooperating (81% of respondents), whilst only 19% of respondents from national authorities and relevant associations agreed. 57% of respondents felt that this problem leads to a competitive

disadvantage to hauliers from some Member States. This view was shared by all respondent categories.

Significant variation in the level of control exercised by Member States with regards to cabotage rules was another aspect identified by most stakeholders. 120 out of 167 respondents agreed that there is significant variation (72%), with 51 respondents indicating there is very significant variation. EU-15 and EU-13 based respondents showed similar patterns. The majority of OPC respondents (99 out of 123; 77%) also felt strongly that this variation would lead to a competitive disadvantage to hauliers from some Member States, where enforcement levels may be more stringent.

Stakeholders agreed that the current regulations are difficult to enforce, with 119 of 168 (71%) indicated this and only 28 (17%) considering that the rules are easy to enforce. This is also considered to lead to a competitive disadvantage for hauliers from some Member States, with 98 of 125 respondents indicating that this has a very important impact. With the exception of small hauliers, all other groups share the belief that the rules are difficult to enforce. In particular, national authorities and the relevant associations overwhelmingly felt that the regulations were difficult to enforce. 16 of 17 respondents from this category indicated this. In general, respondents from both EU-15 and EU-13 agreed that the rules are largely difficult to enforce. Only respondents based in France felt that these rules were easy to enforce (17 of 20 respondents).

3.1.4. Shortcomings of the rules

Stakeholders provided input in relation to a number of aspects and issues where there appear to be shortcomings. In relation to the implementation of Regulation 1071/1009, 43% of respondents to the OPC questionnaire felt that the imposition of additional conditions on access to the occupation of road haulier by some Member States constitutes a major problem for the road haulage sector (75% felt it is at least a minor problem). This is a view broadly shared by all the respondent categories to differing extents. Respondents from logistics industry representatives and national authorities were least likely to consider this a problem. Even in these cases, however, respondents felt that this constitutes at least a minor problem for the haulage sector, reflective of the conclusion drawn from the overall distribution. Additionally, this is a view shared by EU-13 and EU-15 based respondents, suggesting that it is considered to be a widespread issue for the road haulage sector.

The respondents felt that the options left for Member States concerning the "good repute" criterion constitutes a major problem. 70% of respondents indicated this, whilst only 4% indicated that this was not a problem. This view is fairly consistent across all respondent categories. Responses from small hauliers, association representing road transport workers and individual workers felt most strongly that this is a major problem. The respondents also felt that this has led to a very important impact on the equality of competitiveness of hauliers across Member States, and important compliance cost considerations.

Variation of the sanctions for infringements of the Regulations between Member States is another area where there are obvious differences. Most respondents (74%) to the OPC questionnaire considered this to be a major problem and only 15% of respondents didn't consider this a problem. Most of the respondent categories tend to agree with this general view. However, associations representing road transport workers and individual workers most strongly oppose this conclusion. Both EU-15 and EU-13 based respondents had similar response profiles. There is a consensus that this is a major problem for the road haulage sector, with very few responses indicating that it is not a problem.

3.2. Stakeholder input on policy measures considered

Stakeholders provided input on the level of support and expected impacts of the policy measures under consideration. Input came from respondents to the OPC, the SME panel (in relation to the extension of the scope of the Regulations) and from the surveys and the interviews. An analysis of the input provided by stakeholders on the main (and more controversial) policy measures (essentially those in policy packages 3 and 4) is presented below.

3.2.1. Review of the criteria for stable and effective establishment

The proposal to review the criteria for stable and effective establishment to better ensure that road hauliers have a real activity garnered a mixed response from the OPC respondents. 56% of respondents agreed with the proposal to some extent (40% fully agreed), 37% expressed some disagreement (34% didn't agree at all). Disaggregation by stakeholder category yields a set of differing opinions. Respondents from associations representing transport workers and individual works were most in favour of the suggestion (16 of 21 responses expressed full agreement). When the results are disaggregated by EU-13 and EU-15 groups, there is clearly an opposing opinion prevalent between the two groups. Respondents from EU-15 MS were more in favour of the criteria being reviewed, whereas respondents from EU-13 MS expressed much more disagreement

Most interview respondents considered the proposed changes to the definition of stable and effective establishment to be positive, however there was still a wide range of opinions on each specific measure. In particular, many respondents indicated that the requirement that core business documents can be accessed from the physical office, the requirement that the operator be subject to the fiscal system of the Member State of establishment and pay taxes relative to the revenues arising from its activity there and the requirement that the operator has a transport manager, were already in place in many EU-15 Member States. The other two proposed changes, namely the requirement that the operator has commercial contracts with clients established in that Member State and the requirement that the operator holds assets and employs staff in the Member State, were viewed positively by some respondents, but not considered appropriate by others.

The respondents to the national authorities' survey supported the proposed additional requirements. Most respondents indicated a small or significant contribution to the reduction of letterbox companies in their Member State from the addition of each proposed measure. EU-15 based authorities were more likely to support these additions, compared to EU-13 based authorities. The authorities either did not know whether the measure would change the costs for their organisation, or stated that the costs would stay about the same.

Respondents to the hauliers' survey also agreed that these measures would help prevent letterbox companies. Most significantly, 54 (68%) respondents supported the requirement that the original hauliers licence, labour contracts and other core business documents can be accessed from the physical office. All of the measures were more likely to be supported by EU-15 based hauliers, compared to EU-13 based hauliers. Furthermore, the requirement for core documents to be accessed from the physical office was also considered to have the smallest impact on hauliers' overhead costs, compared to the other options.

3.2.2. Review of cabotage rules

Stakeholders were asked to comment on the appropriateness and possible impacts of changes to the definition of cabotage, including a removal of the maximum number of cabotage

operations (currently 3), while reducing the maximum period for cabotage operations (currently 7 days).

Respondents to the OPC gave mixed responses to the proposed changes. 27% of respondents agreed with the measure, whilst 30% of respondents disagreed. Any conclusions drawn from this question, however, are hampered by the large share of respondents who were unsure whether this measure would be an acceptable solution. There is, however, large disagreement between stakeholder groups. For example, of the 21 respondents from associations representing road transport works and individual workers, 18 disagreed with the measure. By contrast, only 3 of the 18 respondents from the medium and large hauliers stakeholder category disagreed. 10 agreed with the measure, whilst the remainder were either unsure of the impacts or held no view. The distribution of results is fairly similar when split by EU-15 and EU-13 Member States, suggesting that the location of the respondents is not indicative of whether they agree with the measure.

A number of respondents (73) also provided more detailed comments on this topic, indicating a very strong response rate to this part of the survey. For example, a number of respondents interpreted the proposal as a step towards the liberalisation of the road haulage sector. This would lead to a shift towards low-cost suppliers, thereby effectively sacrificing social and working conditions in an effort to succeed in the market. The latter point about deteriorating working conditions as a result of the proposed measure is echoed by several respondents. Additionally, it was felt that domestic markets are likely to suffer due to the relaxation of the cabotage rules, which would allow cost-cutting international suppliers to compete on domestic levels across the EU. However, a few respondents indicated that removing the restrictions could have a positive impact on the road haulage sector. It was suggested by several respondents that it would introduce a degree of clarity for hauliers about the rules and hence remove legal uncertainty.

The results from the interviews were clearer on this question. Nearly all respondents interviewed agreed that removing the maximum number of cabotage operations would have a positive impact, as they are very difficult to enforce. However, there was a wide range of opinions on the time period over which cabotage operations should be allowed, ranging from 1 day to no limit. EU-15 based respondents favoured lower limits of 3 or 4 days for cabotage, while EU-13 based respondents tended to suggest at least 7, with some suggesting a 10 or 14-day period. Respondents to the hauliers' survey considered that the removal of the maximum number of cabotage operations, while keeping the time limit, would have a positive impact. However, they expressed mixed opinions on the maximum period during which cabotage operations should take place. 31 (39%) respondents indicated that a 7-day maximum period would be appropriate, while a further 25 (31%) suggested other maximum limits ranging from 1 to 30 days. In general, EU-15 based respondents were more in favour of shorter maximums than EU-13 based respondents.

There were some indications from the survey of hauliers that this policy would have an impact on overhead costs due to a loss in flexibility to organise transport. The reported weighted average increase in overhead costs due to this measure was 3.5%, with the bulk of costs reported by EU-13 firms (5.2% weighted average increase) while the weighted average reported costs for EU-15 firms was -0.8% from this measure (i.e. it would result in cost savings). The responses to the survey did not directly elaborate on the underlying reasons for these changes, but input from the interviews with industry associations suggested that increases in overhead costs could arise because hauliers would find it more difficult to locate appropriate loads within a 4-day limit, and compliance could be more challenging in larger countries (NL, DK, CZ, BG). This is also reflected in the responses to the hauliers' survey where it was suggested that cabotage behaviour in terms of number of trips and distance per

trip would not substantially change under this measure, i.e. the limitation on cabotage activity is more to do with the number of trips that can be physically carried out per day given the distances involved and hence removal of the number of operations does not have a large impact on cabotage activity parameters.

The national authorities' survey respondents indicated a mixed view on these measures. Some respondents thought that the measures would reduce the effectiveness of enforcement, while others thought that it would increase the effectiveness. Furthermore, the respondents were evenly split between the suggestion of 4 days and 7 days maximum period for cabotage operations, with several respondents also indicating other responses which varied from 2 days to 10 days. Authorities were also divided on the suggestion of a minimum time waiting time between cabotage periods, with some indicating 3 days, some 7, and some suggesting that no limit should be in place.

3.2.3. Extension of scope to LCVs

In the case of Regulation (EC) No 1071/2009, overall there was very strong agreement with this measure by the OPC questionnaire respondents. 57% of respondents who did not propose alternative measures expressed full agreement with this, whilst a further 15% agreed to a lesser extent. Only 19% expressed disagreement of any kind. Hauliers showed strong agreement with the proposal (21 of 28 respondents from either small, or medium and large haulier groups). When disaggregated by EU-13/EU-15, there are no significant differences.

The area where respondents felt this proposed measure would have the greatest positive impact is on the working conditions within the haulage sector. 66% of respondents felt it would have an overall positive effect, whereas, by contrast, only 5% felt it would have a negative effect. The primary area where the measure was thought to have a negative impact was on the administrative burden of public and enforcement authorities.

Most of the respondents to the SME panel survey agreed that the regulations should be the same for all vehicle categories, and that the proposed requirements for LCVs would have no effect on the use of LCVs, with some respondents saying that there may be a small increase in costs for firms. All of the benefits suggested by the questionnaire were agreed with by a majority of the respondents.

Respondents to the national authorities' survey were quite evenly divided between agreeing that the same requirements should apply for all vehicle categories and disagreeing that the same requirements should apply in the case of LCVs. This differed from the overall trend seen in the OPC, as a greater share of respondents disagreed with this policy option. All four requirements were viewed equally, with the same number of respondents indicating agreement and disagreement. However, when split by geographical location, EU-15 based national authorities were more likely to agree with this option than EU-13 based authorities.

Most respondents to the hauliers' survey indicated that the extension of the requirements to LCVs would either increase their use of LCVs, or have no effect. Very few respondents indicated that the extension would reduce their use of LCVs or result in them stopping using LCVs. The responses varied depending on whether the haulier used LCVs or HGVs or both, with LCV users the most positive about the extension, LCV and HGV users mostly expecting no effect and HGV users finding the change not applicable.

The input from individual interviewees showed a similar response to the extension to LCVs to that seen in the OPC questionnaire. A number of respondents commented that some Member States have already extended the rules to LCVs to some degree (BE, NL, IT, FR). The rationale for this focused on fairness of competition and safety. Further support to the

extension came from industry representatives at EU-level (UETR; representing mainly small hauliers) which referred to the important role in the professionalization of the sector brought by these measures, pointing to the examples of Belgium and the Netherlands where such measures are already in place. A similar argument was brought forward by the Czech and Danish haulage associations and this is also very strongly supported by the hauliers. 45 out of 64 which responded to the specific question considered that the extension of Regulation (EC) No 1071/2009 will ensure a greater level of quality of service of transport operators that use LCVs. However, some respondents indicated that extending the requirements to LCVs would be overly burdensome on enforcement authorities and SMEs which make extensive use of LCVs.

Among interviewees, there were some suggestions that a partial extension would be more appropriate, although there was no agreement as to which requirements should apply. Good repute requirements were the most commonly supported, while a number of associations (NL, DK, BG) suggested that financial standing requirements should be reduced in comparison to HGVs. Less demanding requirements on professional competence were also proposed by the Danish industry.

In the case of the extension of the scope of Regulation 1072/2009, overall OPC questionnaire respondents agreed with this measure. 48% of respondents fully agreed with the proposal, whilst a further 19% indicated slight agreement. Only 17% expressed some disagreement to the proposal. When these results are disaggregated by respondent category, it is immediately apparent that hauliers and transport operators (and associations) are heavily in favour of the proposal. On the other end of the spectrum, national authorities and relevant associations and the miscellaneous “Other” group were the least positive about this proposal. The main areas where it is thought that this measure would have the greatest positive effect are on the working conditions (61% of responses), job creation and growth within the haulage sector (both 51%). There would also be a positive effect on SMEs (44%). Most of the SME panel survey respondents also agreed that the regulation should be the same for all vehicle categories. However, the respondents gave a more mixed opinion of the impact on costs and use of LCVs for firms. While there appeared to be slightly more respondents who thought there would be increased costs and a negative effect on LCV use, the small sample size makes it difficult to draw any conclusions here.

The respondents to the national authorities’ survey were evenly split between agreement and disagreement on this policy option. Both the requirement to hold a community licence and the requirement on the limits of cabotage duration had similar responses. However, as above, when split by geographical location EU-15 based national authorities were more likely to agree with this policy option than EU-13 based authorities.

The hauliers’ survey respondents indicated mixed views on extending Regulation (EC) No 1072 to LCVs. More respondents identified a positive effect from the requirement for a Community licence, than from the cabotage requirements, which was more likely to result in a negative effect on LCV use. A weighted average increase in annual costs of operation of 1.9% for the Community licence and 2.8% for cabotage limits was identified by the respondents. However, this figure was higher for EU-13 based respondents than EU-15 based respondents, and diverged even further when split by vehicle use, with LCV users indicating higher cost increases. That being said, most of the respondents agreed that extending Regulation (EC) No 1072 to LCVs would ensure fair competition a minimum level of quality of service.

Among interviewees, there were fewer comments in relation to Regulation (EC) No 1072/2009, but they generally showed a similar response to the extension to LCVs in the case of Regulation (EC) No 1071/2009. Concerns about the costs of using vans in the case of large operators with a single base close to borders were expected by one large operator but it was also commented that the use of LCVs in cabotage operations is very small. This was also supported by some industry representatives (DK, UK), but was disputed by other industry representatives (DE).

Stakeholders affected by the current situation

The following stakeholders have been identified as the main groups of stakeholders affected by the existing problems in the market, as described in section 1 of the main report (problem definition).

- Transport operators: they are impacted by the factors undermining fair competition between resident and non-resident transport operators. In particular, the shortcomings of the rules, coupled with uneven monitoring and control create opportunities and incentives for certain companies to take advantage of lower standards in some Member States (or in the extreme, to operate illegally) in order to reduce their costs and out-compete companies that must comply with higher standards. For example, Ricardo et al (2015) reports a weighted average cost advantage for letterbox companies of 10-30%, while the median category was 10-25%. Within a highly competitive industry such as road transport, this level of cost differential can be highly detrimental. Even short of the extreme case of illegal letterbox companies, smaller differences in standards cause competitive distortion in the highly competitive and price-sensitive the EU road haulage market. Those hauliers that operate internationally are also affected by different interpretations of the rules, which creates uncertainties and may lead to penalties for unintentionally breaking the rules. For example, according to SDG (2013b), the UK enforcers have found that the main cause of cabotage infringements is an inadequate understanding of the cabotage limitations.
- National authorities: are affected by difficulties in enforcement and cooperation, which lead to high enforcement costs and/or inability to effectively control compliance (as outlined above in the sections on drivers and root causes). In addition, to the extent that inadequate enforcement leads to illegal letterbox companies, national authorities also suffer from losses of fiscal revenues, estimated at around €40,875 per truck per year (Ricardo et al, 2015).
- Drivers: are affected by illegal cabotage and illegal letterbox companies, which are often (although not always) associated with criminal or dubious activities. This is an indirect effect, since undertakings without stable and effective establishment (i.e. letterbox companies) cannot be properly checked to the same extent as other undertakings – increasing the risk of businesses being able to infringe the road social legislation without detection and/or penalties. Impacts on drivers may therefore arise through poorer working conditions, or losses in terms of wages and social protection, although the extent to which they are affected cannot be quantified.
- Customers of transport operators: are affected by the shortcomings of the rules, which create different standards of service or less efficient transport operations that undermine the efficient functioning of the Internal Market.

Stakeholders affected in case of adoption of the preferred option

The preferred policy option is policy package 3 which includes several measures intended to strengthen enforcement (policy package 2) and 3 further measures which would in addition substantially change the existing legal framework: review of the cabotage rules, revision of

the conditions for stable and effective establishment and laying down co-liability principles for shippers and freight forwarders. The horizontal policy package 4 (extension of rules to LCVs) is also preferred, but only to the extent that Regulation (EC) No 1071/2009 is partially extended to LCVs (reduced financial standing requirement and proportional stable and effective establishment criterion).

The practical implications of the initiative for a representative road haulier and for a typical national enforcement agency, which are the most affected stakeholders, are further discussed below.

Road haulier

Hauliers involved in international traffic would have an incentive to move to electronic consignment notes as a consequence of the measure obliging enforcement authorities to accept these in international traffic, in order to benefit from the expected savings. This could represent an initial investment (estimated to be between €170 and €2,500 euros). Although this is not an obligation, it is expected that this move would be implemented in a relatively short timescale (first or second year from entry into force of the legislation) given the significant potential gains.

The policy measure involving changes to the reference points for stable and effective establishment would affect only some hauliers. A significant (but unmeasurable) proportion of hauliers would already comply with the establishment criteria, in particular those which are effectively established in a Member State. Hauliers which do not yet fulfil all of the establishment criteria or which have created letterbox companies would need to ensure that their establishments comply with the rules. This could involve costs, for example in requesting a tax number from the Member State of establishment (in case this is not yet required in the Member State concerned), hiring personnel in order to ensure that the level of staff is proportionate to the activity or transferring the different business documents to the operating centre (in case this is not yet required in the Member State concerned). Since the criteria would ensure strict proportionality according to the size of the haulier, it is not expected that very small undertakings would bear disproportionate costs. For example, self-employed drivers or small hauliers would not need to have an office as operating centre (it could be their house), hire any personnel or invest in assets (parking places, maintenance facilities, etc.) to justify their effective and stable establishment. These potential costs would have to be incurred by the affected hauliers ahead of the entry into force of the new provisions, since they would be subject to potential inspections by the national enforcement authorities from day 1.

The policy measure involving a change in the cabotage rules (unlimited number of operations allowed within a reduced time period) would affect all hauliers involved in cabotage (as mentioned in section 1.1 above cabotage accounts for just over 2% of national transport activity) from the day when the new rules entered into force. This could potentially require some adaptation of operating behaviour from the concerned hauliers. For example, hauliers could look for a tighter time schedule for cabotage operations following the international carriage: shorter-distance operations, operations starting closer to the place of unloading of the international carriage, less time gaps between consecutive cabotage operations, etc. Transport operations are typically contracted and organised at relatively short call, in particular national operations such as cabotage. Thus, it is not expected that the process of adaptation to the new rules would have to be prepared a long time in advance of their entry into force.

Laying down co-liability principles for shippers and freight forwarders when they knowingly commission transport services from hauliers which infringe the rules would potentially lead

freight forwarders and shippers to better select the transport companies they work with and not to contract hauliers with bad reputation or a history of infringements. This would lead to more business for compliant hauliers and less to non-compliant ones. The extent of these effects is however unmeasurable. In any event, this measure is not expected to have any immediate or direct impact on the typical haulier.

The extension of some of the criteria on access to the occupation of road haulier to operators using LCVs is expected to potentially affect between 19,000 and 97,000 hauliers (see section 5.1.1 of the main report). However, within this figure a substantial amount of hauliers (unmeasurable) will already comply with the criteria on financial standing and stable establishment (as revised under the preferred option). This is the case in particular given that the financial standing threshold would be much lower than the one for operators using HGVs and the establishment criteria would be strictly proportional to the size of the undertaking. The most affected hauliers would be those which are either in a very weak financial position or which do not yet fulfil all of the establishment criteria (or even letterbox companies). As regards costs of alignment with the new rules, as mentioned in section 5.1.1 these could be significant. They would also have to be incurred ahead of the entry into force of the new provisions, since they would be subject to potential inspections by the national enforcement authorities from day 1.

National enforcement agency

As mentioned in section 5.1.4 of the main report, national enforcement agencies would need to incur significant costs in order to adapt to the new policy measures which involve strengthened enforcement.

Measures regarding common training of enforcers and joint controls would require significant preparation and would thus be expected to be prepared ahead of their entry into force. However, these measures would be in terms of "minimum amount per year" and therefore could be envisaged for the end of the year following the entry into force of the new rules. They could represent annual costs of between €2.5 and €4.2 million (common training of officers) and between €0.07 and €0.21 million for joint cross-border controls) for the whole of the EU. Each national enforcement authority would incur a part of these costs in proportion to its staffing level.

Measures dealing with the extension of information in ERRU and making this information available to roadside officers would also require some preparation ahead of their entry into force. Insofar as the additional data to be added in ERRU is not immediately available to enforcement agencies, it would have to be gathered from other databases or from the hauliers themselves (however, the required data would be expected to be readily available). The initial set-up costs are estimated to be around €55,000 for a small register and €550,000 for a large register. The yearly maintenance costs associated with keeping this information up-to-date are estimated to be around €5,000 for a small register and €55,000 for a large register. The obligation to make certain information in ERRU available to roadside officers by 2019 is already foreseen in Implementing Regulation (EU) 2016/480 and thus making this further information available does not require additional time or one-off investment cost for implementation.

Establishing a minimum number of checks of compliance with the cabotage provisions would have a cost for enforcement agencies which are currently under the proposed threshold. The estimated cost is up to €15.5 million per year for the whole EU-28 (3% of cabotage operations based on an estimated 34% of foreign vehicles controlled being involved in cabotage and on an average 210 Km per cabotage operation). In order to get to the amount which would have to be supported by each enforcement body, this figure would then have to be split between

those agencies which do not currently respect the 3% threshold and according to the amount of cabotage in the respective Member State. This cost would have to be incurred as from the entry into force of the new rules. No prior preparation would in principle be needed, except if resources are insufficient to implement the new rule, in which case further resources would have to be hired in advance.

The policy measures involving changes to the risk rating systems, i.e. opening up of the national risk rating systems to other Member States, mandatory adoption of a common classification system to indicate risk levels and setting minimum common data to be included in the risk-rating systems, may require significant time and effort to implement. These measures may face language barriers, IT development requirements, management of access rights, etc. The respective yearly maintenance costs are estimated at €0.4 million for the EU-28, but no quantification was available for the initial set-up costs. These set-up costs would need to be incurred ahead of the entry into force of the new rules.

The introduction of a maximum time period to reply to questions from other Member States about establishment provisions and the mandatory use of GNSS digital tachograph for control of cabotage are not expected to generate any additional costs or preparatory work ahead of entry into force.

As regards the mandatory acceptance of electronic consignment notes by enforcers, the set-up costs are expected to be limited and no preparatory work is needed.

As regards policy package 3, the revision of the reference points for establishment, change in cabotage provisions and inclusion of cabotage in the classification of serious infringements leading to loss of good repute are also not expected to have any major impact on enforcement costs or on require any preparatory work by enforcers.

As regards the partial application of Regulation (EC) No 1071/2009 to LCVs (policy package 4), this is expected to represent an additional yearly cost for all EU-28 enforcers in the range of €0.3 to €1.5 million. This would be split by enforcement agencies in proportion to the number of registered hauliers using exclusively LCV established in each Member State.

Annex 4. Analytical model used in preparing the impact assessment.

The analysis of impacts covers the baseline scenario and all policy options (PO). The key economic and social benefits and costs are captured quantitatively at a level of detail consistent with the available data. Other impacts are quantified where evidence suggests there are sufficient material and data available to enable quantification, otherwise they were treated qualitatively.

Based on a set of assumptions, an analytical tool was developed by the external consultant to assess the development of the baseline and the assessment of the effect of various policy measures and options within a 15-year span (from 2020 to 2035). This analytical tool aims at quantifying the industry responses to changes in the Regulations.

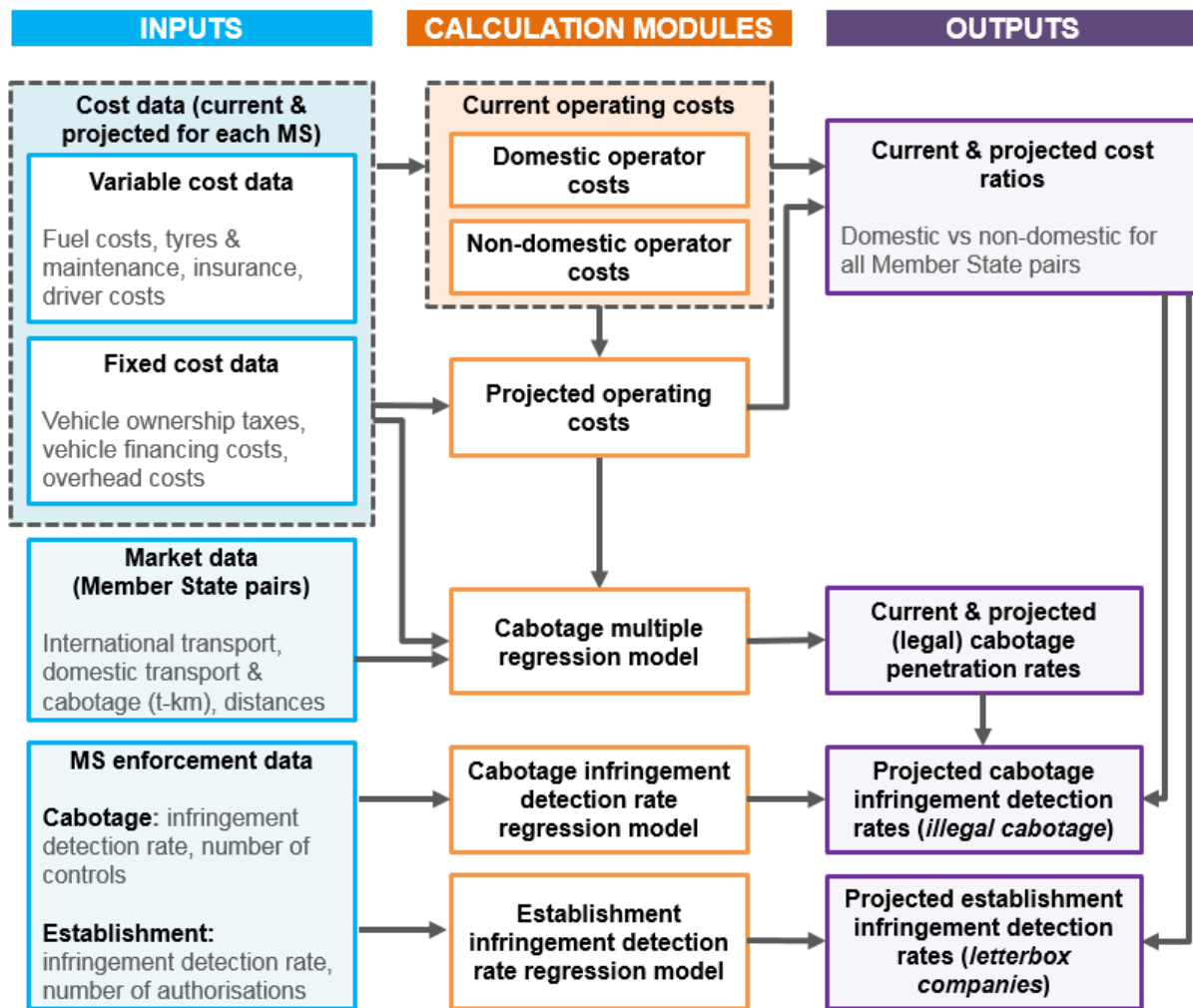
The focal element of the tool is the **cost model**, which is intended to provide an indication of the cost base for alternatively domiciled hauliers operating in their own Member State or other Member States. The cost model was fed by variables that define operating costs for each haulier and access costs to the defined jurisdiction.

Several key variables have been quantified in the baseline, as follows:

1. Cost differentials between transport operators;
2. Level of legal cabotage operations across the EU;
3. Expected level of illegal cabotage operations;
4. Expected level of letterbox companies across the EU;
5. Regulatory costs; and
6. Level of use of Light Commercial Vehicles in road freight transport that fall outside the scope of the legal framework.

The first four key variables are incorporated into an overarching modelling framework, which has been used to construct the baseline - see Figure 3-1. Further details, calculations and data sources are provided in the following sections, and in Annex B.

Figure 3-1: Modelling framework for analysis of cost differentials, cabotage (legal and illegal) and letterbox companies



1. Cost differentials between transport operators

Domestic haulier operating costs

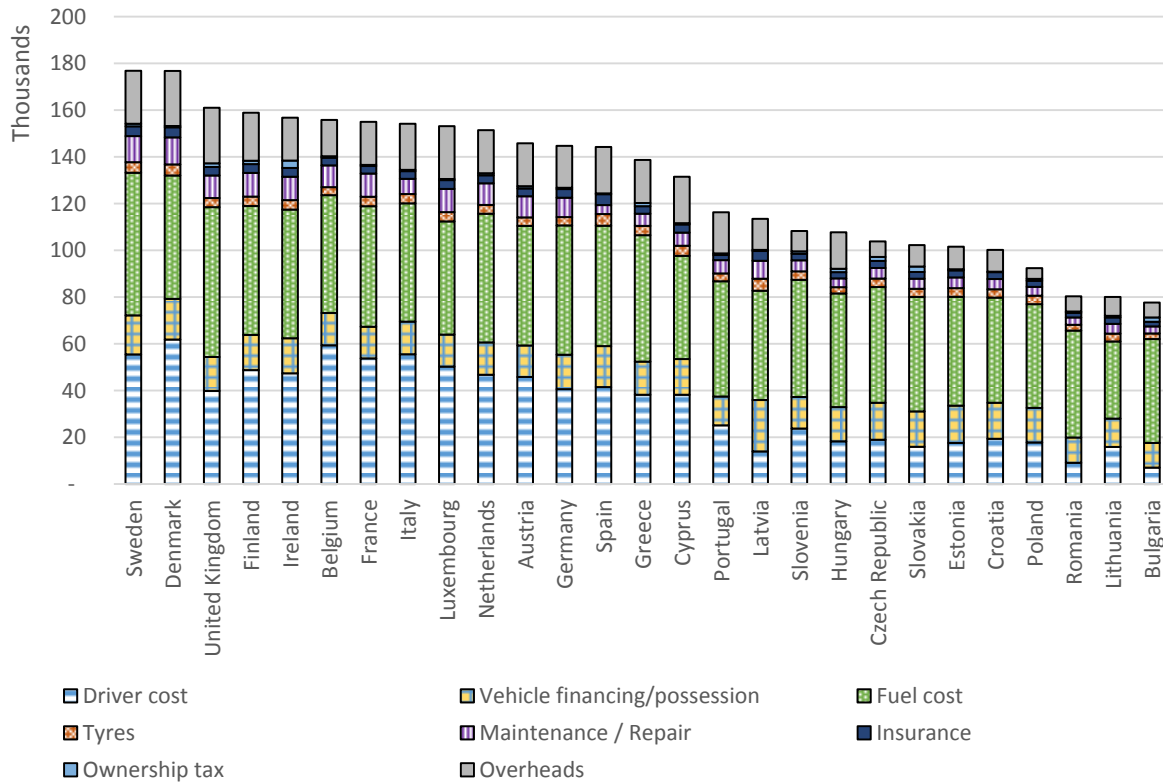
The operating costs considered in the model can be categorised into two main types:

- **Variable costs that depend on vehicle mileage:** These costs vary with the use of the vehicle, including:
 - Fuel costs;
 - Tyre costs;
 - Maintenance & repair;
 - Insurance; and
 - Driver costs – including salary, bonuses and social security contributions (e.g. pensions)
- **Fixed costs that are independent of vehicle mileage:** Values for these cost items are typically provided on an annual basis, including:
 - Ownership taxes (excise duty, axle tax);
 - Vehicle financing & possession costs;

- Overhead costs (costs taken on by a haulier to operate the business, regardless of revenue. These include costs for vehicle storage facilities, offices, IT equipment etc. and human resources other than drivers).

Error! Reference source not found. shows the results of operating costs in the base year (2012) for the different cost items by Member State.

Figure 3-2: Estimated average annual vehicle operating costs (EUR, 2012 prices)



Source: Results of the IA model developed for this impact assessment

In general, projections of future costs were based on constant (rather than nominal) prices, which is in line with the modelling underlying the EU Reference Scenario 2016. Assumptions on fuel costs were that they would develop in line with Diesel price forecasts in each Member State, consistent with the EU Reference Scenario 2016.

Driver costs represent a particular area of uncertainty. Theoretically, driver shortages should lead to increasing wages and faster convergence due to the excess labour demand, which should in turn call forth additional supply. However, it appears that various factors have contributed to lower labour cost convergence than expected, including an influx of labour from third countries willing to work for low wages (contributing to holding down wages) and liberal labour immigration rules (Sternberg et al, 2014; Ismeri Europa, 2012). It was decided to use the labour rate projections of the EU Reference Scenario for national operations.

Cost differentials for international transport operations as compared to national operations were developed by comparing:

- A domestic haulier carrying out a transport operation in its own country (as established in the previous steps), and
- A non-domestic haulier carrying out the same transport operation in the same country (i.e. the ‘host country’ for the international haulier).

The comparisons were calculated for each country pair. To derive operation costs for a haulier from country A carrying out a transport operation in host country B, the period after which costs change from the country of establishment to the country of operation needs to be considered. For the baseline scenario it was assumed that for a non-domestic haulier operating in a host country:

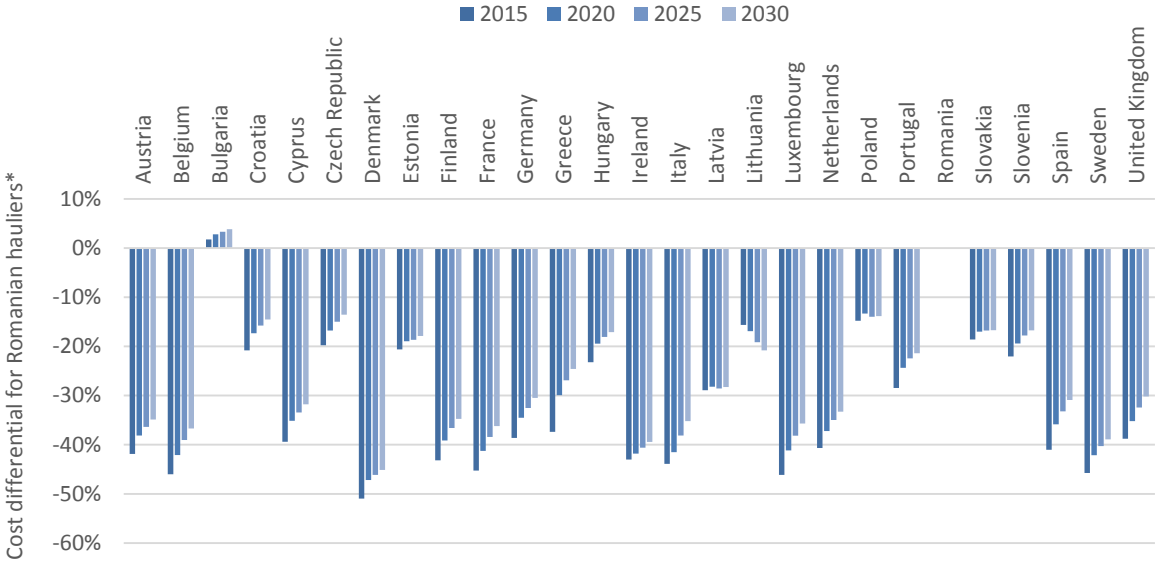
- **Fuel costs** change immediately (i.e. after 0 days of being in the host country) to the costs of the host country (the country where cabotage is carried out).
- **Driver costs behave according to the baseline scenario. They follow the cost structure of the country of establishment** of the international haulier as a consequence of the ineffective application of the Posting of Workers Directive (i.e. driver wages are (unduly) paid according to the conditions of the country of establishment and thus do not change as a result of cabotage/international operations being carried out). In order to isolate the impacts of this initiative from other initiatives, notably the effective application and enforcement of the posting rules under the social road initiative, a **time-based approach** is also considered as a calculation tool. This would consist of the effective application to transport operations of host-country minimum wage⁸ in accordance with existing rules under the Posting of Workers Directive (PWD). In this scenario, driver costs are assumed to be aligned with the minimum wage of the host Member State after 7 days of activity there, from 2020 onwards (as currently considered in the context of a parallel study on the revision of the road social legislation).
- **All other costs remain the same as the country of establishment** (e.g. insurance, vehicle costs, overheads etc.).

The baseline scenario for driver costs and the alternative time-based approach do not reflect reality entirely, since the application of posting of workers rules raises a number of legal and practical implementation difficulties causing ineffective application of host country legislation on minimum rates of pay. However, the time-based approach can be seen to represent a situation in one “extreme”, where posting of workers laws are effectively enforced across the whole EU, whereas the baseline scenario represents the other “extreme” where no Member States effectively enforce posting of workers laws.

Based on the assumptions made for the different elements of the operating costs of hauliers, Figure 4-3 below shows the expected development of cost differentials for the example of a Romanian haulier operating in selected host countries for the baseline scenario. It can be seen that Romanian hauliers are forecast to maintain a significant operational cost advantage compared to most selected Member States (i.e. the cost differential is negative, meaning that, for example, operating costs for a Romanian haulier are up to around 50% lower compared to the ones of a domestic Danish haulier when operating in Denmark). However, cost differentials decrease over time, given the projected labour wage convergence across Member States. The exception is Bulgaria. Local Bulgarian transport operators appear to have a cost advantage compared to Romanian transport operators when carrying out transport operations in Bulgaria. This cost advantage for Bulgarian hauliers (over Romanian hauliers) is forecast to increase over time. This is again due to the underlying wage costs forecasts (i.e. wage costs in Bulgaria are assumed to increase relatively less over time compared to wage costs in Romania).

⁸ The Posting of Workers Directive 96/71/EC mandates that the larger concept of "minimum rates of pay" of the host Member State – where the service is provided – is respected by cross-border service providers. In this simulation, calculations are made on the basis of the "minimum wage" – a more narrow concept than the provision mandated by the Directive - for the sake of simplicity.

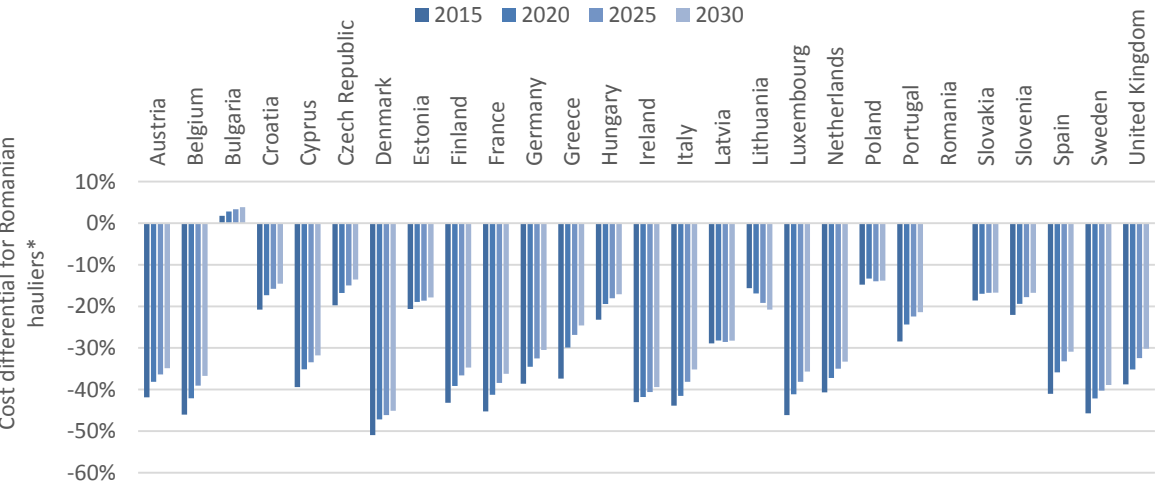
Figure 4-3: Development of cost differentials over time for the example of Romanian hauliers and selected host countries under the baseline scenario



Notes: *calculated as $[\text{total operating costs of Romanian haulier operating in host country } X / \text{total operating costs of local haulier operating in country } X] - 1$; for the baseline scenario (driver costs continue to follow the structure of the country of establishment)

Figure 4-4 shows the same example under the time-based approach (i.e. effective application of the rules on posting of workers). It can be seen that the application of the rules on the posting of workers results in a significant reduction of wage differentials compared to the baseline scenario, as would be expected. The large step in the changes in wage differentials between years 2015 and 2020 is due to the assumption that the effective rules on the posting of workers do not come into effect until 2020.

Figure 4-4: Development of cost differentials over time for the example of Romanian hauliers and selected host countries (application of effective rules on the posting of workers)



Notes: *calculated as $[\text{total operating costs of Romanian haulier operating in host country } X / \text{total operating costs of local haulier operating in country } X]$; for the time-based approach (driver costs change to the cost structure of the host country after seven days as of 2020)

2. Level of legal cabotage operations across the EU

Cabotage penetration rates for a specific Member State pair were defined in line with Eurostat's definition. The penetration rate $cr_{H,O}$ for a country H (the host country) with respect to hauliers with country of origin O (the country of their establishment) in a specific year is defined as

$$cr_{H,O} = \frac{C_{H,O}}{C_{H,EU28} + D_H}$$

where

$C_{H,O}$ is the amount of cabotage carried out by hauliers from country O in country H (in tkm);

$C_{H,EU28}$ is the amount of cabotage carried out by hauliers from any EU28 Member State in country H (in tkm); and

D_H is the amount of domestic transport operations carried out by domestic hauliers in country H (in tkm).

To identify relationships between base year cabotage rates and cost differentials, a regression model was developed. Further details of the data sources and the regression methodology are provided in the Annex to the support study. The overall best model fit was obtained from introducing three explanatory factors for each country pair:

- i. Cost differentials, as calculated in the previous sections
- ii. International transport rate
- iii. Distance between the country pairs

The relationship follows a constant elasticity function as shown below, and all coefficients were highly statistically significant (significant at the 1% level). The adjusted R-squared was 0.561 which indicates an overall good model fit.

$$cr_{H,O} = 58.38 \cdot t_{H,O}^{0.50} \cdot d_{H,O}^{-1.42} \cdot cratio_{H,O}^{-2.63}$$

where

$cr_{H,O}$ is the cabotage rate country H carried out by hauliers from country O

k defines the intercept of the curve (i.e. the constant)

$t_{H,O}$ is the international road transport rate for the country pair H - O (see definition above)

$d_{H,O}$ is the distance (in km) between country O to country H

$cratio_{H,O}$ is the difference in operation costs between i) a haulier from origin country O carrying out a cabotage operation in host country H and ii) a haulier domiciled in country H carrying out the transport operation in their own country H ⁹

β_x are the respective coefficients that are estimated by the means of the regression analysis.

⁹ Note that for the purpose of the regression analysis the cost ratio was defined as [cost of non-domestic haulier / cost of national haulier] in contrast to the concept of a cost differential [cost of non-domestic haulier / cost of national haulier - 1] as used throughout the report. This was to avoid negative input values.

Figure 3-3 illustrates the development of the cabotage penetration rate in the EU as a whole, as calculated according to the above relationship. The aggregate cabotage penetration *rate* decreases by around 9% (or 18%) in the 2012-2035 timeframe in the baseline scenario (or in the time-based approach, respectively). For the baseline scenario, this change is largely driven by reductions in labour cost differentials seen in the EU reference scenario. For the time-based approach, there is a clear effect of the implementation of the revised PWD (assumed to enter into force in 2020), which effectively forces a higher labour cost convergence which in turn suppresses the cabotage penetration rates. Note that the assumptions for the development of international trade levels in the baseline scenario and the time-based approach are the same (i.e. aligned with the EU reference scenario), so the difference seen between the two scenarios is purely driven by the labour cost differentials. As can be seen from the equation of the functional relationship above, the model shows that cabotage penetration rates are more sensitive to the cost differentials than to changes in international transport activity – or more specifically:

- The higher the **international transport rate** between two Member States, the higher the predicted cabotage rate – each 10% increase in international transport rate leads to a 5% increase in the cabotage penetration rate.
- The smaller the **cost ratio** between two Member States (i.e. indicating that the non-domestic haulier has a cost advantage compared to the domestic haulier if the ratio is smaller than 1), the higher the predicted cabotage rate. Specifically, each 10% reduction in the cost ratio leads to a 26.3% increase in the cabotage penetration rate.

Figure 3-3: Development of an aggregate EU-wide cabotage rate (indexed to 1 in 2012; baseline scenario in blue and time-based approach in grey)

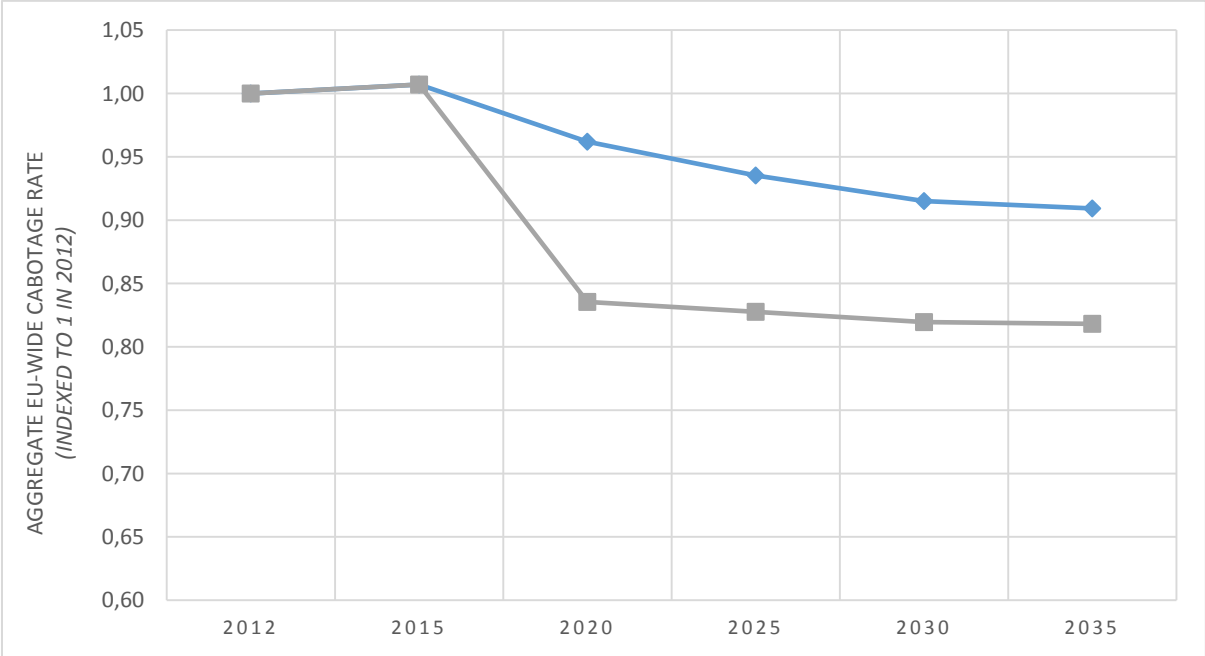
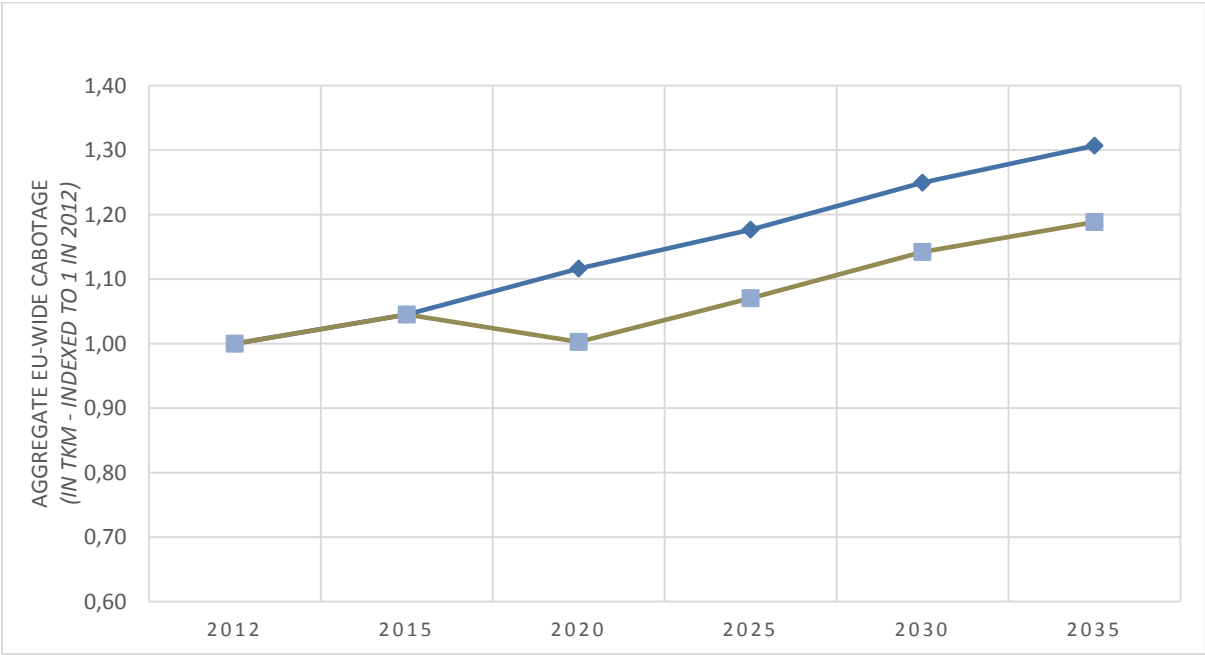


Figure 3-4 shows that in absolute terms, the overall amount of cabotage (expressed in t-km) is forecast to increase by around 30% by 2035 in the baseline scenario (or by around 20% in the time-based approach). This increase in total activity (despite the reduction in the cabotage penetration rate) is due to the projected increases in overall transport activity across the EU up to 2035 (in line with the projections of the EU Reference Scenario).

Figure 3-4: Development of EU-wide absolute cabotage levels (in t-km; indexed to 1 in 2012; baseline scenario in blue and time-based approach in grey)



3. Expected levels of illegal cabotage

As regards the evolution of illegal cabotage activity, it is necessary to develop a functional relationship between the number of checks performed in a country, versus the effect it will have on infringement levels. Since illegal activities are by their nature difficult to observe directly, there is no direct source of data on illegal cabotage rates. Instead, the reported cabotage infringement detection rates are used (as obtained from the support study for the ex-post evaluation) as an indicator of the rate of illegal cabotage. This assumes that if cabotage rates increase, the infringement rates will also increase and vice versa. This relationship is, of course, imperfect, since detection rates may vary depending on other factors (such as the thoroughness of checks). However, in the absence of any other data, the infringement rates are considered the best available proxy.

Since it is widely considered that increasing the probability of being caught in an illegal activity (e.g. by increasing the number of checks) has a deterrent effect, a constant elasticity relationship was hypothesised between the intensity of cabotage checks (expressed as number of checks per million t-km of cabotage carried out in the country) and the infringement detection rate as follows:

$$I = 0.029C^{-0.71}$$

Where:

- *I* is the infringement detection rate (number of detected infringements per total number of checks that were carried out)
- *C* is the intensity of cabotage checks (number of checks per million t-km of cabotage)

In effect, the relationship suggests that each 10% increase in the intensity of cabotage checks leads to a 7.1% decrease in infringement detection rate. The results of the correlations using this relationship show a good fit (R2 of 0.78) and the coefficients are significant at the 1% level, although there are a number of limitations to bear in mind – most importantly, the

sample size is rather small and probably not fully representative (it only includes two EU-13 countries), and there are likely factors missing from the equation that are relevant but for which no data are available. An additional limitation was that it was necessary to use infringement rates as a proxy for illegal activity. Also, since risk-rating systems do not have information on non-domestic operators in the baseline and checks should be non-discriminatory, it was assumed that the infringement rate reflects the overall performance of the fleet performing cabotage (this may not be a good reflection of actual behaviour, especially where Member States do not have strong enforcement). The illegal cabotage rate is constant over time in the baseline (although the total amount changes in line with changes in cabotage activity), since it is assumed that the intensity of checks remains the same. This assumption was agreed because the level of controls is set by political decisions and therefore cannot be predicted using numerical methods.

It should be noted that estimates of illegal cabotage are not reported for individual Member States due to the limited data availability. The aggregate EU average figure will smooth out differences between countries and it is likely that some countries are more affected than others (as is the case today). As an illustration, the estimated infringement rates from the relationship above ranged from close to zero (0.016%) to 6.4% for different Member States, although results are skewed and 10 countries were estimated to have infringement rates of less than 0.5%.

In summary, the baseline scenario suggests that the problem of illegal cabotage will continue to affect some countries more than others, and is likely to be concentrated in a small number of countries.

This relationship is, of course, imperfect. However, in the absence of any other data, the infringement rates are considered the best available proxy.

4. Expected levels of letterbox companies

In order to estimate the evolution of the number of letterbox companies, a linear relationship of the following form was developed (see Annex 1 for full details):

$$L = 0.0075 + (-4.39568e - 08)T$$

Where:

- L is the letterbox infringement detection rate, as a percentage of authorisations granted (using as a proxy the infringements of stable and effective establishment)
- T is the total cost of operation in the country (EUR)

This indicates that the coefficient is statistically significant at the 10% level and that as costs increase, the prevalence of letterbox companies in a country decreases. This is as one would expect – since letterbox companies are more likely to be set up in low cost countries in order to benefit from cost savings. The expected number of letterbox companies in the baseline was estimated by applying the above relationship to the expected changes in costs over time for each Member State. As discussed above, infringement rates may not be an accurate reflection of the extent of letterbox companies. Nevertheless, this calculation can provide an indicator of the “risk” or “incentives” for setting up letterbox companies.

5. Costs for the national authorities

Stakeholders were unable to provide quantitative estimates of the administrative cost savings of ERRU. Therefore, a proxy indicator is used to estimate the potential savings. Ricardo et al (2015) reported that the use of electronic systems (rather than paper-based) was the major source of administrative savings. Thus, an ex-post estimate of the time savings associated

with the introduction of e-invoicing is used as a proxy for the expected gains from completion of ERRU. This proxy is used because the time-savings involved are likely to be similar, i.e. tasks of handling paper-based requests and similar potential savings in terms of, for example, reduced handling time. This approach has also been taken in previous studies¹⁰.

The European Banking Association (2010) found the average costs of manually fulfilling a paper invoice to be €47.35, compared to €14.2 for an electronic invoice (a saving of €33.15), as shown in Table 4-7. This cost takes into account savings in materials (e.g. paper, postage), back office staff, archiving costs, payment fees, etc.

Table 4-7: Average costs of fulfilling paper versus electronic invoices (EUR per invoice)

| | Total | Sent | Received |
|------------|-------|------|----------|
| Paper | 47.35 | 28.8 | 18.55 |
| Electronic | 14.2 | 3.3 | 10.8 |
| Difference | 33.15 | 25.5 | 7.75 |

Source: (Euro Banking Association, 2010)

In the absence of any alternative estimates, the above figures are used as a proxy for the estimated time savings associated with moving from a paper-based to an electronic register system via ERRU.

Data on the number of requests sent and received (both for serious infringement notifications and good repute) is available from the most recent reporting period on the implementation of Regulation (EC) No 1071/2009 (January 2013 to December 2014) for 12 Member States (BG, DK, EE, ES, FR, HR, LV, PL, RO, SI, SK, UK). This was scaled up to the EU-28 level by assuming that the remaining 16 Member States had the median level of activity. The median is used rather than the mean, since there is a very strong skew in activity levels (a very small number of Member States are highly active). Since ERRU was operational in 20 Member States in 2015, it is assumed that the average probability of having to send or receive requests using paper-based methods is directly proportional to the number of Member States connected (i.e. $1 - 20/28 = 29\%$). This makes the effective unit cost of sending and receiving respectively €10.59 and €13.01, using the weighted average of the costs for paper and electronic invoices from Table 4-7. It was also assumed that the data for requests received was more complete (by definition, each request sent should have a corresponding recipient, therefore the totals should be equal; however, the total for requests received was higher). As a result, the data on requests received was used for gap-filling.

Table 4-8: Calculations of baseline administrative costs for authorities

| Data | Requests received* | Source / assumptions |
|--|--------------------|---|
| Total requests received for 12 ¹¹ MS that provided data | 523,174 | 2016 monitoring report |
| Median for 12 MS that provided data | 110 | 2016 monitoring report |
| Scaled to EU-28 level | 524,934 | Assuming that remaining 16 MS had median levels of activity |

¹⁰ For example in ICF, 2014.

¹¹ BG, DK, EE, ES, FR, HR, LV, PL, RO, SI, SK, UK.

| Data | Requests received* | Source / assumptions |
|--|--------------------|--|
| Probability of paper-based requests in 2015 | 29% | Based on 20 MS connected in 2015 |
| Effective unit cost in 2015 (EUR) for each request processed (sent + received) | 23.60 | Weighted average of unit cost for paper and electronic communications from EBA (2010) – assuming requests sent = requests received |
| Total administrative cost in 2015 (EUR millions) | 12.35 | |
| Effective unit cost once ERRU is fully operational (EUR) | 14.10 | Assuming fully electronic unit costs from EBA (2010) |
| Total administrative cost once ERRU is fully operational (EUR million) | 7.38 | Assuming that activity levels remain stable |
| Total savings in the baseline once ERRU is operational (EUR millions) | 4.97 | |

* Each request sent should have a corresponding recipient, therefore the totals should be equal. Since data on requests received seems more complete, it was used to scale both sending and receiving figures.

6. Use of Light Commercial Vehicles

For the purposes of comparison between Member States, the share of LCV activity as a percentage of all freight activity (LCVs and HGVs) is shown in Table 4-9. Across the EU as a whole, LCVs account for around 5% of total road freight activity, and this is expected to remain fairly constant over time. The final column shows the percentage point (pp) change between 2015 and 2035, indicating that overall for EU-28 a minor (0.04 pp) reduction in the share of LCVs in total freight activity is expected.

Table 4-9: Proportion of total freight activity carried out by LCVs

| | 2010 | 2015 | 2020 | 2025 | 2030 | 2035 | pp change (2015 to 2035) |
|------|-------|-------|-------|-------|-------|-------|--------------------------|
| EU28 | 5.19% | 4.95% | 4.70% | 4.79% | 4.86% | 4.91% | ↔ - 0.04 |
| IT | 9.00% | 8.49% | 8.01% | 8.08% | 8.15% | 8.18% | ↓ - 0.31 |
| EL | 8.83% | 8.35% | 7.69% | 7.70% | 7.72% | 7.72% | ↓ - 0.62 |
| MT | 7.48% | 7.43% | 7.48% | 7.48% | 7.48% | 7.48% | ↔ 0.05 |
| IE | 6.21% | 6.69% | 6.92% | 6.94% | 6.96% | 6.97% | ↔ 0.28 |
| FR | 7.25% | 6.83% | 6.40% | 6.61% | 6.79% | 6.90% | ↔ 0.06 |
| CY | 6.44% | 6.40% | 6.41% | 6.41% | 6.41% | 6.41% | ↔ 0.02 |
| UK | 7.82% | 7.08% | 6.38% | 6.38% | 6.37% | 6.37% | ↓ - 0.71 |
| LU | 6.36% | 6.33% | 6.25% | 6.24% | 6.19% | 6.16% | ↓ - 0.17 |
| SK | 6.23% | 6.42% | 6.56% | 6.24% | 6.00% | 5.85% | ↓ - 0.58 |
| CZ | 4.58% | 5.00% | 5.31% | 5.42% | 5.53% | 5.58% | ↑ 0.58 |
| EE | 4.12% | 4.59% | 4.47% | 4.84% | 5.14% | 5.36% | ↑ 0.77 |
| HU | 5.58% | 5.46% | 5.35% | 5.34% | 5.33% | 5.32% | ↓ - 0.14 |
| DK | 4.71% | 4.90% | 4.87% | 5.03% | 4.97% | 5.07% | ↔ 0.17 |
| RO | 4.96% | 4.86% | 4.82% | 4.82% | 4.82% | 4.82% | ↔ - 0.04 |
| HR | 5.20% | 5.10% | 4.98% | 4.81% | 4.68% | 4.61% | ↓ - 0.49 |
| SE | 4.66% | 4.58% | 4.44% | 4.44% | 4.44% | 4.44% | ↓ - 0.15 |
| NL | 3.23% | 3.35% | 3.46% | 3.52% | 3.55% | 3.56% | ↔ 0.21 |
| DE | 3.46% | 3.33% | 3.20% | 3.33% | 3.46% | 3.54% | ↔ 0.21 |
| BG | 2.96% | 3.21% | 3.40% | 3.54% | 3.46% | 3.54% | ↔ 0.33 |
| PT | 3.34% | 3.36% | 3.42% | 3.46% | 3.49% | 3.51% | ↔ 0.15 |
| PL | 3.18% | 3.32% | 3.43% | 3.37% | 3.33% | 3.30% | ↔ - 0.02 |
| LT | 3.19% | 3.23% | 3.26% | 3.28% | 3.28% | 3.28% | ↔ 0.04 |
| LV | 1.92% | 2.12% | 2.27% | 2.67% | 2.98% | 3.19% | ↑ 1.07 |
| SI | 2.87% | 3.09% | 3.26% | 3.19% | 3.14% | 3.11% | ↔ 0.02 |
| AT | 3.05% | 3.07% | 2.72% | 2.94% | 3.06% | 3.04% | ↔ - 0.03 |
| ES | 2.73% | 2.58% | 2.45% | 2.54% | 2.61% | 2.66% | ↔ 0.08 |
| BE | 2.75% | 2.62% | 2.62% | 2.72% | 2.57% | 2.60% | ↔ - 0.01 |
| FI | 2.81% | 2.45% | 2.11% | 2.02% | 1.93% | 1.87% | ↓ - 0.58 |

Source: (European Commission, 2016a)

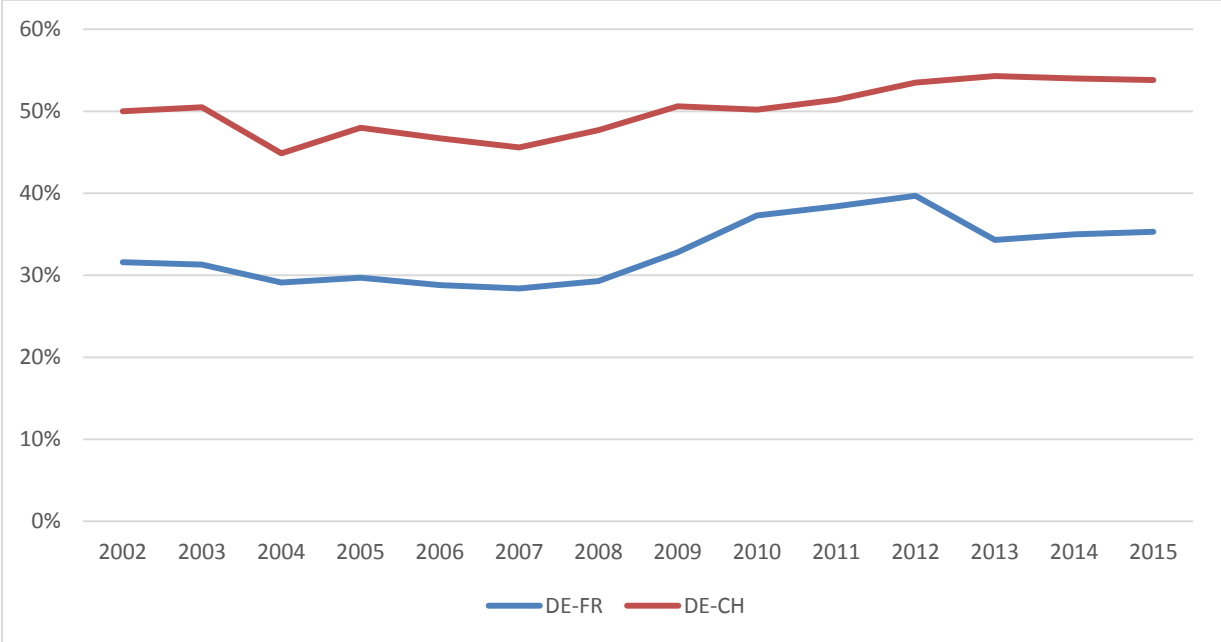
There are no EU-wide studies assessing the extent to which LCVs are being used for international transport activities in direct competition with heavy commercial vehicles. The most relevant study on the issue has been conducted by the French authorities¹². It summarises data and information from roadside checks, as well as from a review of goods vehicles passing automatic weight measurement stations over a single 24-hour period. The French weight measurement station counts comprise data from eight measurement stations. The data found that for every 100 heavy goods vehicles (HGVs) passing the measurement stations over the same 24h period, there were on average 0.5 (between 0.01 and 1.33) foreign chassis-body LCVs with sleeper cabs (which are characteristic of vehicles used in hire-and-reward operations). When including all international LCVs and vehicles of unclear origin, the counts increased to an average of 3.2 (1.2 – 5.9) foreign LCVs for every 100 HGVs. Moreover, from roadside checks/surveys, the French study found the annual mileage of LCVs active in international hire-and-reward to be similar to that of typical long-haul HGVs, at around 100,000 km per year.

¹² Ministère de l'Écologie, du Développement durable et de l'Énergie, 2016.

The French data can be complemented with further observations on foreign LCV traffic from other Member States. German motorway traffic counts undertaken in 2003 and 2008 found that foreign LCVs increased from 2.5% to 5.4% of overall goods traffic over the period¹³.

Another source of relevant data comes from the Road Traffic Centre of the German State of Baden-Wuerttemberg which borders on France and Switzerland. The State uses automatic traffic counters on all its major border crossings and has published the share of vans in overall goods traffic crossing the border from 2002 to 2015¹⁴. The available data (see Figure 4-10) suggest only a small growth trend over the period 2010-2015. Notably, the share of LCV traffic is much higher on border crossings with Switzerland than with France. The very high share of LCVs to HGVs crossing the border is not inconsistent with the previous observations. Around 15% of HGV traffic is international, so the observation of two HGVs for every LCV crossing the border (as observed at the Franco-German border) is consistent with an inland share of 7.5 LCVs in international traffic for every HGV.

Figure 4-10: LCV share of border crossings from the German State of Baden-Wuerttemberg with France and Switzerland share of annual average)



Source: Road Traffic Centre of Baden- Wurttemberg, 2016

Using these diverse observations, Table 4-11 develops a lower-bound, upper-bound and best-estimate for international LCV mileage relative to overall HGV mileage.

Table 4-11 – Estimates of the share of LCV mileage relative to overall HGV mileage

| | Estimate | Source | Comment |
|---------------|----------|---|--|
| Lower-bound | 0.5% | (Ministère de l'Écologie, du Développement durable et de l'Énergie, 2016) | Includes foreign chassis-body LCVs only |
| Best estimate | 3.2% | (Ministère de l'Écologie, du Développement durable et de l'Énergie, 2016) | Includes all foreign LCVs, likely to include private and own-account |

¹³ Büro für angewandte Statistik, 2003; 2008.

¹⁴ Road Traffic Centre of Baden- Wurttemberg, 2016.

| | Estimate | Source | Comment |
|-------------|----------|--|---|
| Upper-bound | 15% | (Road Traffic Centre of Baden-Wurttemberg, 2016) | figures e.g. from Germany indicate that international LCV traffic may well be higher elsewhere) |

The next step is the development of **estimates of international freight activity by LCVs**. The French study (Ministère de l'Écologie, du Développement durable et de l'Énergie, 2016) found that in terms of loading factors and empty runs, international LCVs active in hire-and-reward resemble average HGVs. Critically, the study also shows that given the average payloads and load factors, one HGV typically carries the same load as around 28 LCVs, as shown in Table 4-12.

Table 4-12: Typical loading factors of vehicles in France

| | Typical French long-haul HGV | Typical foreign hire-and-reward LCV |
|--|------------------------------|-------------------------------------|
| Payload | 25t | 1.13t |
| Proportion of vehicle mileage loaded | 87% | 85% |
| Load level when loaded | 88% | 71% |
| Resulting average load | 19.1t | 0.68t |
| Number of LCVs required to carry same load as one HGV | 28 | |

Source: (Ministère de l'Écologie, du Développement durable et de l'Énergie, 2016)

In order to estimate the likely international freight activity by LCVs, the estimates of the tkm share by international LCV (from Table 4-11) are divided by 28 to obtain an estimate of international LCV activity in proportion to total HGV activity.

Table 4-13 - Estimate of international LCV activity in proportion to total HGV activity

| | Estimates of the share of LCV mileage (A) | Number of LCVs required to carry same load as one HGV (B) | LCVs share in proportion to total HGVs (A:B) |
|---------------|--|--|---|
| Lower bound | 0.5% | 28 | 0.02% |
| Best estimate | 3.2% | | 0.11% |
| Upper bound | 15% | | 0.53% |

Source: Ricardo et al calculations

The estimated share can then be multiplied by the total HGV goods activity in order to gain an estimate of the absolute level of international LCV activity. As data concerning competition for HGV hire-and-reward operations by LCV have concentrated on Germany and France, the

analysis is restricted to these two Member States, although it can be extrapolated to further Member States. The results are summarised in Table 4-14.

Table 4-14: Estimated and projected international LCV activity in Germany and France (in Gtkm)

| | 2010 | 2015 | 2020 | 2025 | 2030 | 2035 |
|-------------------------|------|------|------|------|------|------|
| Minimum estimate | | | | | | |
| DE | 0.07 | 0.08 | 0.08 | 0.09 | 0.10 | 0.10 |
| FR | 0.05 | 0.05 | 0.06 | 0.07 | 0.07 | 0.08 |
| Best estimate | | | | | | |
| DE | 0.46 | 0.48 | 0.53 | 0.57 | 0.60 | 0.62 |
| FR | 0.31 | 0.33 | 0.38 | 0.42 | 0.46 | 0.49 |
| Maximum estimate | | | | | | |
| DE | 2.16 | 2.25 | 2.49 | 2.65 | 2.81 | 2.89 |
| FR | 1.45 | 1.53 | 1.76 | 1.95 | 2.17 | 2.28 |

Source: Ricardo et al calculation on the basis of available data

Finally, by dividing overall activity by annual vehicle mileage and average payload an estimate of the number of LCVs active in international traffic can be obtained. The results are summarised in Table 4-15.

Table 4-15: Estimated and projected number of foreign registered LCVs active in international traffic in Germany and France

| | 2010 | 2015 | 2020 | 2025 | 2030 | 2035 |
|-------------------------|--------|--------|--------|--------|--------|--------|
| Minimum estimate | | | | | | |
| DE | 1,075 | 1,121 | 1,241 | 1,321 | 1,404 | 1,442 |
| FR | 725 | 762 | 880 | 973 | 1,082 | 1,135 |
| Best estimate | | | | | | |
| DE | 6,773 | 7,061 | 7,819 | 8,321 | 8,843 | 9,086 |
| FR | 4,570 | 4,802 | 5,546 | 6,130 | 6,815 | 7,153 |
| Maximum estimate | | | | | | |
| DE | 31,603 | 32,946 | 36,485 | 38,824 | 41,262 | 42,398 |
| FR | 21,323 | 22,406 | 25,880 | 28,605 | 31,800 | 33,375 |

Source: Ricardo et al calculation on the basis of available data

The above estimates are based on the assumption that the share of LCVs in total vehicle fleet used in international transport remains constant. This is an important assumption which is made in the absence of any reliable data that could be used to develop a realistic estimate of

the evolution of the share of LCVs over time. Responses to the hauliers' survey on the level of use of LCVs in international transport operations do not provide a clear picture. Asked to indicate how the share of LCVs in international transport operations has evolved over the last three years the responses are almost equally split between those that indicate an increase and those indicating a decrease (see Table 4-16).

Table 4-16: Is your use of LCVs today higher or lower compared to three years ago in your international transport operations?

| % change in the share of LCVs in total v-km | EU-13 | | EU-15 | | Total | |
|--|--------------|------------|--------------|------------|--------------|------------|
| >15% increase | 4 | 7.3 | 2 | 8.0 | 6 | 7.5 |
| 5-15% increase | 3 | 5.5 | | 0.0 | 3 | 3.8 |
| About the same ($\pm 5\%$) | 9 | 16.4 | 5 | 20.0 | 14 | 17.5 |
| 5-15% decrease | 4 | 7.3 | | 0.0 | 4 | 5.0 |
| >15% decrease | 4 | 7.3 | 1 | 4.0 | 5 | 6.3 |
| Not applicable | 15 | 27.3 | 12 | 48.0 | 27 | 33.8 |
| Do not know/No response | 16 | 29.1 | 5 | 20.0 | 21 | 26.3 |
| Total responses | 55 | 100 | 25 | 100 | 80 | 100 |

Source: Survey of hauliers

While the increase in the level of e-commerce is identified as an important market driver for the increase in the use of LCVs, this is largely related to urban rather than inter-urban or, even less so, international transport.

On the basis of the limited available data, assuming a standard share of LCVs in total international transport is considered as an appropriate assumption for defining the baseline scenario.

Annex 5 – Justification for discarded policy measures

The list of policy options considered has evolved on the basis of the policy measures indicated in the terms of reference of the study and other suggestions from:

- The Ex-post Evaluation (Ricardo et al, 2015)
- Various position papers, e.g. (ETF, 2015b); (IRU, NLA, TLN and ECR, 2016)
- The previous IA carried out in 2013 (AECOM, 2014)
- The responses to the online public consultation
- The exploratory interviews

The list of screening criteria used to review of the policy options were:

- **Legal feasibility:** Options must respect the principle of conferral. They should also respect any obligation arising from the EU Treaties (and relevant international agreements) and ensure respect of fundamental rights. Legal obligations incorporated in existing primary or secondary EU legislation may also rule out certain options.
- **Technical feasibility:** Technological and technical constraints may not allow for the implementation, monitoring and/or enforcement of theoretical options.
- **Effectiveness and efficiency:** It may already be possible to show that some options would uncontrovertibly achieve a worse cost-benefit balance than some alternatives.
- **Political feasibility:** Options that would clearly fail to garner the necessary political support for legislative adoption and/or implementation could also be discarded.
- **Proportionality:** Options may clearly restrict the scope for national decision making over and above what is needed to achieve the objectives satisfactorily.

Table 6-1 below shows the draft screening of options against these criteria. Some general observations can be made:

- Overall, there is reason to include many of the options within certain packages, since they are not mutually exclusive and address very specific needs identified in the Ex-post Evaluation (e.g. clarifications of specific definitions). This means that a large number of policy options pass the screening stage and are considered for inclusion in the policy packages.
- Regarding options on cabotage and enforcement, it is necessary to distinguish between (and to combine) both short-term and long-term options. Specifically, options relying on GNSS / e-documents to improve enforcement will require significant lead time to implement, and should be complemented with options to improve enforcement in the short-term, such as changes to the legal definitions and best practice exchange.
- The screening of certain options (such as proposals to introduce mandatory enforcement levels) depends on the specific design of the option – such as the precise minimum levels to be prescribed.

Table 6-1: Screening of policy options

| | | | | |
|-------------|--|---------------|--------------------|---|
| Key: | Low / poor assessment against criterion | Medium | High / good | Depends on specific requirements |
|-------------|--|---------------|--------------------|---|

| Proposed policy option | Source | Legal feasibility | Technical feasibility | Effectiveness and efficiency | Political feasibility | Proportionality |
|--|-----------------------|--|---|---|---|---|
| Driver 1a) Differing levels of monitoring and control among Member States | | | | | | |
| Promote common training of enforcement officers and a common EU training curriculum | ToR | No problems foreseen | No issues | May offer a partial solution. Experience in social legislation shows that effectiveness varies | Proven concept through Dir. 2006/22 | No problems foreseen |
| Introduce voluntary/mandatory cross-border joints controls | ToR | No problems foreseen | No problems foreseen | May offer a partial solution. Experience in social legislation shows that effectiveness varies | Proven concept through Dir. 2006/22 | No problems foreseen |
| Introduce a minimum number of checks of compliance with the cabotage provisions | ToR | No problems foreseen | Possible issue of definition of minimum number (depends on presence of reliable statistics) | Depends on specific requirements. To ensure efficiency, emphasis should be on better-targeted checks, rather than overall volume. | Resistance may be experienced depending on design and perceived benefits – some claim that minimum requirements in Dir. 2006/22 are too restrictive | Could be considered as being too restrictive and possibly non-proportional to the size of the problem in some Member States |
| Set further minimum common requirements for the administrative procedure to assess good repute and for the rehabilitation procedure. | ToR | Closely related to amendments with regard to which infringements should be considered as most serious and assessment shall be done in parallel. Currently high degree of incoherence among Member States | Depends on specific requirements. Options should be designed with enforceability in mind | Partial solution to the issue, dealing with differing levels of stringency | Depends on specific requirements. MS may resist change to their national procedures | No problems foreseen |
| Encourage wider participation in voluntary initiatives | (Ricardo et al, 2015) | No major problems foreseen | Partially established through examples like TISPOL / | Many MS participate voluntarily, indicating that cost: benefit is favourable | There appears to be support for the idea among stakeholders | No problems foreseen |

| Proposed policy option | Source | Legal feasibility | Technical feasibility | Effectiveness and efficiency | Political feasibility | Proportionality |
|--|---------------------|--|---|--|---|--|
| | | | CORTE / ECR | | (public consultation, ex-post evaluation) | |
| Establishment of a European control agency | Public consultation | Would imply interference with competences of MS and amendments to several instruments | No problems foreseen | Depending on extent of role and powers Could be particularly costly to establish and operate | Strong support from French stakeholders. Less strongly mentioned by others. | Could be considered as expensive disproportionate and restrictive of scope for national action Depending on extent of role and powers |
| Establishment of a high level group of competent authorities to regularly follow up after rules are designed and implemented | ETF | No major problems foreseen | No problems foreseen | As above | No problems foreseen | Depending on extent of role and powers |
| Driver 1b) Limited and ineffective cooperation between Member States | | | | | | |
| Opening up of the national risk-rating systems to other Member States to promote exchange of information on high-risk companies and to target checks | ToR | No major problems foreseen. Due to respect to data protection legislation should be ensured. | Would need to be available to roadside officers to target checks against vehicles linked to their companies | Improving cross-border exchange on information is important for effective enforcement. | Depends on timescales and technical requirements (e.g. crf. Difficulties in setting up ERRU) | No issues |
| Facilitate cross-border checks on establishment provisions, by introducing a maximum time period for replies to questions regarding establishment (along with a procedure for escalation if these timescales are not met). | ToR | May interfere with competences of each national authority. | No specific issues - Procedure for escalation may be problematic | | No problems foreseen | No issues - Based on an existing example (PWD enforcement Directive) |
| Adopt common classification of undertakings (green amber, red label used to indicate increasing level of risk of non-compliance and be linked to more/less frequent inspections) | ETF | No problems foreseen. | Depends on the specific provisions but should not be too difficult to establish | Will improve efficiency / effectiveness in countries where minimum standards are raised to be more in line with best practice. | If it takes the form of guidance / minimum requirements rather than harmonisation. Several MS called for this (Ex-post evaluation). | No problems foreseen |

| Proposed policy option | Source | Legal feasibility | Technical feasibility | Effectiveness and efficiency | Political feasibility | Proportionality |
|--|---------------------|---|---|---|--|--|
| Identify minimum common data/information to be included in risk rating systems | ETF | No problems foreseen. | Depends on the specific data identified | Will improve efficiency / effectiveness in countries where minimum standards are raised to be more in line with best practice. | If it takes the form of guidance / minimum requirements rather than harmonisation. Several MS called for this (Ex-post evaluation). | No problems foreseen |
| Driver 1c) Difficulties to enforce current rules for cabotage | | | | | | |
| Remove maximum number of cabotage operations (currently 3), while reducing the maximum period for cabotage operations (currently 7 days). | ToR | No problems foreseen. | Eliminating control of number of operation will make it easier to control compliance. Issues with controlling the maximum number of 4 days will remain | Enforcement would likely be improved due to simpler checks. Different interpretations of multi-drops would become irrelevant, reducing burdens on hauliers Increases the possibility of systematic cabotage (this is the main reason for opposition). | Mixed support. Several stakeholders (e.g. coordinated ETF response) strongly oppose this option | No problems foreseen |
| Share best practices on how to conduct cabotage checks effectively and efficiently, in particular how to use supplementary evidence from sources other than the CMR (such as tachograph data). | ToR | Data protection legislation shall be complied with. | No issue - Makes use of existing documentation / evidence, and based on proven experience | Some improvements likely, although it will not be able to solve all issues | No problems foreseen | No problems foreseen |
| Removal of all cabotage restrictions | Public consultation | More factual problems than legal ones. | No issues | Social / economic differences between MS preclude the opening of cabotage markets | | May be considered disproportionate to the size of the problem |
| Pre-notification of cabotage operations (Cabotage register) | Public consultation | It may require ad hoc legislation to specify the functioning and management of such register. Implications of data protection. | EU wide system may be difficult to establish – Depends on the specific requirements | An electronic system would improve enforcement. Paper systems would increase complexity/costs and risk of fraud | This measure can be seen as imposing an additional barrier to the provision of international road haulage services, when the long-term objective of the EU is to have a fully integrated and | Pre-notification of each cabotage operation is expected to generate significant costs for businesses in the region of €3-€6 billion in the period 2020-2035. |

| Proposed policy option | Source | Legal feasibility | Technical feasibility | Effectiveness and efficiency | Political feasibility | Proportionality |
|---|---------------------|---|---|--|---|---|
| | | | | | open road haulage market. | |
| Clearly stipulate that the haulier must keep on board vehicle clear evidence of the cabotage operations as well as of the relating incoming international journey | Public consultation | No problems foreseen. | No problems foreseen with feasibility | This would make enforcement easier in cases where documentation is not available already. Could be more costly for hauliers to ensure compliance | Resistance from hauliers expected, who call for a period of 48 hours to submit evidence (public consultation) | No problems foreseen. |
| Amend the definition of cabotage to better sustain its temporary nature by introducing a waiting period for the vehicles engaged in cabotage activity | Public consultation | No problems foreseen | Hauliers would need to provide evidence that they had not been in the country for the required period May be difficult/costly to develop relevant infrastructure across EU | Would contribute to prevention of systemic cabotage May be costly to implement and enforce | Supported by those against the practice of systemic cabotage. Contrary to free market | No problems foreseen. |
| Bring forward the deadline for the implementation of the 'smart' tachograph by means of derogation to Regulation (EU) No 165/2014 | Public consultation | Incoherence with prior tachograph legislation and transition periods. | N/A | Significant additional costs to hauliers | Already discarded in the tachograph regulation IA | Could be seen as disproportionate |
| Make it mandatory for hauliers found in breach of Community rules (social, labour, road) to retrofit their lorry fleets with the new generation of tachographs. | . | Incoherence with prior tachograph legislation. | No specific issues | Would increase costs for hauliers (who may unintentionally be in breach) and likely increase risk of "phantom" transport managers | This has not been widely suggested and so limited support is expected | Problems of proportionality of the sanction |
| Mandatory use of GNSS digital tachograph for enforcement after a certain date | ToR | Problems with transition periods for tachographs. Old ones may coexist with digital/smart ones if not new vehicles. This could lead | No issues – smart tachographs mandatory for new vehicles from 2019 and all vehicles 15 years later. Regulation 165/2014 | Should help increase effectiveness/efficiency of monitoring Only mandatory for new vehicles from 2019 and all vehicles 15 years later. | Bringing forward may increase costs for authorities and may reduce political feasibility | No issues. |

| Proposed policy option | Source | Legal feasibility | Technical feasibility | Effectiveness and efficiency | Political feasibility | Proportionality |
|---|--------|---|--|--|---|-----------------------|
| | | to a breach in the principle of non-discrimination. | already stipulates the automatic registration of the location of the vehicle every 3 hours of cumulated driving (Art. 8) | | | |
| Allow secure record and storage (company site and Member State data base) of geopositioning data of driver and vehicle | ETF | Geo-positioning may have data protection implications. | As above | As above | As above | No problems foreseen. |
| Mandatory acceptance of electronic consignment notes by enforcers after a certain date | ETF | No problems foreseen | No specific issues - need to verify with relevant stakeholders | Should help increase effectiveness/efficiency of monitoring Possible cost reduction for hauliers (moving from hard copy to electronic format) and for authorities | Bringing forward use of e-CMR may increase costs for authorities and may reduce political feasibility | No problems foreseen. |
| Driver 1d) Insufficient information available to authorities during enforcement | | | | | | |
| Include the conditions on establishment in ERRU and possibly financial standing and professional competence (currently it only includes good repute). | ToR | This may imply an amendment to both Regulation 1071/2009 and Regulation 1213/2010, the latter not being fully implemented in all Member States. Compliance with data protection legislation shall also be ensured. | Proven concept (in some MS) | MS that have implemented it report good experiences (ex-post evaluation) | Needs to be checked – given difficulties in establishing ERRU, could be some resistance | No problems foreseen. |
| Extend access to ERRU to road side check officers and make mandatory the fields in ERRU relative to vehicle registration plates. Currently ERRU is only accessible to enforcement | ToR | Still today not all Member States are interconnected to the ERRU system. Data protection issues: which | Technical feasibility needs to be confirmed with stakeholders | Would improve effectiveness / efficiency by ensuring relevant info is available | | No problems foreseen. |

| Proposed policy option | Source | Legal feasibility | Technical feasibility | Effectiveness and efficiency | Political feasibility | Proportionality |
|--|--------|---|--|---|--|-----------------------|
| authorities through an administrative request. | | data would be available, to whom and under which circumstances. | | | | |
| Set up 'integrated operator files' where vehicle and driver are intrinsically linked to the operator as the main organiser of the transport activity and user of resources, and move this integrated file from paper-format to e-documents | ETF | No problems foreseen. | Technical feasibility needs to be confirmed with stakeholders | | | No problems foreseen. |
| Automatically detecting data conflicts and registering them in the NERs, ERRU and the risk rating systems, as part of the operator's compliance record | ETF | No problems foreseen. | Technical feasibility needs to be confirmed with stakeholders | | | No problems foreseen. |
| Driver 2 - Different implementation of the rules | | | | | | |
| 1) Different interpretations of certain cabotage provisions | | | | | | |
| Clarify the possibility of "groupage" transport in cabotage to ensure that multiple loadings and unloadings are possible as part of one cabotage operation | ToR | Currently no legal coherence at EU level on the definition of groupage. | This is already the interpretation in several MS | More consistent legal framework for hauliers, improved certainty and consistent interpretation of the rules | This is already the interpretation in several MS. Some opposition could be expected from MS that have taken a different view | No problems foreseen. |
| Include combined transport within the scope of cabotage Regulation 1072/2009 | ETF | Will require changes to Combined Transport Directive | Difficulties to check/prove whether an operation is combined transport or cabotage | More clear framework but may create problems in combined transport | Limited supported – significant opposition indicated in the recent consultation | No problems foreseen. |
| Provide definition of combined transport within Regulation 1072/2009 | IRU | No major problems foreseen. | No problems foreseen. | More consistent legal framework for hauliers, improved certainty and consistent interpretation of the rules | No major problems foreseen. | No problems foreseen. |
| Creation of an online | Public | No problems | No problems | Some improvements | No problems | No problems |

| Proposed policy option | Source | Legal feasibility | Technical feasibility | Effectiveness and efficiency | Political feasibility | Proportionality |
|---|---------------------------|---|---|--|---|---|
| platform where Member States can post comprehensive information relating to applicable national rules | consultation | foreseen. | foreseen – depends on specifications | possible, where information availability is contributing to problems Costs depending on design | foreseen | foreseen. |
| ii) Different interpretation among MS of provisions related to stable and effective and effective establishment, conditions leading to loss of good repute, terms used in the Regulation (EC) No 1071/2009 regarding financial standing | | | | | | |
| Review reference points for effective and stable establishment, so as to ensure that the establishment in a given Member State is indeed effective and stable. (e.g. require that the operator holds assets and employs staff commensurate with the establishment's scope of activity). | ToR / public consultation | Needs to be further assessed under the freedom of establishment and the constitutional right on inviolability of the domicile. | Depends on specific requirements. Options should be designed with enforceability in mind. Existing examples can be used from certain MS | Clear and harmonised reference points should improve enforcement and reduce risk of letterbox companies. Should be careful not to penalise SMEs | Support for this measure identified in ex-post evaluation among MS, industry and associations | No problems foreseen. |
| Provide a clearer definition of the relevant persons to be checked for good repute,.. | ToR | Data protection and proportionality issues. | No problems foreseen | Would help to reduce the use of front men (since checking only transport managers may encourage the use of "front men") | Support for this measure identified in ex-post evaluation | No problems foreseen. |
| Set more precise requirements on how a newly established enterprise can prove its financial standing. | ToR | No major problems foreseen but to bear in mind balance between the principle of no discrimination and allowing some flexibility for new entrants in the market. | No problems foreseen Bank statement evidence could be accepted, as long as the requisite financial amount is available | Clear and harmonised provisions should improve enforcement and legal certainty for companies | Support for this measure identified in ex-post evaluation | No problems foreseen. |
| Development of a practical guide for interpretation of EU rules, prepared for the road transport sector. | Public consultation | No problems foreseen. | N/A | May have some benefits if widely accepted | No problems foreseen | No problems foreseen. |
| Introduction across the EU of a social guarantee fund as a mandatory precondition to engage in the occupation of road transport operator, | ETF | No clear legal basis for the creation of such fund. Social security is a competence of the Member | Would need to be charged per driver – checks of compliance could be carried out as part of other standard | The requirements of financial standing are already intended to cover eventualities such as court rulings requiring compensation for salaries/social security | This has not been widely suggested and so limited support is expected | May be seen as disproportionate to the size of the problem. |

| Proposed policy option | Source | Legal feasibility | Technical feasibility | Effectiveness and efficiency | Political feasibility | Proportionality |
|---|---------------------|---|--|--|--|---|
| | | States. | checks of Reg 1071/2009 | etc | | |
| iii) Some MS apply (some) of the provisions of Reg. 1071/2009 and Regulation 1072/2009 to vehicles below 3.5t | | | | | | |
| Reduce the 3.5 tonne limit for the application of Regulation (EC) No 1071/2009 (partial/full) | ToR | Tachograph legislation is applicable to vehicles <7.5 tonnes. | Depends on the specific requirements To be confirmed through case studies | Depends on the specific design Could be confirmed through case studies on MS that already apply such rules | Several MS are already considering this or have applied it. Others may oppose (to be confirmed) Partial introduction may be more acceptable | Available evidence suggests that is becoming a more important problem and intervention is needed – but extent to full scope may be disproportionate |
| Reduce the 3.5 tonne limit for the application of Regulation (EC) No 1072/2009. (partial/full) | ToR | Tachograph legislation is applicable to vehicles <7.5 tonnes. | Tachograph use not mandatory for LCVs – enforcement may be difficult To be confirmed through case studies | Could be confirmed through case studies on MS that already apply such rules Depends on the specific design | Several MS are already considering this or have applied it. Others may oppose (to be confirmed) | Available evidence suggests that is becoming a more important problem and intervention is needed – but extent to full scope may be disproportionate |
| iv) Significant variation in the level of penalties for non-compliance | | | | | | |
| Introduce penalties for shippers and freight forwarders, in case they knowingly commission transport services involving infringements of the Regulations (e.g. illegal cabotage operations). | ToR | Possible problems with proof of where responsibility lies. | No problems foreseen | Depends on how implemented – difficulties with enforcement identified in other legislative areas (e.g. social) | Support among stakeholders for co-liability, as long as it is not strict co-liability | Possible issue of proportionality of the penalties with regard to the infringement. |
| Extend the empowerment for the Commission to come forward with a classification of infringements which are not related to safety and revise annex IV of Regulation (EC) No 1071/2009 on the most serious infringements. | ToR | May require significant changes to national legislation | No problems foreseen | More certainty for hauliers and more consistent framework to dissuade infringement of the rules | Support has been expressed for more guidance in this area. Some opposition could be expected from MS that wish to retain their existing classification | Possible issue of proportionality of the penalties with regard to the infringement. |
| Introduce cabotage in the classification of serious | Public consultation | Problems of lack of coherence | Related to above | Related to above | Related to above | Proportionality of the penalties with regard to the |

| Proposed policy option | Source | Legal feasibility | Technical feasibility | Effectiveness and efficiency | Political feasibility | Proportionality |
|--|--------|---|-----------------------|--|--|--|
| infringements leading to the loss of good repute | | between Member States (i.e. major differences in sanctions for same infringements). | | | | infringement will be required . |
| v) Additional requirements for establishment in some Member States | | | | | | |
| Remove the possibility for Member States to add additional requirements for establishment. | ToR | No major problems foreseen. | No problems foreseen | Where additional requirements do not effectively prevent letterbox companies, they only add to the cost of establishment and enforcement | Few problems foreseen, although some MS may demand specific freedoms | Could be seen as disproportionate by some MS |
| vi)) Different approaches adopted regarding transport of empty containers / pallets and transport for non-commercial purposes | | | | | | |
| Clarify the treatment applicable to the transport of empty containers or pallets, to ensure that whenever the transport of these goods is itself subject to a contract, it should be considered as a transport operation in its own right. | ToR | No problems foreseen. This is already the interpretation in several MS | No problems foreseen. | More consistent legal framework for hauliers, improved certainty and consistent interpretation of the rules | This is already the interpretation in several MS. Some opposition could be expected from MS that have taken a different view | No problems foreseen. |

On the basis of this initial screening, the following policy measures were discarded, without further assessment of impacts:

- Establishment of a European control agency to assume responsibility for enforcement:
This is outside the scope of the present Impact Assessment as it would concern several different aspects of road transport legislation, such as the social rules, the rules on weights and dimensions, etc. It would also require additional legislation, going beyond a revision of the Regulations at stake in this Impact Assessment.
- Establishment of a high level group of competent authorities to regularly follow up after rules are designed and implemented:
Monitoring the implementation of the rules by Member States and taking action (i.e. starting infringement procedures) in case of incorrect implementation is an exclusive competence and duty of the Commission. Competent authorities are free to set up multilateral bodies with other Member States' competent authorities, but this is without prejudice to the Commission's exclusive competence regarding the implementation of EU legislation.
- Removal of all cabotage restrictions:

The long-term objective of the EU rules on access to the road transport market is the completion of the single European market. However, as mentioned in recital 6 of Regulation (EC) No 1072/2009, "The gradual completion of the single European market should lead to the elimination of restrictions on access to the domestic markets of Member States. Nevertheless, this should take into account the effectiveness of controls and the evolution of employment conditions in the profession, the harmonisation of the rules in the fields of, inter alia, enforcement and road user charges, and social and safety legislation."

The differences between Member States and stakeholders in terms of labour and social conditions have not reduced, from the date of entry into force of Regulation (EC) No 1072/2009 to date, to an extent that would allow complete removal of the cabotage restrictions. As shown in Figures 4 and 5 above, the existing cost differentials between Member States are expected to decrease moderately and progressively over the coming years (in both baseline scenario 1 and 2), but the overall reduction of these cost differences is not substantial to the point that would justify complete removal of cabotage restrictions.

Moreover, there is at present no political support for such full liberalisation. Only Poland has expressed the view, in the context of the open public consultation, that all cabotage restrictions should be removed. Several low-wage Member States (Estonia, the Czech Republic and Malta) have expressed the view that the limit on the number of cabotage operations should be removed and the maximum period for performing cabotage (7 days) should be maintained. All of the other Member States having replied to the public consultation would support either suppressing the limit on the number of cabotage operations while reducing the maximum period for performing cabotage or keeping the current rules. Therefore, there is an overwhelming majority of Member States opposed to full liberalisation of the cabotage market at present.

- Requirement to submit a pre-notification of cabotage operations (cabotage register)

This would consist in setting a requirement for pre-notification of every cabotage operation which must be submitted by hauliers, prior to the beginning of their journey, to the competent authorities in the respective Member States to which they are travelling to. This notification is intended to control restrictions on access to the market (cabotage restrictions). While the measure could be expected to help enforce the cabotage restrictions, it can be seen as imposing an additional barrier to the provision of international road haulage services, when the long-term objective of the EU is to have a fully integrated and open road haulage market. It could therefore be seen as a step back in the completion of the single European market. Also, the measure would go against the REFIT objective of reducing costs for businesses. Pre-notification of each cabotage operation is expected to generate significant costs for businesses in the region of €3-€6 billion in the period 2020-2035¹⁵.

¹⁵ These additional costs would be in the range of €2,700-€5,850 million in the time-based approach (€180-€390 million per year). The total cabotage activity, as calculated from the cabotage model, was converted to an approximate number of operations (each of which would require pre-notification) using assumptions on the average distance per cabotage trip. Two sources were used to give upper and lower bound estimates of the average distance. The lower-bound estimate was taken from the hauliers' survey and indicated a median of 450km per trip (responses from 40 individual hauliers). For the upper-bound estimate, data from a Germany study were taken (Rich et al, 2016), which were based on MAUT data and modelling results and suggested an average of 209km per trip. The wage rate is based on the average for an administrative assistant

- Establishing a waiting period between two consecutive cabotage periods:

This measure has been discarded on the basis that it does not directly contribute to the root causes/drivers identified, since the objective of the intervention is not to change the current state of opening of the cabotage market, but rather to make the rules more enforceable.

Input from a number of authorities (Cyprus, Estonia, Poland) suggests that the measure would be difficult to enforce on the basis of the existing information available to enforcers (i.e. tachograph data, CMR consignment note, etc.). If a haulier is controlled and is found to be performing legal cabotage, this information is in principle not registered anywhere. If the same haulier would be controlled again some days later performing illegal cabotage in the same Member State on the basis that a hypothetical mandatory waiting period had not yet elapsed, the enforcers would have no way of proving the illegality of the operation. Additionally, hauliers responding to the survey consider that the measure would be disruptive for operations and have significant costs. Over 60% of operators (45 out of 70) which responded to the specific questions in the hauliers survey considered that this measure will have negative impact on their overhead costs.

Furthermore, if more effective rules on posting of workers are adopted (as foreseen in baseline scenario 2.), the attractiveness of "systematic cabotage", which this measure is specifically aimed to address, will decrease without further intervention.

- Bring forward the deadline for the implementation of the ‘smart’ tachograph by means of derogation to Regulation (EU) No 165/2014:

The introduction of the smart tachograph has been defined in the context of the revision of Regulation (EU) No 165/2014 (the Tachograph Regulation). It was decided to introduce an obligation for all newly registered vehicles to be equipped with the smart tachograph as from 2 March 2019 and for all vehicles involved in international traffic to be fitted with the smart tachograph by 2 March 2034. This timing took into account the need for the industry to develop the required technological solutions and for hauliers to adapt to the new requirements. The current technical state of the art would not allow for the immediate introduction of the tachograph.

- Make it mandatory for hauliers found in breach of Community rules (social, labour, road) to retrofit their lorry fleets with the new generation of tachographs:

This measure was discarded on the same basis as the previous one. Additionally, it would require a revision of the current tachograph rules and would generate significant additional costs for hauliers. It was therefore considered as disproportionate.

- Introduction across the EU of a social guarantee fund as a mandatory precondition to engage in the occupation of road transport operator:

This policy measure was discarded on the basis that there is no clear legal basis for the creation of such fund. Social security is a competence of the Member States. There may also be technical (implementation) problems with this measure. The costs for hauliers to immobilise the necessary funds were also expected to be significant, adding to the

from Eurostat data. The time required for electronic notification is estimated to be no more than 10 minutes per cabotage activity (AECOM, 2013).

financial capacity which is already required under the existing four criteria on access to the occupation of road haulier. Thus, the measure was considered disproportionate.

- Include combined transport within the scope of cabotage Regulation 1072/2009

This measure would require a revision of Directive 92/106/EEC (Combined Transport Directive), which is currently being the subject of a separate impact assessment. The adequateness of the possibilities and restrictions for hauliers to perform the road legs of combined transport operations should therefore be assessed under the impact assessment for the revision of the Combined Transport Directive. The results of this impact assessment are not expected to be available before the conclusion of the present impact assessment exercise.

- Set up ‘integrated operator files’ where vehicle and driver are intrinsically linked to the operator as the main organiser of the transport activity and user of resources:

This policy measure was discarded on the basis that it overlaps significantly with other measures focusing on extended information on the operators, which should be available to all enforcement bodies (see notably policy measures no. 14, 15 and 16). Thus, it is considered to be redundant.

Annex 6 – SME test

Consultation with SME representatives

Consultation with SMEs took place throughout the following processes:

- The open public consultation (12 weeks from 15th June 2016) gave SMEs the opportunity to respond directly to the questionnaire. It also included questions to all respondents on the expected impacts on the economic situation of small transport operators.
- The SME panel survey (8 week from 26th September 2016) was specifically targeted at SMEs. However, only 17 responses were received.
- The survey of hauliers made available on the Commission’s EU Survey Portal (6 weeks from 7th November 2016, in Bulgarian, French, German, Polish and English). 80 responses were received, of which 47 were from companies with fewer than 10 employees, and a further 24 were from companies with 20-50 employees.
- A representative of SMEs in the haulage sector (UETR) was specifically interviewed. UETR primarily promotes the interests of micro- small and medium enterprises in the road transport sector, and represents more than 200,000 road transport undertakings in Europe.
- Three SMEs were interviewed directly, a self-employed haulier from BG, and Danish firm (51-200 employees) and a Spanish firm (<10 employees).

- During all other consultations (interviews, surveys), we have asked specific questions on the expected impact (positive or negative) on SMEs from the proposed policy measures.

Assessment of businesses likely to be affected

The latest available Eurostat data indicates that in total there were 563,598 registered road freight transport enterprises in Europe with an average size of 5.2 employees per company (Eurostat, 2016b). 90% of companies count less than 10 employees, whereas 99% have less than 50 employees (Eurostat, 2016b).

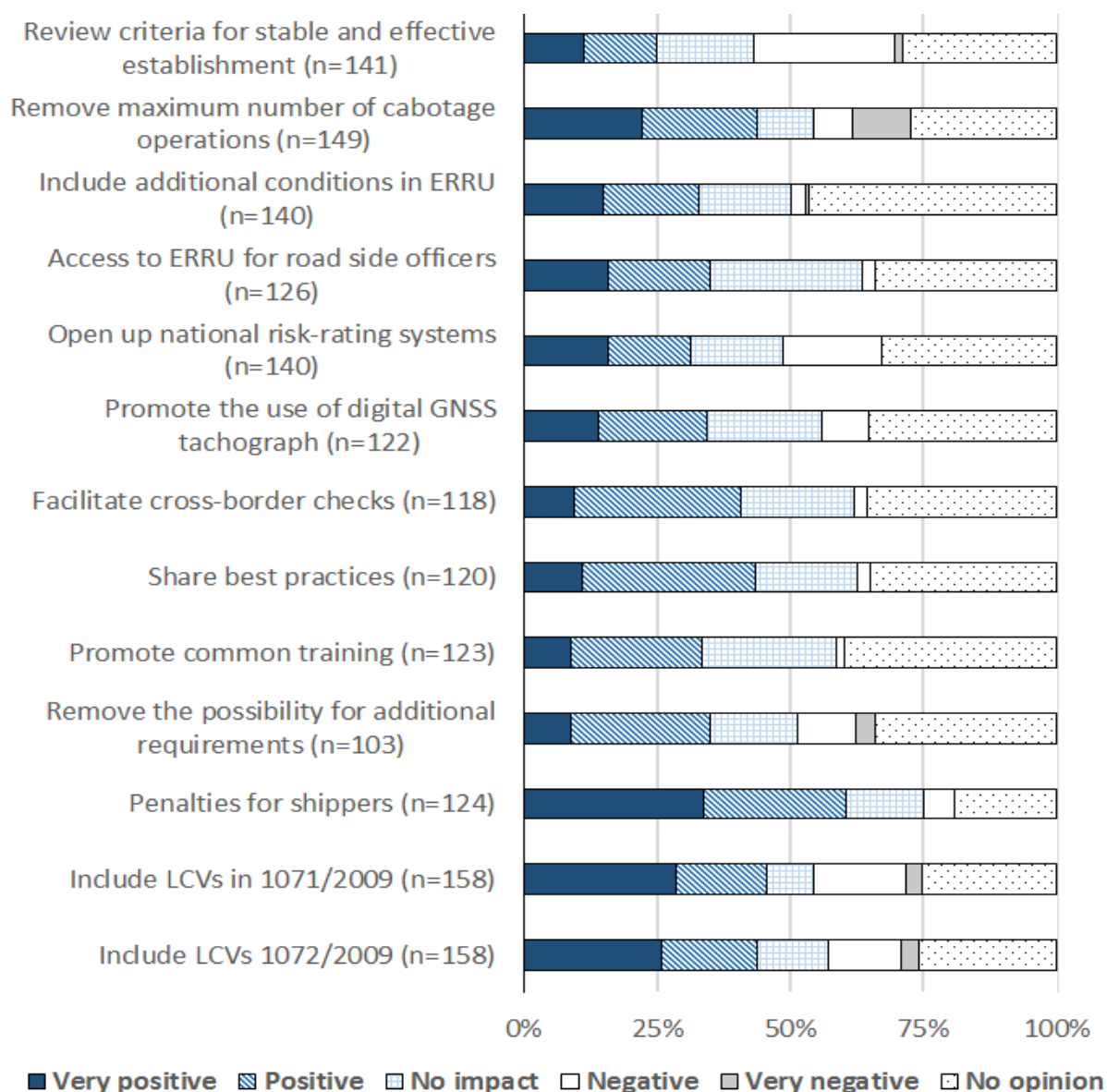
As a direct consequence of the large share of SMEs in the sector, most of the impacts analysed for transport operators are essentially representative of SMEs. This is also reflected in the distribution of responses to the survey of hauliers, which were almost completely made up of SMEs (only 4 respondents in total had more than 100 employees).

Since the hauliers survey was one of the main sources of quantitative information used to calculate the impacts on businesses, the findings can be interpreted directly as being representative of SMEs. Nevertheless, there are still differences in the impacts between self-employed, firms with fewer than 10 employees and more than 10 employees, which are analysed in the main report.

Identification of measures that could impact SMEs

The responses to the online public consultation (see Figure 7-7) provided some indications on the measures that are expected to have a sizeable positive or negative impact on economic situation of SMEs. They pointed to penalties to shippers or the extension of scope to cover LCVs as particularly positive, while the introduction of additional criteria for establishment and the removal of a maximum number of cabotage operations received the most negative reviews. A large number of respondents answering “no opinion” to all options.

Figure 7-7: Expected impact on economic situation of small transport operators by type of measure considered



Source: Public consultation

Furthermore, the analysis to the responses to the SME panel survey, which focused on the use of LCVs and the impact of the extension of the scope of the Regulations, also suggest a positive attitude of the extension of the scope of both Regulations (either in full or partially) and this was also supported by UETR which represents small size hauliers and a few national associations in DK.

At the same time, an increase in the costs of operation are expected from around half of the respondents. The introduction of requirement on financial standing under Regulation 1071/2009 and the requirement for a Community license under Regulation 1072/2009 are considered the most costly, although by no more than half of respondents. UETR suggested that the costs of compliance should not be significant. It should still be noted that there were only 18 responses to the SME panel survey with only 7 of them being hauliers. Furthermore, they only come from 5 countries within the EU. Thus, the views expressed are most probably not representative of the whole SME population.

Assessment of alternative, mitigating measures

There are several policy measures that are expected to disproportionately benefit SMEs (particularly around simplification and harmonisation of enforcement, such as use of electronic control documents). Hence, these options should be implemented as foreseen.

There are also several policy measures that are expected to disproportionately impact SMEs in a negative way. The most important of these is the proposal to review the reference points for stable and effective establishment, which is expected to result in relatively larger costs for SMEs (compared to firms with more than 10 employees, percentage cost increases would be 2.05 times larger for self-employed, and 1.5 times larger for firms with fewer than 10 employees). In this case, several options can be envisaged to mitigate these impacts:

- a) **Implementation of fewer requirements.** For example, introducing only the three most effective measures for the new stable and effective establishment reference points (see Section 8.1.1.3 in the report) reduces the expected cost impacts, although there are still disproportionate effects. Compared to firms with more than 10 employees, percentage cost increases would be 1.85 times larger for self-employed, and 1.34 times larger for firms with fewer than 10 employees
- b) **Implementation of lighter requirements for SMEs.** For example, a Dutch association suggested during an interview for this study that the requirements could be made proportionate to the size of the business – e.g. if a company comprises 1 to 3 trucks, they felt that the requirement regarding the presence of a transport manager would not be necessary. At the same time, it is necessary to ensure that the requirements are not completely different for SMEs, since many smaller firms will want to grow and become large firms, while having very different requirements would be a barrier to this.

Implementation of the cabotage register is also expected to be costly for self-employed. The costs could be mitigated for industry in general (including self-employed) by ensuring the system is as simple as possible, electronic, does not require translation, and that notification is not required too far in advance of any cabotage operations.

(significant interactions indicated in blue)

| Haulage IA measures | Interaction with proposed social IA measures? | Design interactions | Effectiveness / benefit interactions | Cost interactions |
|--|---|---|--|--|
| Promote common training of enforcement officers and a common EU training curriculum (voluntary/mandatory) | None identified | N/A | N/A | N/A |
| Introduce cross-border joint controls (voluntary/mandatory) | Increase the number of concerted checks | Preferable to require the same number of joint controls for both legislative areas in order to be proportionate and consistent. | N/A | Not significant. Social IA indicated that cost to organise joint controls was minor, so synergies here (if any) will have a minor effect |
| Introduce a minimum number of checks of compliance with the cabotage provisions | N/A | Could be based on the existing requirements for minimum checks of social legislation. Changes to the level of minimum checks under social legislation are not foreseen | N/A | N/A |
| Set further minimum common requirements for the administrative procedure to assess good repute and rehabilitation procedure. | N/A | N/A | N/A | N/A |
| Encourage wider participation in voluntary initiatives | N/A | N/A | N/A | N/A |
| Opening up of the national risk-rating systems to other Member States to promote exchange of information on high-risk companies and to target checks | Harmonise the control tools and systems used by enforcers, in particular national risk rating systems (RRS) to enable comparability of data and their exchange between Member States' enforcement authorities and software used to read and analyse data downloaded from the tachograph and driver's card | Requirements / timeframes should be similar for both pieces of legislation. | Yes. Risk targeting can take into account more data. | Yes. Fixed costs for any changes to the system should be incurred once and so there should be synergies if multiple changes are made at the same time. |

| Haulage IA measures | Interaction with proposed social IA measures? | Design interactions | Effectiveness / benefit interactions | Cost interactions |
|--|---|---|--|--|
| Facilitate cross-border checks on establishment provisions, by introducing a maximum time period for replies to questions regarding establishment (along with a procedure for escalation if these timescales are not met). | Enhance the level and effectiveness of administrative cooperation within and between Member States by improving the exchange of information on infringements, checks and investigations, | Requirements / escalation procedure should be similar for both pieces of legislation. | Not significant. Potential for minor improvements (e.g. better compliance with required response times) due to increased familiarity with requirements across multiple legislative areas | Not significant |
| Adopt common classification of undertakings (green amber, red label used to indicate increasing level of risk of non-compliance and be linked to more/less frequent inspections) | Harmonise the control tools and systems used by enforcers, in particular national risk rating systems (RRS) to enable comparability of data and their exchange between Member States' enforcement authorities and software used to read and analyse data downloaded from the tachograph and driver's card | Requirements / timeframes should be similar for both pieces of legislation. | Yes. Risk targeting can take into account more data. | Yes. Fixed costs for any changes to the system should be incurred once and so there should be synergies if multiple changes are made at the same time. |
| Identify minimum common data/information to be included in risk rating systems | Harmonise the control tools and systems used by enforcers, in particular national risk rating systems (RRS) to enable comparability of data and their exchange between Member States' enforcement authorities and software used to read and analyse data downloaded from the tachograph and driver's card | Requirements / timeframes should be similar for both pieces of legislation. | Yes. Risk targeting can take into account more data. | Yes. Fixed costs for any changes to the system should be incurred once and so there should be synergies if multiple changes are made at the same time. |
| Remove maximum number of cabotage operations (currently 3), while possibly reducing the maximum period for cabotage operations (currently 7 days). | N/A | N/A | N/A | N/A |
| Share best practices on how to conduct cabotage | N/A | N/A | N/A | N/A |

| Haulage IA measures | Interaction with proposed social IA measures? | Design interactions | Effectiveness / benefit interactions | Cost interactions |
|---|---|--|--|--|
| checks effectively and efficiently, in particular how to use supplementary evidence from sources other than the CMR (such as tachograph data). | | | | |
| Clearly stipulate that the haulier must keep on board vehicle clear evidence of the cabotage operations as well as of the relating incoming international journey | N/A | N/A | N/A | N/A |
| Amend the definition of cabotage to better sustain its temporary nature by introducing a waiting period for the vehicles engaged in cabotage activity | N/A | N/A | N/A | N/A |
| Use of GNSS digital tachograph for enforcement after a certain date | Promote use of GNSS digital tachograph. The digital tachograph equipped with a GNSS function will be available from 2016-2017 and thanks to its new satellite positioning function, will allow enforcers to check at the roadside the movements of a vehicle. | Requirements / timeframes should be compatible with both pieces of legislation | Yes. More available data to enforcers at the time of the check | Yes. Additional costs of training / equipment for enforcers can be shared between the two pieces of legislation to some extent (although not completely – e.g. some training would need to be specific). |
| Acceptance of electronic consignment notes by enforcers after a certain date | N/A | N/A | N/A | N/A |
| Allow secure record and storage (company site and Member State data base) of geo-positioning data of driver and vehicle | N/A | N/A | N/A | N/A |
| Include the conditions on establishment in ERRU and possibly financial standing and professional competence (currently it only includes good repute). | N/A | N/A | N/A | N/A |
| Extend access to ERRU to road side check officers and make mandatory the fields | Enable access of controllers to RRS to | Requirements / timeframes should | Yes. More available | Yes. Possible synergies if |

| Haulage IA measures | Interaction with proposed social IA measures? | Design interactions | Effectiveness / benefit interactions | Cost interactions |
|---|--|--|--|--|
| in ERRU relative to vehicle registration plates. Currently ERRU is only accessible to enforcement authorities through an administrative request. | help them check in real time whether a company is registered and to identify high-risk companies | be similar for both pieces of legislation. | data to enforcers at the time of the check | roadside officers need additional equipment to access both systems (unknown, to be checked with stakeholders what is needed) |
| Set up 'integrated operator files' where vehicle and driver are intrinsically linked to the operator as the main organiser of the transport activity and user of resources (measure proposed by ETF – similar to the one below) | Harmonize the control tools and systems used by enforcers, in particular national risk rating systems (RRS) to enable comparability of data and their exchange between Member States' enforcement authorities and software used to read and analyse data downloaded from the tachograph and driver's card. | N/A | N/A | N/A |
| Automatically detect data conflicts and registering them in the NERs, ERRU and the risk rating systems, as part of the operator's compliance record | Harmonize the control tools and systems used by enforcers, in particular national risk rating systems (RRS) to enable comparability of data and their exchange between Member States' enforcement authorities and software used to read and analyse data downloaded from the tachograph and driver's card. | Requirements / timeframes should be compatible with both pieces of legislation | Yes. More available data to enforcers at the time of the check | Yes. Increased costs to adapt the systems will be incurred and may be assigned to the 1071 revision, but would benefit enforcement in general. |
| Review reference points for effective and stable establishments, so as to ensure that the establishment in a given Member State is indeed effective and stable. | N/A | N/A | N/A | N/A |
| Provide a clearer definition of the relevant persons to be checked for good repute | N/A | N/A | N/A | N/A |
| Set more precise requirements on how a newly established | N/A | N/A | N/A | N/A |

| Haulage IA measures | Interaction with proposed social IA measures? | Design interactions | Effectiveness / benefit interactions | Cost interactions |
|--|--|--|--------------------------------------|---|
| enterprise can prove its financial standing. | | | | |
| Development of a practical guide for interpretation of EU rules, prepared for the road transport sector. | N/A | N/A | N/A | N/A |
| Extend scope of Regulation (EC) No 1071/2009 to cover vehicles below 3.5 t fully. | Clarify and adapt, where necessary, the scope of the legislation with regard to driver (professional, private, occasional driver, self-employed), to vehicle (e.g. vehicles below 3,5 tonnes), | Requirements / timeframes should be compatible with both pieces of legislation | Not clear | Not clear Only relevant to the extent that enforcement is carried out at the same time / by the same organisations, which is not always the case |
| Extend scope of Regulation (EC) No 1071/2009 to cover vehicles below 3.5 t partially | Clarify and adapt, where necessary, the scope of the legislation with regard to driver (professional, private, occasional driver, self-employed), to vehicle (e.g. vehicles below 3,5 tonnes), | Requirements / timeframes should be compatible with both pieces of legislation | Not clear | Not clear Only relevant to the extent that enforcement is carried out at the same time / by the same organisations, which is not always the case |
| Extend scope of Regulation (EC) No 1072/2009 to cover vehicles below 3.5 t fully | Clarify and adapt, where necessary, the scope of the legislation with regard to driver (professional, private, occasional driver, self-employed), to vehicle (e.g. vehicles below 3,5 tonnes), | Requirements / timeframes should be compatible with both pieces of legislation | Not clear | Not clear Only relevant to the extent that enforcement is carried out at the same time / by the same organisations, which is not always the case |
| Extend scope of Regulation (EC) No 1072/2009 to cover vehicles below 3.5 t partially | Clarify and adapt, where necessary, the scope of the legislation with regard to driver (professional, private, occasional driver, self-employed), to vehicle (e.g. vehicles below 3,5 tonnes), | Requirements / timeframes should be compatible with both pieces of legislation | Not clear | Not clear Only relevant to the extent that enforcement is carried out at the same time / by the same organisations, which is not always the case |
| Introduce penalties for shippers and freight forwarders, in case they knowingly commission transport services involving infringements of the | Introduce penalties for shippers, freight forwarders and other actors in subcontracting chain, in case they | Intervention should be consistent between both pieces of legislation | Not significant | Not significant |

| Haulage IA measures | Interaction with proposed social IA measures? | Design interactions | Effectiveness / benefit interactions | Cost interactions |
|---|--|--|---|-------------------|
| Regulations (e.g. illegal cabotage operations). | knowingly commission transport services involving infringements of the legislation. Such penalties would incentivise them to resort to transport operations carried out in a lawful way. | | | |
| Extend the empowerment for the Commission to come forward with a classification of infringements which are not related to safety and revise annex IV of Regulation (EC) No 1071/2009 on the most serious infringements. | Establish minimum requirements to determine appropriate types and levels of sanctions that are proportionate to the seriousness of infringements as established by the EU legislation (e.g.: Regulation (EC) No 2016/403). | Intervention should be consistent between both pieces of legislation | Not significant May be some mutual reinforcement of compliance with rules overall where operators offend in multiple areas | Not significant |
| Introduce cabotage in the classification of serious infringements leading to the loss of good repute | N/A | N/A | N/A | N/A |
| Remove the possibility for Member States to add additional requirements for establishment. | N/A | N/A | N/A | N/A |
| Clarify the possibility of "groupage" transport in cabotage to ensure that multiple loadings and unloadings are possible as part of one cabotage operation | N/A | N/A | N/A | N/A |
| Creation of an online platform where Member States can post comprehensive information relating to applicable national rules | N/A | N/A | N/A | N/A |
| Clarify the treatment applicable to the transport of empty containers or pallets, to ensure that whenever the transport of these goods is itself subject to a contract, it should be considered as a transport | N/A | N/A | N/A | N/A |

| Haulage IA measures | Interaction with proposed social IA measures? | Design interactions | Effectiveness / benefit interactions | Cost interactions |
|-----------------------------|---|---------------------|--------------------------------------|-------------------|
| operation in its own right. | | | | |

Annex 8 – Identification of operational objectives and monitoring plan

A monitoring and evaluation framework has been developed on the basis that **Package 3b** (without including the cabotage register measure), in combination with Partial extension to cover LCVs (**Policy Package 4b**) is the preferred policy option.

Operational objectives of the preferred policy option

As a first step, the development of the monitoring and evaluation framework requires the establishment of the operational objectives of the preferred policy option.

A set of operational objectives that are derived from the respective generic and specific objectives and reflect the nature and type of measures adopted is presented in Table 9-1 below.

To those, we should also add the objective of successful adoption of the proposed measure which includes changes to the two Regulations, changes to national rules and other relevant provisions and actions at national level (from implementing and enforcement authorities) to make the necessary changes to the relevant systems (e.g. ERRU, national risk rating systems) and procedures.

Table 9-1 – Operational objectives

| General objectives | Specific objectives | Operational objectives |
|--|---|---|
| Ensure a level playing field between resident and non-resident hauliers; | Ensure coherent and consistent monitoring and enforcement of the existing rules in Member States; Ensure coherent interpretation and application of the existing rules in Member States. | <ul style="list-style-type: none">• Set up rules and standards in relation to minimum number of enforcement activities• Set (or update) requirements/standards for opening access to ERRU, national rating systems• Set up rules for communication and cooperation among Member States (e.g. period for responses)• Set-up common training of enforcers and joint cross-border controls• Introduce necessary changes to Regulation 1072/2009 in relation to definition of cabotage and evidence needed to prove legality• Introduce provisions concerning the mandatory acceptance of electronic documents and GNSS tachographs• Introduce necessary changes to Regulation and/or introduce other necessary legal acts necessary in relation to:<ul style="list-style-type: none">○ Criteria for checking stable and effective establishment○ Clarification to existing provisions (good repute, financial standings groupage, empty containers)○ Update and harmonise classification of infringements and introduce principle of co-liability○ Define scope for extension to cover LCVs and setting transition period• Member States remove additional provisions from national legislation (where applicable)• Develop (update) practical guidance |

| | | |
|--|--|--|
| Ensure proportionate regulatory costs. | Reduce burdens for national authorities and transport undertakings | <p>document for road transport sector</p> <ul style="list-style-type: none"> • Reduce/Minimise associated compliance and administrative costs for businesses from adopted measures • Increase efficiency of enforcement activities |
|--|--|--|

Monitoring and evaluation framework – Relevant indicators and data sources

The monitoring framework should cover the following aspects of the initiative:

- **Implementation:** Covers changes to the Regulation and adoption of measures that are necessary to enable the implementation of the selected policy measures. In most cases relevant data should be available from the Commission services or possibly rely on reporting from the national authorities.
- **Application:** Focuses on the actual changes observed as a result of the realisation of the policy and is closely linked with the specific and operational objectives. Data for some of the relevant indicators should be relatively easily available and should be possible to include in the biennial reports submitted by authorities or collected directly by the Commission services. Other aspects will have to be covered as part of the evaluation of the Regulations where surveys and other tools will be used to collect relevant information (such as costs of compliance).
- **Enforcement and Compliance:** This includes the extent of enforcement activities and levels of compliance. Relevant data for most of the indicators is available in the biennial monitoring reports submitted by authorities.
- **Contextual information, if applicable:** We consider that greater information on the level of use of electronic documentation and smart tachographs but also level of use of LCVs in domestic and international transport (for which information is limited) should be considered. This is in addition to the more contextual information concerning the evolution of road freight transport (national, international, cabotage) which is already monitored.

Table 9-2 below presents the indicators and data sources proposed for the four different aspects.

Table 9-2: Proposed monitoring and evaluation framework

| Monitoring - evaluation aspect and relevant objectives | Indicator | Source(s) |
|---|---|---|
| Implementation of adopted changes | | |
| Make necessary changes to the text of Regulations 1071/2009 and 1072/2009 in line with the adopted measures | Extent that necessary changes to the text of Regulations 1071/2009 and 1072/2009 has been completed by set date | European Commission |
| Make necessary changes to respective national rules and other relevant provisions where relevant | Number of Member States that have adopted national rules in accordance with agreed changes | European Commission + National authorities (monitoring reports) |

| Monitoring - evaluation aspect and relevant objectives | Indicator | Source(s) |
|---|--|---|
| Implement necessary changes to relevant systems (e.g. ERRU, risk rating systems) to facilitate access and cooperation | Number of Member States that has completed changes to relevant systems by a set date | EU Commission + National authorities (monitoring reports) |
| Application | | |
| Improved access to relevant information during enforcement activities (roadside and premises checks) | Number of times that information from ERRU and national rating systems was used during controls | European Commission/National authorities |
| Increased level of communication and cooperation | Number of information exchanges | European Commission (ERRU system) |
| | Number of joint-cross border controls | National monitoring reports |
| Reduce enforcement costs for authorities | Costs associated with enforcement of Regulations | Evaluation (survey) |
| Reduce compliance/administrative costs for business | Costs associated with compliance Regulations Administrative costs associated with Regulations (for HGV and LCV users) | Evaluation (survey) |
| Minimise/remove issues of non-coherent application of Regulations | Number of cases of non-consistent application documented | European Commission |
| Increased use of electronic documents and smart tachographs | Number of authorities accepting electronic documents | National reports Evaluation (survey) |
| | Share of businesses using electronic documents for proving legality of cabotage | Evaluation (survey) |
| Enforcement and compliance | | |
| Increase overall enforcement effort and reduce variation among Member States | Number of roadside and premises checks | National monitoring reports |
| Reduce levels of non-compliance with Regulation 1071/2009 and 1072/2009 | Total number of infringements of Regulations | National monitoring reports |
| | Level of illegal cabotage and letterbox companies identified (subset of total infringements) | National monitoring reports/Evaluation |
| | Total number of infringements of Regulations in the case of haulers using LCVs | National monitoring reports |
| | Number of authorisations, community licenses, certificates of professional competence, withdrawals | National monitoring reports |

| Monitoring - evaluation aspect and relevant objectives | Indicator | Source(s) |
|---|---|---|
| Contextual information | | |
| Evolution of road freight transport | Level of road freight transport activity (domestic, international and cabotage operations) (in t-kms and v-kms) | Eurostat |
| Use of LCVs in road freight transport | Share of LCVs in domestic, international and cabotage operations (% of total vehicles and t-km) | Specialised study National statistics |
| Level of uptake of e-CMR and GNSS tachograph by hauliers | Share of hauliers using e-CMR and smart tachographs | Specialised study/market data Evaluation |

Annex 9 – Description of the road initiatives

THE ROAD INITIATIVES – THE 'BIG PICTURE'

1. INTRODUCTION

The Road Initiatives, which are all REFIT Initiatives, are fully inscribed in the overall priorities of the Juncker Commission notably under the 'A deeper and fairer Internal Market' and the 'Climate and Energy Union'.

The Communications from the Commission on 'Upgrading the Single Market: more opportunities for people and business' and on 'A Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy' explicitly refer to the Road Initiatives.

The table below presents the link between the Juncker priorities, the Impact Assessments prepared for the Road Initiatives and the related legislative acts.

| Priorities | IAs | Legislation |
|-------------------------------------|--|---|
| A deeper and fairer Internal Market | Hired vehicles | Directive 2006/1 |
| | Access to the haulage market and to the Profession | Regulation 1071/2009 & 1072/2009 |
| | Social aspects: Driving/rest time, working time and enforcement measures (tachograph), Posting of workers and enforcement measures | Regulation 561/2006 and Regulation 165/2014 |
| | | Directive 96/71, Directive 2014/67, Directive 2002/15 and Directive 2006/22 |
| Climate and Energy Union | Access to the market of buses and coaches | Regulation 1073/2009 |
| | Eurovignette | Directive 1999/62 |
| | European Electronic Toll Service (EETS) | Directive 2004/52 |
| | | Commission decision 2009/750 |

Moreover, the transport strategy of the Commission as laid down in the White Paper "Roadmap to a Single European Transport Area - Towards a competitive and resource efficient transport system" adopted on 28 March 2011, included references to the road initiatives¹⁶.

2. THE EU ROAD TRANSPORT MARKET

Road transport is the most prominent mode of transport. In 2014, almost three quarters (72%) of all inland freight transport activities in the EU were by road. On the passenger side, the relative importance of road as mode of transport is even greater: on land, road accounts for more than 90% of all passenger-kilometres: 83% for passenger cars and almost 9% for buses and coaches.

Almost half of the 10.6 million people employed in the transport and storage sector in the EU are active in carrying goods or passengers by road. Road freight transport services for hire and reward employs around 3 million people, while the road passenger transport sector (buses, coaches and taxis) adds another 2 million employed persons (a third of which are taxi drivers). This corresponds to more than 2.2% of total employment in the economy and does

¹⁶ More specifically in the Annex under points 6, 11 and 39

not include own account transport which in road freight transport alone provides employment for 500,000 to 1 million additional people.

There are about 600,000 companies in the EU whose main business is the provision of road freight transport services for hire and reward. Every year, they generate a total turnover of roughly €300 billion, around a third of which is value added by the sector (the rest being spent on goods and services from other sectors of the economy). The provision of road freight transport services for hire and reward is hence an important economic sector in its own right, generating almost 1% of GDP.

In road passenger transport, there are about 50,000 (mostly) bus and coach operators (of which 12,000 provide urban and suburban services, (some including tram and underground)) and around 290,000 taxi companies in the EU. Together, they generate a turnover of €110 billion. Without taxis, total turnover of the sector is around €90 billion per year, of which some €50 billion is value added.

3. WHY IS THERE A NEED FOR ACTION?

Road transport is for a large part international (around 34%¹⁷) and this share is increasing, which explains the need for a common EU legal framework to ensure efficient, fair and sustainable road transport. The framework covers the following aspects:

- Internal market rules governing access for operators to the markets of freight and passengers
- Social rules on driving/rest time and working time to ensure road safety and respect of working conditions and fair competition
- Rules implementing the user and polluter pays principles in the context of road charging
- Digital technologies to enable interoperable tolling services in the EU and to enforcement EU rules (e.g. the tachograph)

It is clear that current rules are no longer fit for purpose. Member States are increasingly adopting own national rules to fight "social dumping" while acknowledging that their actions have adverse effects on the internal market. Moreover, public consultations have shown a strong support for EU action to solve current issues in road transport. For example:

- Severe competition in the road transport sector has led many operators to establish in low-wage countries without necessarily having any business activity in these countries. There is a lack a clear criteria and enforcement mechanisms to ensure that such establishment practises are genuine, and that there is a level playing for operators.
- Measures on Posting of Workers implemented in 4 Member States (DE, FR, AT and IT) are all different and obviously from other Member States which have not implemented any measure to implement the minimum wage to road transport on their territory. Stakeholders ask for a common set of (simplified) enforcement rules.
- CO₂ emissions from road transport represent a large share of total emission and the share is set to rise in the absence of common action (at EU 28 level), which is needed to

¹⁷ Statistical Pocketbook 2016, EU Transport in figures

contribute substantially to the commitment under the Paris Agreement and to the 2030 goals.

- Due to the increasingly more and more hyper-mobile nature of the sector, there is a need for common and enforceable rules for workers. All workers should benefit from the same level of protection in all Member States to avoid social dumping and unfair competition between hauliers. This is currently not the case.

4. WHAT ARE THE MAIN PROBLEMS?

The Internal market for road transport is not complete. It is our assessment that the current situation does not allow to exploit the full potential of transport services

- e.g. current rules on bus/coach services or the rules on hired vehicles are still very restrictive. Some Member States have decided to unilaterally open their market, which has led to a fragmentation of the EU internal market.

Many rules are unclear, therefore leading to different level of implementation by Member States and problems of enforcement:

- e.g. on cabotage where all stakeholders agree that current rules are unenforceable

There are allegations of 'social dumping' and unfair competition in the road transport sector. This has led to a division between East and West in Europe. As a consequence, several Member States have decided to take national measures, which might jeopardize the unity of the EU market for road transport:

- E.g. minimum wage rules in DE, FR, IT and AT coupled with disproportionate administrative requirements ; prohibition of drivers taking the weekly rest in the cabin of vehicles in FR and BE

Environmentally, we have made good progress on reducing pollutants from Heavy Good Vehicles but our legal framework currently does not address the issue of climate change (CO₂). At the same time, the infrastructure quality is degrading in the EU despite that fact that user charges and tolls are levied on most TEN-T and motorways.

Electronic tolling systems in the EU are, despite the primary objective of the EU legislation of "one contract/one on-board unit/one invoice" for the users, far being interoperable. More generally, the benefits of digitalisation are still under-exploited in road transport, in particular to improve control of EU legislation (e.g. many Member States do not currently the use of electronic waybills).

5. OPTIONS AND MAIN IMPACTS

To achieve these objectives, all IAs will consider a range of different options, which ultimately should improve the efficiency, fairness and sustainability of road transport.

The IA on Hired Vehicles will assess options aiming at removing outdated restrictions on the use of hired goods vehicles and thus at opening up new possibilities for operators and leasing/hiring companies alike. More flexibility for the hiring of vehicles should lead to more efficient operations, higher productivity and less negative environmental impacts as fleet renewal will be promoted.

The IA on Access to the haulage market and to the Profession will study various options to ensure effective and consistent monitoring and enforcement of the existing rules in Member States and to ensure coherent interpretation and application of the rules. Three broad groups of potential measures will be assessed, namely measures liable to improve enforcement, measures ensuring simplification and clarification of current rules and measures reinforcing the cooperation between Member States.

The IA on Access to the market of buses and coaches will assess options aiming at improving the performance of coach and bus services vis-a-vis other transport modes, especially private car and further developing the internal market for coach and bus services. This should lead to a reduction of the adverse environmental and climate effects connected with mobility. Various policy options will be considered for creating more uniform business conditions and also a level playing field for access to terminals.

The IA on Social aspects of road transport will study options aiming at ensuring the effectiveness of the original system put in place and therefore contributing to the original policy objectives, i.e.: (1) to ensure a level playing field for drivers and operators, (2) to improve and harmonise working conditions and (3) to improve the road safety level. An additional objective, in the context of the implementation and enforcement of the provisions on posting of workers, is to ensure the right balance between the freedom to provide cross-border transport services and the protection of the rights of highly mobile road transport workers. In this perspective, three broad groups of measures will be analysed: 1. Simplification, update and clarification of existing rules, 2. More efficient enforcement and cooperation between Member States and 3. Improved working conditions of drivers and fair competition between operators.

The IA on the Eurovignette will assess options to promote financially and environmentally sustainable and socially equitable (road) transport through wider application of the 'user pays' and 'polluter pays' principles. A number of different measures and their variants aiming at correcting price signals in freight and passenger transport will be considered in order to address the issues identified. The policy options range from minimum adjustments to the Directive required for improving its coherence and addressing all policy objectives, through the promotion of low carbon (fuel efficient) vehicles and the phasing out of time-based charging schemes (vignettes) for trucks to the optimisation of tolls for all vehicles.

The IA on EETS (European Electronic Tolling Service) will study options aiming at reducing the cost and the burden linked to the collection of the electronic tolls in the EU – for the users and for the society at large. It will equally seek to improve the framework conditions for the faster and more widely provision of an interoperable European Electronic Toll Service. Different policy options will be considered, including a non-legislative approach (facilitating exchange of best practice, co-financing EETS-related projects) and a legislative review.

These policy options and their impacts will be presented and assessed in detail in the respective IAs.

6. EXPECTED SYNERGIES OF THE PACKAGE

The different initiatives constitute a coherent set of measures which will jointly contribute to an efficient, environmentally and socially sustainable road transport sector. It is expected that the impacts will be more than the addition of the impacts of each initiative, meaning that the initiatives are complementary. Some examples of such synergies are provided below.

- Current restrictions on cabotage are unclear and therefore lead to illegal cabotage. These illegal activities are closely linked with the fact that transport operators established in

low-wage countries exert unfair competition via 'social dumping' and not respecting the rights of workers, who often are staying in their trucks abroad for longer periods. This illustrates the clear link connection between compliance of internal market rules and social/fair competition aspects of road transport, which are all addressed by the road initiatives and which cannot be dealt with separately.

- When assessing the laws applying a national minimum wage to road transport, Member States explained the Commission that one of the reasons for adopting these national measures is to fight the phenomenon of fake establishments and “letter box” companies in low-wage countries. Tackling the issue of posting of workers in road transport goes therefore hand in hand with the issue establishment of road hauliers transport operators, which again illustrates the link connection between internal market and social aspects of road transport.
- Promoting interoperability of electronic tolls systems will lead to lowering the implementation costs of such systems by Member States. We can expect that this will incentivise Member States to put in place distance-based tolls, which better reflect the user and polluter pays principles use of infrastructure. This shows the close link between the Eurovignette and EETS initiatives.
- Seeking to improve the performance of coach and bus services vis-a-vis other transport modes will inevitably lead discussion on a level playing between road and rail services. Current EU legislation provides that rail users shall pay for the use of infrastructure, while it is not currently the case for buses and coaches which are outside the scope of the Eurovignette directive. The inclusion of buses and coaches in the Eurovignette initiative to ensure that they pay a fair price for using the road infrastructure is therefore essential and will ensure endure overall coherence.
- The initiatives on hired vehicles is in particular related to the initiatives on the access to the market and to the profession, all having the aim of establishing clear and common rules for a well-functioning and efficient Internal Market for road haulage : some of them by ensuring a good functioning of the market of transport services, others by ensuring the best use of the fleet of vehicles.