



Study to support the impact assessment for the revision of Regulation (EC) No 1071/2009 and Regulation (EC) No 1072/2009

Final report

Study contract no. MOVE/D3/SER/2016-
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of Regulation (EC) No
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EXECUTIVE SUMMARY

A. Purpose and scope of the study

Regulations (EC) No 1071/2009 and 1072/2009 were adopted as part of a package aiming to advance the completion of the internal market in road transport. Both Regulations were intended to support this objective by ensuring a level-playing field between resident and non-resident hauliers. Following and Ex-post Evaluation of the two Regulations the Commission identified a need for their revision to address key limitations which include:

- uneven playing field for transport operators depending on the place of their establishment
- high regulatory burden for Member States.

The present Impact Assessment sets out to explore different options for amending the two Regulations. This study aims to provide support to the Impact Assessment for the revision of Regulation (EC) No 1071/2009 on access to the occupation of road transport operator and Regulation (EC) No 1072/2009 on access to the international road transport market.

B. Policy options analysed

A number of policy measures were identified to address the problems and the underlying root causes and drivers of the problems. They were grouped in 4 Policy packages

- **Policy package 1 - Clarification of the legal framework (PP1):** Included measures aimed at clarifying existing ambiguities (e.g. clearer definitions with regard to financial standing) without substantially changing the rules and measures aimed at easing enforcement, whenever such measures are not expected to involve significant compliance costs or administrative burden (e.g. promote common training of enforcement officers or other measures of information exchange on a voluntary basis).
- **Policy package 2 - Strengthening of enforcement (PP2):** Besides measures in policy package 1, this package included measures aimed at strengthening enforcement but which are expected to involve significant compliance costs or administrative burden (e.g. introducing a minimum number of checks of cabotage provisions, mandatory cooperation between Member States). Policy package 2 did not significantly change the overall framework of the rules.
- **Policy package 3 - Extensive revision of the Regulations (PP3):** In addition to the measures in policy package 2, this includes further measures intended to substantially change the existing legal framework by changing the rules governing cabotage and the rules on access to the profession (e.g. conditions for a stable and effective establishment). Furthermore, changes to the substance of the rules also require accompanying changes to the requirements for enforcement and monitoring, in order to support the transition.
- **Policy package 4 – Extension of scope to LCVs (PP4):** This policy package covered the extension of the scope of the two Regulations to cover Light Commercial Vehicles (LCVs). It included two sub-options:
 - 4a - Full extension of the scope of the two Regulation to cover the use of LCVs including all applicable provisions (full inclusion of vehicles <3.5t);
 - 4b - Partial extension of the scope of the two Regulations (partial inclusion of vehicles <3.5t) that includes only some of the applicable provisions;

Policy Package 4 was a horizontal package that could be combined with the other policy packages - as well as the scenario of no action.

C. Method and process followed

The analysis of the impacts of the proposed policy packages and individual measures considered included an assessment of the economic and social impacts of the proposed measures against the baseline scenario which reflected how the problems identified and the underlying root cause and drivers are expected to develop. The developed baseline included a description of the assumed evolution of main problem drivers and the development of quantitative baseline estimates.

The following research tools were used to collect relevant input in order to assess in quantitative terms – and when possible in qualitative terms - the expected impact of the proposed measures:

- Desk research and data collection to identify, extract and analyse of secondary data sources from relevant studies, reports and databases that were used for the development of the baseline and the quantification of impacts of the proposed measures.
- An open public consultation organised by the Commission where a total of 175 responses were provided
- Three surveys, including a surveys of hauliers (80 responses), a survey of national authorities (18 responses) and an SME panel survey (17 responses)
- A total of 36 interviews with selected stakeholders covering national authorities responsible for implementation and enforcement of the Regulations, industry representatives (at EU and national level) and individual transport operators, trade union representatives.
- Five case studies focusing on the level of use of LCVs in road freight transport, examining existing trends and assessing the role of regulation in Denmark, Germany, Poland, Romania and France.

D. Analysis of impacts

D.1 Effectiveness and efficiency of policy options

The policy options were analysed and assessed in comparison to the baseline in relation to:

- the effectiveness in terms of achieving key objectives which included:
 - 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.
 - Reduce burdens for national authorities and transport undertakings
- their efficiency (costs/savings) in comparison to the baseline scenario

Table 9-2 overleaf summarises the findings of the analysis.

Table 0-1: Comparison of impacts of policy packages in terms of achieving the objectives (in comparison to baseline) (Figures provided represent Net Present Values for the period 2020-2035 in million Euros; negative values indicate cost savings)

	Strongly negative	Weakly negative	No or limited impact	Weakly positive	Strongly positive	
	PP1	PP2	PP3 (4 days)	PP3 (7 days)	PP4a (full extension)	PP4b (partial extension)
Effectiveness						
Coherent and consistent monitoring and enforcement of the existing rules in Member States						
Effectiveness of monitoring and enforcement of Regulations	Small positive effect	Significant positive effect by improved access and exchange of information More and more targeted checks	PP2 & Significant positive effect on letterbox from more demanding standards on establishment	Positive effect by limiting intentional non-compliance attempting to circumvent existing rules		
Levels of non-compliance	Small positive effect on reducing intentional and unintentional non-compliance	Strong reduction in cabotage infringements by 62%	Strong reduction in cabotage infringements by 62% & ~10% decrease in risk of letterbox companies	Possible short term increase in unintentional non-compliance Gradually similar to HGVs	Reduced non-compliance as a result of less demanding provisions	
Coherent interpretation and application of the existing rules in Member States.						
Coherent application of rules across the EU-28	Small positive effect on the basis of voluntary cooperation, joint controls, common procedures for good repute, clarification of rules	Significant positive effect based on EU-wide cooperation, joint action and common rules for cabotage checks, clarification of rules	PP2+ small positive effect on the basis of common infringement classification	Significant positive effect by ensuring common approach in regulating the use of LCVs		
Efficiency (total costs in € millions) (Costs are shown as positive figures and savings are shown as negative figures)						
Reduce administrative burdens for national authorities and transport undertakings						
Compliance and administrative costs for businesses	No expected impacts to hauliers	-5,969 to -8,849 - (BL1) -5,421 to -8,020 (BL2)	4,740 to 7,766 (BL1) 5,320 to 8,156 (BL2)	1,690 to 5,616 (BL1) 2,550 to 6,206 (BL2)	8%-20% increase in operating costs for 23-114k operators (1071), 7-15% increase in operating costs for less than 3k operators (1072)	
Costs for authorities for implementation and enforcement	Very limited/insignificant costs due to voluntary nature of measures	105.3- 320.9	65.2-165.6		4.4-21.6 (1071) 0.2-11.9 in DE (1072) Similar to PP4a	

In the case of **Policy Package 1**, a positive contribution should be expected in relation to level of compliance with the Regulations on the basis of better cross-border cooperation, more harmonised enforcement practices/interpretation of the rules, sharing of best practices, and providing more consistent dissuasive signals to hauliers regarding the enforcement of loss of good repute. However, the **overall effects are expected to be small** due to the voluntary nature of measures for training/joint controls and changes to risk-rating/ERRU systems, which will limit their uptake. At the same time, there are only very limited costs for authorities and businesses. The voluntary nature of most of the measures means that it is possible for authorities to select which of the measures they adopt and hence to minimise any costs. Thus, in terms of cost-effectiveness, Policy Package 1 is rated highly.

In the case of **Policy Package 2**, stronger positive impact on levels of compliance is expected due to the mandatory upgrade of risk-rating systems and the ERRU, combined with adoption of a minimum checks of 3% of cabotage. These combined measures may reduce infringements related to Regulation 1072/2009 by up to 62%. Additional smaller contributions to improvements in compliance are expected due to other measures including the mandatory common training and joint cross-border controls, extended information in ERRU and increased access for roadside officers. Overall, Policy Package 2 can be quite effective in terms of improving compliance levels with Regulation 1072/2009. The expected contribution in relation to compliance with Regulation 1071/2009 (letterbox companies) is less significant, although there should still be positive contribution on the basis of improved cooperation in cross-border controls.

PP2 also appears to be quite cost-effective. The mandatory acceptance of electronic consignment notes by enforcers can lead to significant cost savings. However, the extent that the adoption of e-CMR by businesses can be directly attributed to the adoption of the policy measures is not clear. In our analysis we assumed that around 30% of the costs savings associated can be linked to the PP2.

In the case of **Policy Package 3**, the **positive contribution of measures under Policy Package 2 is further supported with additional strengthening of enforcement of Regulation 1071/2009**, which is expected to lead to a reduced risk of formation of letterbox companies due to adjustments to the establishment criteria. Further improvements, are also expected due to all other measures, including positive effects due to co-liability principles, more harmonised definitions of infringements and easier enforcement of cabotage. However, **Policy Package 3 also has important additional costs** to businesses related to the provisions on stable and effective establishment. Other measures, such as changes to the maximum period of cabotage operations from 7 to 4 days are expected to have small cost implications for business, (cost increase of €42 million over the 2020-2035 period). Conversely, costs for authorities under Policy package 3 are 50-60% less than those estimated for Policy Package 2, mainly due to the savings associated from changes to the cabotage rules.

Overall, in the case of Policy Package 3, the additional benefits from strengthening the enforcement of Regulation 1071/2009 and reducing the presence of letterbox achieved by the provisions on stable and effective establishment come with significant additional cost for businesses. In the case of effectiveness against most of the objectives, there is very little difference between the reduction of the cabotage period to 4 days versus keeping it at 7 days in PP3. The main difference emerges in the objective to reduce administrative costs, where it is clear that the 7 day option is preferable.

Concerning the **full extension of the scope of Regulations 1071/2009 (Policy Package 4a)**, the introduction of the four provisions that currently apply to the use of HGVs in the case of Regulation 1071/2009 will remove the option of hauliers to use LCVs to circumvent the Regulations, an issue that is raised by stakeholders in a number of Member States, but for which the existing evidence is very limited. Thus, there will positive contribution by reducing intentional non-compliance. Similarly, hauliers that use LCVs to perform cabotage operation will not be able to perform cabotage without any time

limitations. However, the evidence that this is indeed happening in a significant scale is limited.

At the same time, sizeable additional compliance and administrative costs are expected (8-20% in the case of Regulation 1071/2009 and 7-15% for Regulation 1072/2009) for those hauliers that have limited familiarity with the Regulations (estimated in the range of 23,000-114,000 for 1071/2009 and no more than 3,000 for 1072/2009). The extension will also introduce additional costs (roughly estimated at €30 million for the period 2020-2035) for those authorities that will need to extend existing monitoring and enforcement practices and procedures to control the use of LCVs. Overall, there is no clear conclusion on the cost-effectiveness of the specific package but, given that the certain measures are already in place in some Member States it should contribute to a more consistent and coherent legal framework across the EU.

A partial extension of the scope of Regulations 1071/2009 and 1072/2009 (**Policy Package 4b**) is expected to have similar impact in terms of professionalisation and fair competition while reducing some of the additional compliance costs and, to a lesser extent, the respective costs for authorities. In most other respects, the impacts should be largely similar to Policy Package 4a.

D.1 Coherence of policy options

In terms of the coherence with EU policy, the following aspects were examined:

- Internal coherence among the policy measures under consideration
- Coherence with key EU policy objectives including:
 - Impact on the operation of the transport markets, including impact on transport activity, competition in the transport market and prices and EU integration.
 - The impact on SMEs in line with the EU Small Business Act (European Commission, 2008)
 - Social impacts, focusing on impact on working conditions, an important aspect of the EU policy as identified in the 2011 White paper (European Commission, 2011c),
- Coherence with other relevant EU legislation (Social legislation in road transport, Combined Transport Directive, Tachograph Regulation, Posting of Workers Directive)

In general, there are no specific problems regarding **internal coherence**, inconsistencies or gaps among the Policy Packages which were designed in a way to ensure that all root causes and drivers are addressed. This is particularly in the case of Packages 2 and 3 which include mandatory measures that are expected to work in a complementary manner to strengthen effectiveness of enforcement by increasing consistency, improving communication, cooperation and increasing clarity. This is probably less the case for Policy Package 1 that includes voluntary measures that may not be adopted by all Member States and thus, in practice, only partly address some of the problems identified. Nonetheless there are no evident issues of internal coherence among the measures under Package 1.

In the case of Policy Package 4, a full extension of the scope to cover LCVs, is clearly coherent with the other measures aiming to address the existing problems identified in the problem definition. An extension of the scope, whether fully or partially, should help close this loophole. Thus, it is strongly coherent with all other policy packages. At the same time the extension of the scope (especially a full extension) is expected to pose certain challenges to authorities requiring additional resources – although possibly not significant. On this basis, authorities and hauliers affected may find that implementation of the additional measures under the other Policy Packages (mainly 2 and 3) can be more challenging and demanding if the extension takes place in parallel. In that respect, a longer transition period may help mitigate any negative impacts.

In terms of **coherence with EU policy objectives**, measures under **Policy Package 1** will only have a marginal impact on cabotage activity, driven by clarifications of the rules. The focus on the provision of information about the rules fit with the needs and characteristics of SMEs that are resource-constrained. In terms of its social impacts, Policy Package 1 will only have a minor impact on working conditions and job quality given the expected limited impact on illegal activity and absence of any effect on cabotage penetration.

In the case of **Policy Package 2**, the measures are not expected to have any sizeable impact on the level of transport activity, nor– are they expected to have disproportionate impacts on SMEs. In addition, the expected reduction in the level of illegal activity will probably have an important positive impact on working conditions and, indirectly, improve the attractiveness of the sector.

The adoption of **Policy package 3** can lead to a sizeable reduction in cabotage activity (-35%) if the period available for cabotage is reduced to 4 days. The adoption of the more demanding criteria for stable and effective establishment has a very small impact on cabotage activity by reducing the cost differentials and thus the incentive of some operators to engage in cabotage. While the impacts on the overall EU market and competition will probably be limited – given the small share of cabotage in total transport – hauliers from Member States that are the ones primarily engaged in cabotage will be affected. In addition, in terms of EU integration and free movement, the adoption of a 4 day cabotage period will have a small negative impact although Member States have very different views concerning the extent that increasing cabotage is positive or negative in terms of the operation of the market. At the same time, the adoption of PP3 measures should in principle lead to a reduction of the incentives for business relocation and out-flagging, promoting fair competition.

However, maintaining the maximum number of days for a cabotage period at 7 days eliminates the reduction in cabotage activity (while the impact of other measures remains the same). This version of the measure will probably also have a small positive impact in terms of operation of the market by reducing barriers to trade.

SMEs are also expected to be negatively affected by increased compliance costs under Policy Package 3 due to new requirements on stable and effective establishment and the cabotage period, although this impact can be mitigated through judicious implementation choices. Furthermore, they may benefit from small positive impacts due to administrative cost savings and the introduction of penalties for shippers and freight forwarders, given that this will strengthen their limited bargaining power and be able to withstand any pressures for performing illegal cabotage.

In the case of **Policy Package 4**, the overall impact on the level of transport activity (domestic and international) would most probably be limited – on the basis of current evidence of the low use of LCVs in international transport operations. However, the extension is expected to strengthen the professionalisation of the sector – which can also have positive impact on working conditions - while ensuring fair competition among hauliers using LCVs and in relation to those that use HGVs. A partial extension of the scope of Regulations 1071/2009 and 1072/2009 (**Policy Package 4b**) is expected to have largely similar effects with Policy Package 4a in relation to transport activity and working conditions. In terms SMEs it will have a reduced impact in terms of costs of operation.

The analysis also identified areas of **interaction of the policy packages with other EU legislation**.

In relation to **Social legislation**, by strengthening enforcement and improving cooperation in the context of Regulation 1071/2009 and 1072/2009 the proposed packages contribute to strengthening the effectiveness of social legislation while in parallel benefiting from synergies that can lead to cost savings. Policy Packages 2 and 3 are the most relevant in that respect.

The analysis of the interactions identified possible synergies from opening and extending of national risk-rating systems and adopting common classification of undertakings are very similar to measures already in place or under consideration in the case of social legislation (Policy Packages 2 and 3). Their adoption in the case of Regulations 1071/2009 and 1072/2009 should take into account the relevant design parameters under social legislation in order to bring cost and effectiveness synergies. The same applies to extension of information and access to the ERRU or the use of GNSS tachographs (Policy package 2 and 3) that also relevant for enforcing social legislation and improving their effectiveness during roadside or premises checks. The adoption of the co-liability principle in the case of infringements (under Policy Package 3) is also expected to bring Regulation 1071/2009 and 1072/2009 in line with existing provisions in Regulation 561/2006. Measures related to common training and joint cross border controls (under Packages 1, 2 and 3) should also benefit from similar provisions. The adoption of the stable and effective establishment provisions (policy package 3) is also coherent with social legislation objectives. To the extent that it is expected to help reduce letterbox companies it will also contribute to the enforcement of social legislation due to the difficulty of monitoring the activities of such companies, which increases the risk that they can infringe the rules.

There are also similar possible enforcement effectiveness and cost synergies in relation to Policy Package 4, to the extent that a similar extension of social legislation provisions applies to LCVs. All above measures are in line with conclusions in (Ricardo et al, 2015) that strengthening monitoring provisions in Regulations 1071/2009 and 1072/2009 is necessary to ensure coherence with the social legislation.

In the case of the **Combined Transport Directive**, Policy Packages 2 and 3 – which include a measure promoting the use of e-CMR and more generally of electronic documentation - are coherent with existing initiatives in relation to the Combined Transport Directive.

In relation to **Tachograph Regulation No 165/2014**, the proposed mandatory use of GNSS digital tachographs for enforcement (Policy Package 2 and 3) before 2034 is, in principle, coherent with the Tachograph Regulation. However, it should not be expected to have any significant contribution in terms of facilitating the broader adoption of GNSS tachographs. At the same time, the broader adoption of the smart tachograph can play a positive role in enhancing the enforcement of Regulation 1072/2009.

Concerning the **Posting of Workers Directive (96/71/EC)**, Policy Packages 2 and 3 do not make any significant contribution in terms of the monitoring and enforcement of cabotage operations. However, in relation to the **Enforcement Directive of the Posting of Workers Directive (2014/67/EU)** the proposed measure on stable and effective establishment (Policy Package 3) under Regulation 1071/2009 is in line with Article 4 of Directive 2014/67/EU which states that Member States required to check that an undertaking "*genuinely performs substantial activities, other than purely internal management and/or administrative activities*". The proposed measure – which includes very similar criteria - is clearly in line. Similarly, measures under Package 2 and 3 that improve information exchange and cooperation among Member State authorities are also in line with the Enforcement Directive of the Posting of Workers Directive (2014/67/EU) which provides for improved cooperation (Article 7(5)).

E. Preferred policy option

Overall, the preferred policy package should be a hybrid that combines the best elements of **Policy Packages 2 and 3b**.

Policy Package 2 has the best balance between effectiveness towards improved enforcement and compliance levels and increased coherence of implementation on the one hand, versus the increased costs on the other hand. At the same time, it appears to have lowest negative impacts in terms of current levels of transport activity (assuming that reducing cabotage is not considered as a policy objective) and competition, while still contributing to the improvement of working conditions.

Policy Package 3 is overall more effective – particularly in terms of reducing letterbox companies – but it is also significantly more costly than Package 2. Policy Package 3a (the scenario of maximum 4 days of cabotage) is expected to have a significant negative impact on cabotage activity. However, maintaining the current number of maximum days (7) while removing the maximum number of operations (Policy Package 3b) has a small positive impact in terms of cabotage activity and improves enforceability while reducing some costs for businesses. As a result, PP3b is preferable to PP3a.

While it has some possible benefits in terms of effectiveness and very limited costs, **Policy Package 1** is not expected to provide the answer to the problems identified in the problem definition.

Finally, in relation to **horizontal Policy Package 4**, a partial extension (with reduced requirements for financial standing in relation to Regulation 1071/2009) appears preferable to a full extension of the scope. It is less costly for business while still providing largely similar benefits in terms of the addressing the issue of unfair competition and potential to circumvent the provisions of Regulations 1071/2009 and 1072/2009. However, it should be stated that the available evidence for the extension of the scope is very limited and the nature and extent of the problems posed is still not clearly defined.

F. Monitoring evaluation framework

In relation to the proposed policy packages, we considered that the proposed monitoring and evaluation framework should aim to cover the following aspects of the initiative:

- **Implementation:** Cover 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:** Focus 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:** Cover 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, where applicable:** 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 available. This is in addition to the more contextual information concerning the evolution of road freight transport (national, international, cabotage) which is already monitored.

SYNTHÈSE

A. *Objet et portée de l'étude*

Les Règlements (CE) N° 1071/2009 et 1072/2009 ont été adoptés dans le cadre d'une combinaison visant à promouvoir l'achèvement du marché intérieur du transport routier. Ces deux Règlements visaient à soutenir cet objectif en garantissant des conditions équitables de concurrence entre les transporteurs résidents et non-résidents. Suite à une évaluation ex-post des deux Règlements, la Commission a conclu à la nécessité de les réviser afin de combler les principales lacunes qui se traduisent notamment par :

- des conditions de concurrence inégales pour les opérateurs de transport en fonction de leur lieu d'établissement ;
- un fardeau réglementaire important pour les États membres.

La présente évaluation d'impact vise à explorer différentes options de modification de ces deux Règlements. Cette étude vise à étayer l'évaluation d'impact de la révision du Règlement (CE) N° 1071/2009 relatif à l'accès à la profession de transporteur par route et du Règlement (CE) N° 1072/2009 relatif à l'accès au marché du transport international de marchandises par route.

B. *Options stratégiques analysées*

Un certain nombre de mesures ont été identifiées en vue de résoudre les problèmes ainsi que les causes sous-jacentes et les facteurs à l'origine de ces problèmes. Elles ont été regroupées en 4 combinaisons de mesures :

- **Combinaison de mesures 1 – Clarification du cadre légal (C1) :** les mesures incluses visent à clarifier les ambiguïtés actuelles (en apportant, par exemple, des définitions plus claires en matière de situation financière) sans modifier substantiellement les règles et les mesures visant à faciliter l'application des règles, dès lors que ces mesures ne sont pas censées impliquer des coûts de conformité ou des charges administratives significatives (par exemple, promouvoir la formation commune des agents d'application des règles ou d'autres mesures d'échange d'informations sur la base d'une libre adhésion).
- **Combinaison de mesures 2 – Renforcement de l'application des règles (C2) :** outre les mesures prises dans la combinaison de mesures 1, cette combinaison comprenait des mesures visant à renforcer l'application des règles mais qui devraient impliquer des coûts de conformité ou des charges administratives significatifs (par exemple, la mise en place d'un nombre minimum de contrôles du respect des dispositions en matière de cabotage, d'une coopération obligatoire entre les États membres). La combinaison de mesures 2 n'a pas modifié de manière significative le cadre général des règles.
- **Combinaison de mesures 3 – Révision approfondie des Règlements (C3) :** Outre les mesures figurant dans la combinaison de mesures 2, cela comprend d'autres mesures visant à modifier substantiellement le cadre juridique actuel en modifiant les règles régissant le cabotage ainsi que les règles d'accès à la profession (par exemple, les conditions relatives au principe d'établissement stable et effectif). En outre, les modifications de fond apportées aux règles nécessitent également des modifications complémentaires aux conditions d'application et de suivi afin de soutenir la transition.
- **Combinaison de mesures 4 – Elargissement du champ d'application aux VUL (C4) :** Cette combinaison de mesures couvrait l'élargissement du champ d'application des deux Règlements en vue de couvrir les véhicules utilitaires légers (VUL). Il comprenait deux sous-options :
 - 4a – Elargissement complet du champ d'application des deux Règlements afin de couvrir l'utilisation des VUL, y compris toutes les dispositions applicables (inclusion complète des véhicules < 3,5 t) ;

- 4b – Elargissement partiel du champ d'application des deux Règlements (inclusion partielle des véhicules < 3,5 t) qui n'inclut que certaines des dispositions applicables ;

La combinaison de mesures 4 était une combinaison horizontale qui pouvait être combinée avec les autres combinaisons de mesures – ainsi qu'avec un scénario de statu quo.

C. Méthode et processus suivis

L'analyse des impacts des combinaisons de mesures proposées et des mesures individuelles envisagées comprenait une évaluation des impacts économiques et sociaux des mesures proposées par rapport au scénario de référence qui reflétait la manière dont les problèmes identifiés, ainsi que leurs causes sous-jacentes et leurs facteurs, devraient se développer. La base de référence ainsi développée incluait une description de l'évolution présumée des principaux facteurs de problèmes et l'élaboration d'estimations quantitatives de référence.

Les outils de recherche suivants ont été utilisés afin de recueillir les données pertinentes permettant d'évaluer en termes quantitatifs et, si possible, en termes qualitatifs, l'impact attendu des mesures proposées :

- Recherche documentaire et collecte de données en vue d'identifier, d'extraire et d'analyser des sources de données secondaires provenant d'études, de rapports et de bases de données pertinents qui ont été utilisés pour le développement de la base de référence et la quantification des impacts des mesures proposées.
- Une consultation publique ouverte organisée par la Commission dans le cadre de laquelle un total de 175 réponses a été fourni.
- Trois enquêtes, dont une enquête sur les transporteurs (80 réponses), une enquête auprès des autorités nationales (18 réponses) et un sondage auprès d'un panel représentatif des PME (17 réponses).
- Un total de 36 entretiens réalisés avec des parties prenantes sélectionnées et couvrant les autorités nationales responsables de la mise en œuvre et de l'application des Règlements, des représentants de l'industrie (au niveau de l'UE et au niveau national), des opérateurs de transport individuels, ainsi que des représentants syndicaux.
- Cinq études de cas axées sur le niveau d'utilisation des VUL dans le transport routier de marchandises, examinant les tendances actuelles et évaluant le rôle de la réglementation au Danemark, en Allemagne, en Pologne, en Roumanie et en France.

D. Analyse d'impacts

D.1 Efficacité et efficacité des options stratégiques

Les options stratégiques ont été analysées et évaluées par rapport à la base de référence en ce qui concerne :

- leur efficacité en termes de réalisation des objectifs clés, qui étaient notamment les suivants :
 - Assurer un suivi et une application cohérents et homogènes des règles actuelles au sein des États membres ;
 - Assurer une interprétation et une application cohérentes des règles actuelles au sein des États membres ;
 - Réduire les charges pour les autorités nationales et les entreprises de transport ;
- leur efficacité (coûts/économies) par rapport au scénario de référence.

Le Tableau 0-2 au verso résume les conclusions de l'analyse.

Tableau 0-2 : Comparaison des impacts des combinaisons de mesures en termes de réalisation des objectifs (par comparaison avec la base de référence) (Les chiffres fournis représentent des valeurs actuelles nettes pour la période 2020-2035, en millions d'euros ; les valeurs négatives indiquent des économies de coûts)

Fortement négatif		Faiblement négatif	Impact nul ou limité	Faiblement positif	Fortement positif	
	C1	C2	C3 (4 jours)	C3 (7 jours)	C4a (élargissement complet)	C4b (élargissement partiel)
Efficacité						
Suivi et application cohérents et homogènes des règles actuelles au sein des Etats membres						
Efficacité du suivi et de l'application des Règlements	Effet positif réduit	Effet positif important grâce à l'amélioration de l'accès et de l'échange d'informations Contrôles de plus en plus ciblés	C2 et effet positif important sur les risques de sociétés fictives dû aux normes plus exigeantes en matière d'établissement		Effet positif en limitant la non-conformité intentionnelle visant à contourner les règles existantes	
Niveaux de non-conformité	Effet positif réduit sur la réduction de la non-conformité intentionnelle et non intentionnelle	Forte réduction des infractions en matière de cabotage de l'ordre de 62 %	Forte réduction des infractions en matière de cabotage de l'ordre de 62 % et diminution de ~10 % des risques de sociétés fictives		Augmentation possible à court terme de la non-conformité non-intentionnelle Progressivement similaire aux poids lourds	Non-conformité réduite du fait des dispositions moins exigeantes
Interprétation et application cohérentes des règles actuelles au sein des Etats membres						
Application cohérente des règles dans l'ensemble de l'UE-28	Effet positif réduit basé sur une coopération volontaire, des contrôles conjoints, des procédures communes en matière d'honorabilité et une clarification des règles	Effet positif important basé sur une coopération à l'échelle de l'UE, une action conjointe et des règles communes pour les contrôles de cabotage, et une clarification des règles	C2+ effet positif réduit basé sur une classification commune des infractions		Effet positif important en assurant une approche commune de la réglementation de l'utilisation des VUL	
Efficience (coûts totaux en millions €) (Les coûts sont présentés comme des chiffres positifs et les économies comme des chiffres négatifs)						
Réduire les charges administratives pour les autorités nationales et les entreprises de transport						
Coûts administratifs et de conformité pour les entreprises	Aucun impact prévu pour les transporteurs	-5.969 à -8.849 (BR1) -5.421 à -8.020 (BR2)	4.740 à 7.766 (BR1) 5.320 à 8.156 (BR2)	1.690 à 5.616 (BR1) 2.550 à 6.206 (BR2)	8 % à 20 % d'augmentation des frais d'exploitation pour 23 à 114k opérateurs (1071), 7 à 15 % d'augmentation des frais d'exploitation pour moins de 3k opérateurs (1072)	Impacts réduits comparé à la C4a (le niveau dépend des mesures spécifiques)
Coûts pour les autorités pour la mise en œuvre et l'application	Coûts très limités/insignifiants du fait du caractère volontaire des mesures	105,3 à 320,9	65,2 à 165,6 €		4,4 à 21,6 (1071) 0,2 à 11,9 en DE (1072)	Similaire à la C4a

Dans le cas de la **combinaison de mesures 1**, une contribution positive devrait être attendue en ce qui concerne le niveau de conformité aux Règlements sur la base d'une meilleure coopération transfrontalière, d'une interprétation/de pratiques d'application plus harmonisées des règles, d'un partage des meilleures pratiques et de messages dissuasifs plus cohérents à destination des transporteurs en ce qui concerne l'application des règles en matière de perte d'honorabilité. Cependant, les **effets globaux devraient être réduits** en raison du caractère volontaire des mesures de formation/des contrôles conjoints et des modifications apportées aux systèmes d'évaluation des risques/ERRU, ce qui limitera leur adoption. Dans le même temps, il n'y a que des coûts très limités pour les autorités et les entreprises. Le caractère volontaire de la plupart des mesures signifie qu'il est possible pour les autorités de choisir les mesures à adopter et, par conséquent, de minimiser les coûts. Ainsi, en termes de coûts et d'efficacité, la combinaison de mesures 1 présente un intérêt important.

Dans le cas de la **combinaison de mesures 2**, un impact positif plus fort sur les niveaux de conformité est attendu en raison de la mise à niveau obligatoire des systèmes d'évaluation des risques et du registre ERRU, combinée à l'adoption d'un contrôle minimum de 3 % du cabotage. Ces mesures combinées peuvent réduire jusqu'à 62 % les infractions liées au Règlement (CE) N° 1072/2009. D'autres contributions moindres à l'amélioration de la conformité sont attendues en raison d'autres mesures, dont la formation commune obligatoire et les contrôles conjoints transfrontaliers, une information élargie dans le registre ERRU et un accès amélioré pour les agents de sécurité routière. Dans l'ensemble, la combinaison de mesures 2 peut être très efficace en termes d'amélioration des niveaux de conformité au Règlement (CE) N° 1072/2009. La contribution prévue en ce qui concerne le respect du Règlement (CE) N° 1071/2009 (sociétés fictives) est moins importante, mais il devrait cependant y avoir une contribution positive en raison d'une meilleure coopération en matière de contrôles transfrontaliers.

La C2 semble également présenter un bon rapport coût-efficacité. L'acceptation obligatoire des lettres de voiture électroniques par les agents d'exécution peut entraîner des économies de coûts significatives. Cependant, il est difficile de déterminer dans quelle mesure l'adoption des lettres de voiture électroniques par les entreprises peut être directement attribuée à l'adoption des mesures stratégiques. Dans notre analyse, nous avons supposé qu'environ 30 % des économies de coûts associées peuvent être liées à la C2.

Dans le cas de la **combinaison de mesures 3**, la **contribution positive des mesures de la combinaison 2 est encore améliorée par un renforcement supplémentaire de l'application du Règlement (CE) N° 1071/2009**, ce qui devrait entraîner un risque réduit de formation de sociétés fictives en raison des ajustements apportés aux critères d'établissement. D'autres améliorations sont également attendues du fait de l'ensemble des autres mesures, avec notamment des effets positifs dus aux principes de coresponsabilité, à une meilleure harmonisation des définitions des infractions et à une application plus simple des règles de cabotage. Toutefois, **la combinaison de mesures 3 présente également des coûts supplémentaires importants** pour les entreprises qui sont liés aux dispositions relatives au principe d'établissement stable et effectif. D'autres mesures, telles que la modification de la durée maximale des opérations de cabotage portée de 7 à 4 jours, devraient avoir des incidences réduites sur les coûts pour les entreprises (augmentation des coûts de 42 millions d'euros sur la période 2020-2035). À l'inverse, les coûts pour les autorités en vertu de la combinaison de mesures 3 sont inférieurs de 50 à 60 % aux coûts estimatifs de la combinaison de mesures 2, principalement en raison des économies associées aux modifications apportées aux règles de cabotage.

Globalement, dans le cas de la combinaison de mesures 3, les avantages supplémentaires liés au renforcement de l'application du Règlement (CE) N° 1071/2009 et à la réduction de la présence de sociétés fictives par les dispositions relatives au principe d'établissement stable et effectif comportent des coûts supplémentaires importants pour les entreprises. En termes d'efficacité par rapport à la plupart des objectifs, il y a très peu de différences

entre la réduction de la période de cabotage à 4 jours et son maintien à 7 jours dans le cadre de la C3. La principale différence résulte de l'objectif de réduction des coûts administratifs, auquel cas il ressort clairement que l'option de 7 jours est préférable.

En ce qui concerne **l'élargissement complet du champ d'application du Règlement (CE) N° 1071/2009 (combinaison de mesures 4a)**, l'introduction des quatre dispositions qui s'appliquent actuellement à l'utilisation de poids lourds dans le cas du Règlement (CE) N° 1071/2009 supprimera l'option consistant, pour les transporteurs, à utiliser des VUL en vue de contourner le Règlement ; cette question est en effet soulevée par les parties prenantes dans un certain nombre d'États membres, mais les éléments de preuve y afférents sont très limités. Ainsi, il y aura une contribution positive en réduisant la non-conformité intentionnelle. De même, les transporteurs qui utilisent des VUL pour effectuer une opération de cabotage ne pourront pas effectuer de cabotage sans limitation de durée. Cependant, les éléments de preuve démontrant que cela se produit effectivement sur une échelle importante sont limités.

Dans le même temps, d'importants coûts administratifs et de conformité additionnels sont attendus (de 8 à 20 % dans le cas du Règlement (CE) N° 1071/2009, et de 7 à 15 % dans le cas du Règlement (CE) N° 1072/2009) pour les transporteurs ayant une connaissance limitée du Règlement (selon les estimations, entre 23.000 et 114.000 pour le Règlement (CE) N° 1071/2009, et pas plus de 3.000 pour le Règlement (CE) N° 1072/2009). L'élargissement induira également des coûts supplémentaires (estimés à environ 30 millions d'euros pour la période 2020-2035) pour les autorités qui devront étendre les pratiques et procédures de contrôle et d'application actuelles afin de contrôler l'utilisation des VUL. Dans l'ensemble, il ne se dégage aucune conclusion claire quant au rapport coût-efficacité de cette combinaison spécifique, mais étant donné que certaines mesures sont déjà mises en place dans certains États membres, il devrait néanmoins contribuer à un cadre juridique plus cohérent et homogène dans l'ensemble de l'UE.

Un élargissement partiel du champ d'application des Règlements (CE) N° 1071/2009 et 1072/2009 (**combinaison de mesures 4b**) devrait avoir un impact similaire en termes de professionnalisation et de concurrence loyale tout en réduisant certains des coûts additionnels de conformité et, dans une moindre mesure, les coûts respectifs pour les autorités. Dans la plupart des autres cas, les impacts devraient être largement similaires à la combinaison de mesures 4a.

D.1 Cohérence des options stratégiques

En termes de cohérence avec la politique de l'UE, les aspects suivants ont été examinés :

- Cohérence interne entre les mesures stratégiques envisagées
- Cohérence avec les principaux objectifs stratégiques de l'UE, et notamment :
 - Impact sur le fonctionnement des marchés du transport, y compris l'impact sur les activités de transport, la concurrence sur le marché des transports et les prix, et l'intégration de l'UE
 - L'impact sur les PME conformément au « Small Business Act » pour l'Europe (Commission européenne, 2008)
 - Les impacts sociaux, avec notamment l'impact sur les conditions de travail qui constitue un aspect important de la politique de l'UE tel qu'identifié dans le Livre blanc de 2011 (Commission européenne, 2011c)
- Cohérence avec d'autres lois pertinentes de l'UE (législation sociale en matière de transport routier, Directive relative aux transports combinés, Règlement relatif aux tachygraphes, Directive sur le détachement de travailleurs).

En général, il n'y a pas de problèmes spécifiques en termes de **cohérence interne**, d'incompatibilités ou de lacunes entre les combinaisons de mesures qui ont été conçues de manière à garantir que toutes les causes fondamentales et tous les facteurs soient abordés. C'est notamment le cas des combinaisons 2 et 3 qui incluent des mesures

obligatoires qui devraient fonctionner de manière complémentaire afin de renforcer l'efficacité de l'application des règlements en augmentant la cohérence, en améliorant la communication et la coopération, et en apportant également un surcroît de clarté. C'est probablement moins le cas de la combinaison de mesures 1 qui comprend des mesures volontaires qui ne peuvent pas être adoptées par tous les États membres et qui, en pratique, n'abordent donc que partiellement certains des problèmes identifiés. Néanmoins, il n'existe pas de problèmes apparents de cohérence interne entre les mesures prévues au titre de la combinaison 1.

Dans le cas de la combinaison de mesures 4, un élargissement complet du champ d'application en vue de couvrir les VUL est clairement cohérent avec les autres mesures visant à résoudre les problèmes existants identifiés dans la définition du problème. Un élargissement du champ d'application, total ou partiel, devrait contribuer à combler cette lacune. De ce point de vue, il est fortement cohérent avec tous les autres combinaisons de mesures. Dans le même temps, l'élargissement du champ d'application (et, notamment, son élargissement complet) devrait poser certaines difficultés aux autorités en termes de ressources supplémentaires – mais il est possible qu'elles ne soient pas significatives. Sur cette base, les autorités et les transporteurs concernés pourront estimer que la mise en œuvre des mesures supplémentaires dans le cadre des autres combinaisons de mesures (principalement les combinaisons 2 et 3) peut être plus difficile et exigeante si l'élargissement s'effectue en parallèle. À cet égard, une période de transition plus longue peut contribuer à atténuer les impacts négatifs.

En termes de **cohérence avec les objectifs stratégiques de l'UE**, les mesures prévues au titre de la **combinaison de mesures 1** n'auront qu'un impact marginal sur l'activité de cabotage, induit par les clarifications apportées aux règles. L'accent mis sur la fourniture d'informations sur les règles répond aux besoins et aux caractéristiques des PME qui sont limitées en ressources. S'agissant de ses impacts sociaux, la combinaison de mesures 1 n'aura qu'un impact mineur sur les conditions de travail et la qualité de l'emploi compte tenu de son impact limité attendu sur les activités illégales et de son absence d'effet sur la pénétration du cabotage.

Dans le cas de la **combinaison de mesures 2**, on ne prévoit pas que les mesures aient un impact considérable sur le niveau de l'activité de transport ni qu'elles aient des impacts disproportionnés sur les PME. En outre, la réduction prévue du niveau d'activité illégale aura probablement un impact positif important sur les conditions de travail et permettra, indirectement, d'améliorer l'attractivité du secteur.

L'adoption de la **combinaison de mesures 3** peut entraîner une réduction considérable de l'activité de cabotage (-35 %) si la période disponible pour le cabotage est réduite à 4 jours. L'adoption de critères plus exigeants concernant le principe d'établissement stable et effectif a un impact très faible sur l'activité de cabotage en réduisant les écarts de coûts et, partant, les incitations de certains opérateurs à s'engager dans le cabotage. Bien que les impacts sur le marché et la concurrence dans l'ensemble de l'UE soient probablement limités – compte tenu de la faible part du cabotage dans le transport total – les transporteurs des États membres qui sont principalement engagés dans le cabotage en seront affectés. En outre, en termes d'intégration et de libre circulation au sein de l'UE, l'adoption d'une période de cabotage de 4 jours aura un faible impact négatif, bien que les États membres aient des opinions très différentes en ce qui concerne l'effet plus ou moins positif ou négatif d'une augmentation du cabotage en termes de fonctionnement du marché. Dans le même temps, l'adoption des mesures de la C3 devrait, en principe, aboutir à une réduction des incitations à la relocalisation et à l'immatriculation à l'étranger des entreprises, en soutenant le principe de concurrence loyale.

Cependant, le maintien du nombre maximum de jours d'une période de cabotage à 7 jours élimine la réduction de l'activité de cabotage (alors que l'impact d'autres mesures reste identique). Il est probable que cette version de la mesure aura également un faible impact positif en termes de fonctionnement du marché en réduisant les obstacles aux échanges.

Les PME devraient également être affectées négativement par des coûts de conformité accrus dans le cadre de la combinaison de mesures 3 du fait des nouvelles exigences relatives au principe d'établissement stable et effectif et à la période de cabotage, bien que cet impact puisse être atténué par des choix de mise en œuvre judicieux. En outre, elles pourront bénéficier de petits impacts positifs en raison des économies de coûts administratifs et de la mise en place de pénalités pour les expéditeurs et les transitaires, étant donné que cela renforcera leur pouvoir de négociation limité et leur permettra de résister aux pressions exercées en faveur du cabotage illégal.

Dans le cas de la **combinaison de mesures 4**, l'impact global sur le niveau de l'activité de transport (nationale et internationale) serait très probablement limité – au regard des éléments de preuve actuels démontrant une faible utilisation des VUL dans les activités de transport international. Cependant, l'élargissement devrait renforcer la professionnalisation du secteur – ce qui peut également avoir un impact positif sur les conditions de travail – tout en assurant une concurrence loyale entre les transporteurs utilisant des VUL et pour ceux qui utilisent des poids lourds. Un élargissement partiel du champ d'application des Règlements (CE) N° 1071/2009 et 1072/2009 (**combinaison de mesures 4b**) devrait avoir des effets largement similaires à ceux de la combinaison de mesures 4a en ce qui concerne l'activité de transport et les conditions de travail. Pour les PME, il aura un impact réduit en termes de coûts d'exploitation.

L'analyse a également identifié des domaines d'**interaction des combinaisons de mesures avec d'autres législations de l'UE**.

En ce qui concerne la **législation sociale**, en renforçant l'application des règles et en améliorant la coopération dans le cadre des Règlements (CE) N° 1071/2009 et 1072/2009, les combinaisons proposées contribuent au renforcement de l'efficacité de la législation sociale tout en bénéficiant parallèlement de synergies pouvant déboucher sur des économies de coûts. Les combinaisons de mesures 2 et 3 sont les plus pertinentes à cet égard.

L'analyse des interactions a identifié des synergies possibles découlant de l'ouverture et de l'élargissement des systèmes nationaux d'évaluation des risques et de l'adoption d'une classification commune des entreprises, mesures qui sont très semblables aux mesures déjà en place ou à l'étude dans le cas de la législation sociale (combinaisons de mesures 2 et 3). Leur adoption dans le cas des Règlements (CE) N° 1071/2009 et 1072/2009 devrait tenir compte des paramètres de conception pertinents en vertu de la législation sociale afin d'apporter des synergies en termes de coût-efficacité. Il en va de même de l'élargissement de l'information et de l'accès au registre ERRU ou de l'utilisation des tachygraphes GNSS (combinaisons de mesures 2 et 3), mesures qui sont également pertinentes pour l'application de la législation sociale et l'amélioration de leur efficacité lors des contrôles effectués sur la route ou dans les locaux. L'adoption du principe de coresponsabilité en cas d'infraction (en vertu de la combinaison de mesures 3) devrait également rendre les Règlements (CE) N° 1071/2009 et 1072/2009 conformes aux dispositions actuelles du Règlement 561/2006. Les mesures relatives à la formation commune et aux contrôles transfrontaliers conjoints (en vertu des combinaisons 1, 2 et 3) devraient également bénéficier de dispositions similaires. L'adoption des dispositions relatives au principe d'établissement stable et effectif (combinaison de mesures 3) est également cohérente avec les objectifs de la législation sociale. Dans la mesure où cela devrait contribuer à réduire les sociétés fictives, cela contribuera également à l'application de la législation sociale compte tenu de la difficulté qu'il y a à surveiller les activités de ces sociétés, laquelle difficulté aggrave le risque qu'elles puissent enfreindre les règles.

Il existe également des synergies possibles en matière d'efficacité d'application et de coûts en ce qui concerne la combinaison de mesures 4, dans la mesure où un élargissement similaire des dispositions de la législation sociale s'applique aux VUL. Toutes les mesures ci-dessus sont conformes aux conclusions (Ricardo et al., 2015) selon lesquelles le renforcement des dispositions de surveillance des Règlements (CE) N° 1071/2009 et 1072/2009 est nécessaire afin d'assurer la cohérence avec la législation sociale.

Dans le cas de la **Directive relative aux transports combinés**, les combinaisons de mesures 2 et 3 – qui comprennent une mesure visant à promouvoir l'utilisation des lettres de voiture électroniques et, plus généralement, l'utilisation de la documentation électronique – sont cohérentes avec les initiatives existantes concernant la Directive relative aux transports combinés.

En ce qui concerne le **Règlement (UE) N° 165/2014 relatif aux tachygraphes**, l'utilisation obligatoire proposée des tachygraphes numériques GNSS pour l'application des règles (combinaisons de mesures 2 et 3) avant 2034 est, en principe, cohérente avec le Règlement relatif aux tachygraphes. Cependant, il ne faut pas s'attendre à une contribution significative en termes de facilitation de l'adoption plus large des tachygraphes GNSS. Dans le même temps, l'adoption plus large du tachygraphe intelligent peut jouer un rôle positif dans l'amélioration de l'application du Règlement (CE) N° 1072/2009.

En ce qui concerne la **Directive 96/71/CE concernant le détachement de travailleurs**, les combinaisons de mesures 2 et 3 ne contribuent pas de manière significative au suivi et à l'application des règles relatives aux activités de cabotage. Toutefois, en ce qui concerne la **Directive 2014/67/UE à l'exécution de la directive concernant le détachement de travailleurs**, la mesure proposée en matière d'établissement stable et effectif (combinaison de mesures 3) dans le cadre du Règlement (CE) N° 1071/2009 est conforme à l'article 4 de la Directive 2014/67/UE qui stipule que les États membres doivent vérifier que l'entreprise « exerce réellement des activités substantielles, autres que celles relevant uniquement de la gestion interne ou administrative ». La mesure proposée – qui comprend des critères très similaires – est clairement conforme. De même, les mesures des combinaisons 2 et 3 qui visent à améliorer l'échange d'informations et la coopération entre les autorités des États membres sont également conformes à la Directive d'exécution 2014/67/UE de la directive relative au détachement de travailleurs qui prévoit une coopération améliorée (article 7, paragraphe 5).

E. Option stratégique préférée

Dans l'ensemble, la combinaison de mesures préférée devrait être un hybride combinant les meilleurs éléments des **combinaisons de mesures 2 et 3b**.

La **combinaison de mesures 2** présente le meilleur équilibre entre l'efficacité recherchée en termes d'amélioration de l'application des règles et des niveaux de conformité et la cohérence accrue de la mise en œuvre, d'une part, par rapport à l'augmentation des coûts, d'autre part. Parallèlement, il semble présenter les impacts négatifs les plus faibles en ce qui concerne les niveaux actuels d'activité de transport (en supposant que la réduction du cabotage ne soit pas considérée comme un objectif stratégique) et la concurrence, tout en contribuant à l'amélioration des conditions de travail.

La **combinaison de mesures 3** est globalement plus efficace – notamment en ce qui concerne la réduction des sociétés fictives – mais il est également beaucoup plus onéreux que la combinaison 2. La combinaison de mesures 3a (avec le scénario d'un maximum de 4 jours de cabotage) devrait avoir un impact négatif important sur l'activité de cabotage. Cependant, bien que le maintien du nombre actuel de jours maximum (7) ait pour effet de supprimer le nombre maximal d'opérations (combinaison de mesures 3b), cette mesure a un faible impact positif en termes d'activité de cabotage, et améliore l'applicabilité des règles tout en réduisant certains coûts pour les entreprises. Par conséquent, la C3b est préférable à la C3a.

Bien qu'il présente des avantages potentiels en termes d'efficacité ainsi que des coûts très limités, la **combinaison de mesures 1** ne devrait pas répondre aux problèmes identifiés dans la définition du problème.

Enfin, en ce qui concerne la **combinaison de mesures horizontal 4**, un élargissement partiel (avec des exigences réduites en matière de situation financière par rapport au Règlement (CE) N° 1071/2009) semble préférable à un élargissement complet du champ

d'application. Il est moins onéreux pour les entreprises, tout en offrant cependant des avantages largement similaires en termes de traitement du problème de la concurrence déloyale et de la possibilité de contournement des dispositions des Règlements (CE) N° 1071/2009 et 1072/2009. Toutefois, il convient de préciser que les éléments de preuve disponibles pour l'élargissement du champ d'application sont très limités et que la nature et l'étendue des problèmes posés ne sont toujours pas clairement définies.

F. Suivi du cadre d'évaluation

En ce qui concerne les combinaisons de mesures proposées, nous avons estimé que le cadre de suivi et d'évaluation proposé devrait viser à couvrir les aspects suivants de l'initiative :

- Mise en œuvre : elle doit couvrir les modifications apportées au Règlement et l'adoption des mesures nécessaires à la mise en œuvre des mesures stratégiques sélectionnées. Dans la plupart des cas, les données pertinentes devraient être disponibles auprès des services de la Commission ou devraient, éventuellement, s'appuyer sur les rapports des autorités nationales.
- Application : elle doit mettre l'accent sur les changements réels observés suite à la réalisation des mesures et être étroitement liée aux objectifs spécifiques et opérationnels. Les données pour certains des indicateurs pertinents devraient être relativement faciles à obtenir et devraient pouvoir être incluses dans les rapports bisannuels soumis par les autorités ou collectés directement par les services de la Commission. D'autres aspects devront être couverts dans le cadre de l'évaluation des Règlements lorsque des enquêtes et d'autres outils seront utilisés afin de recueillir des informations pertinentes (telles que les coûts de conformité).
- Application des règles et conformité : couvrir l'étendue des activités d'application des règles et les niveaux de conformité. Les données pertinentes pour la plupart des indicateurs sont disponibles dans les rapports de suivi bisannuels soumis par les autorités.
- Informations contextuelles, le cas échéant : davantage d'informations sur le niveau d'utilisation de la documentation électronique et des tachygraphes intelligents, mais aussi sur le niveau d'utilisation des VUL dans les transports nationaux et internationaux (pour lesquels les informations sont limitées) devraient être disponibles. Cela s'ajoute aux informations plus contextuelles relatives à l'évolution du transport routier de marchandises (national, international, et cabotage) qui font déjà l'objet d'un suivi.

1 INTRODUCTION - BACKGROUND AND CONTEXT OF THE STUDY

1.1 Purpose of the study

This study aims to provide support to the Impact Assessment for the revision of Regulation (EC) No 1071/2009 on access to the occupation of road transport operator and Regulation (EC) No 1072/2009 on access to the international road transport market.

Following the Ex-post Evaluation of the two Regulations, the Commission identified a need for their revision. The present Impact Assessment sets out to explore different options for amending the two Regulations.

1.2 Context

1.2.1 Policy context

Regulations (EC) No 1071/2009 and 1072/2009 were adopted as part of a package aiming to advance the completion of the internal market in road transport. Both Regulations were intended to support this objective by ensuring a level-playing field between resident and non-resident hauliers. Road freight transport is essential to the functioning of the EU economy, accounting for around three quarters of all inland freight transport activities (in t-km) according to the 2015 EU Transport in figures (European Commission, 2016f). Thus, the efficiency of freight operations is important for the growth and competitiveness of Europe.

To ensure high quality of service, hauliers must meet certain requirements before being allowed to establish a road haulage company. Regulation (EC) No 1071/2009 lays down the requirements for access to the occupation of road transport operator, namely that undertakings and/or the manager are required to:

- 1) Have an effective and stable establishment in a Member State;
- 2) Be of good repute, i.e. not be associated with any criminal offense or infringement of key road transport rules;
- 3) Have appropriate financial means to carry out its operations ("financial standing");
- 4) Have the requisite professional competence.

Regulation (EC) No 1071/2009 also contains provisions to regulate and facilitate enforcement by Member States, including through the creation of a database of road transport undertakings (European Register of Road transport Undertakings, ERRU). If the authorities of a Member State establish that these requirements are no longer met, they can decide either to suspend or to withdraw a company's authorisation to operate.

Regulation (EC) No 1072/2009 lays down the provisions to be complied with by undertakings that wish to operate on the international road haulage market and on national markets other than their own (cabotage). Drivers involved in international road haulage operations must carry with them a copy of the document proving they are entitled to do so, the 'Community license'. Drivers from third countries and employed by a company established in an EU Member State must carry a 'driver attestation'. The conditions for issuing the Community license and the driver attestation are set out in the Regulation. Finally, it also sets down provisions regarding the sanctioning of infringements and cooperation between Member States in that context.

Hauliers may carry out most international transport operations without restrictions if they are in compliance with the Regulations. However, in the case of cabotage, operations are restricted to three operations in the seven days following the full unloading of an international transport operation.

The two Regulations co-exist with different legal acts. Generally, enforcement authorities responsible for the enforcement of the two Regulations are also responsible for ensuring compliance with some or all of the other road transport legislation, including: the social

rules for road transport (Regulation (EC) No 561/2006 on driving times, breaks and rest periods of drivers); Directive 2006/22/EC on minimum requirements for checking compliance with Regulation No 561/2006; Directive 2002/15/EC (setting out rules on the organisation of the working time of road transport mobile workers). Enforcement is therefore a cross-cutting issue affecting both the social legislation and the internal market legislation covered by the present initiative. Regulations (EC) No 1071/2009 and 1072/2009 also have links to Directive 92/106/EC (the Combined Transport Directive, which exempts the road legs of combined transport operations from the provisions related to cabotage) and to Regulation (EC) No 1073/2009 (on access to the international passenger transport market, whose operators must comply with the conditions of Regulation (EC) No 1071/2009). In addition, in the area of enforcement, the Tachograph Regulation (EC) No 165/2014 on recording equipment in road transport provides the basis for the tachograph that records driving time of professional drivers and helps authorities in checking compliance with the relevant legislation and is intended to ensure fair competition. It also includes provisions for the introduction of smart tachographs with an interface with satellite navigation systems (GNSS) that can further facilitate enforcement of the legislation. Finally, the Posting of Workers Directive (96/71/EC) and the Enforcement Directive 2014/67/EU sets mandatory rules regarding the terms and conditions of employment to be applied to posted workers, including drivers. This is particularly relevant in relation to cabotage operations since, in principle, drivers should be granted the minimum conditions in the country where they perform cabotage and for the part of their trip where they are performing such cabotage. However, there is inherent difficulty in checking whether such conditions are granted. Furthermore, certain requirements of the Posting of Workers Directive, such as the existence of a service contract between the employer and a recipient in the host state may impede the protection granted by the Directive to transport workers (Ricardo et al, 2015).

Regulation (EC) No 1072/2009 applies exclusively to road freight transport, while Regulation (EC) No 1071/2009 applies to both road freight operators and road passenger operators. The present study covers exclusively the road freight sector.

In the context of the ex post evaluation of the Regulations, as well as of the on-going review of Regulation (EC) No 1073/2009 on common rules for access to the international market for coach and bus services, no significant problems have been identified with regard to the application of Regulation (EC) No 1071/2009 to road passenger transport. Therefore, the present initiative covers only freight transport.

Some of the policy measures assessed in this study and related to Regulation (EC) No 1071/2009 will affect not only freight operators, but also passenger operators. Whereas at the individual operator level these effects are similar for hauliers and passenger operators, at the EU level these effects are much smaller for passenger operators. Indeed, the percentage of authorised road hauliers compared to the overall number of authorised operators was 88% as of 31 December 2014, whereas only 12% were passenger transport operators¹. Therefore, it is assumed that the effects of certain policy measures on passenger operators at the EU level are negligible and these are not assessed in the present study.

1.2.2 Market context

1.2.2.1 Transport activity

In 2014, total road freight transport accounted for around 49% of freight moved in the EU-28 (European Commission, 2016f), 77% excluding intra-EU sea and air transportation, a share which has remained largely unchanged over the past decade. Around two thirds

¹ Based on the Member States reporting obligations under Article 26 of Regulation (EC) No 1071/2009.

(64%) of road freight movements are within Member States and one third is between Member States (36%) (European Commission, 2016f).

The total volume of road freight transport in the EU-28 was around 1,725 billion t-km in 2014, some 10% less than during its peak in 2007, but showing a small increase compared to 2009 (1,700 billion t-km) (Eurostat, 2016e). This development has been shaped by the global financial and economic crisis, which has had severe impacts on the EU.

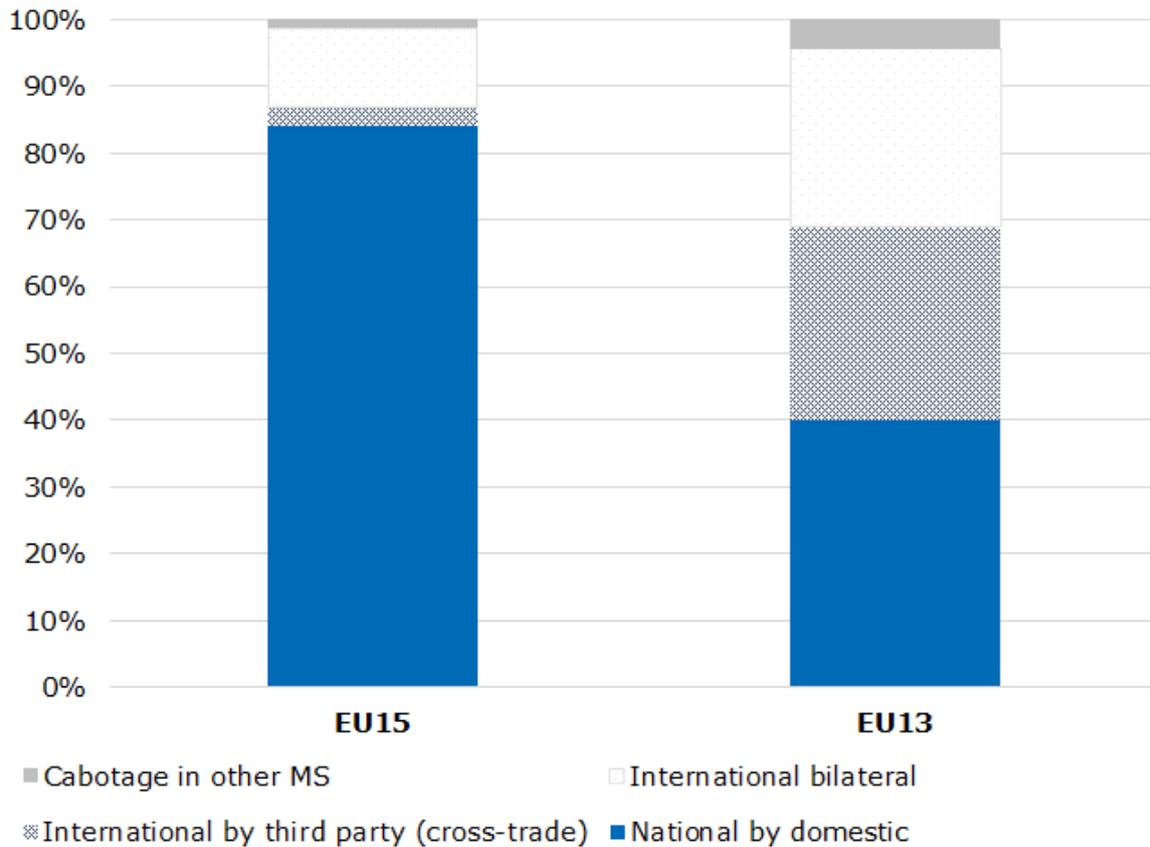
Most national transport activities are carried out by domestic transport operators (64% in 2014 and this share has been essentially unchanged since 2009 when the Regulations were introduced) (Eurostat, 2016e). Cross-trade² has grown significantly in recent years due to the fact that international transport activities are completely liberalised within the EU (Ricardo et al, 2015b).

Cabotage, defined as the execution of national transport operations by foreign operators, accounted for 1.8% of the tonnes-kilometre performed by hauliers and 0.8% of the tonnes carried in 2014 according to the EU 2016 Reference Scenario (European Commission, 2016b). Cabotage grew by 48% between 2010 and 2014 (with an average annual growth rate of 8% in this timeframe). Nonetheless, overall cabotage only accounts for a small share of total freight activities in the EU-28 and is typically concentrated in a few West European countries, with the five highest ranking Member States being Germany, France, Italy, the UK, and Sweden (accounting for 82% of total cabotage taking place) (Eurostat, 2016f). However, there have been suggestions that Eurostat statistics on cabotage operations fail to reflect the real extent of the practice in some Member States – particularly for the EU-15 where cabotage penetration is likely to be higher (Ricardo et al, 2015). For example, in Denmark, the total cabotage carried was estimated using large-scale data collection based on a smartphone app to account for a minimum of 4.6% of the total domestic market, compared to the Eurostat figure of 2.7% in 2012 (STERNBERG, H., et al., 2015). In the Netherlands, a study estimated the level to be around 10% (Panteia, 2013) compared to Eurostat figures of 5.2%.

In 2014, 29% of all cabotage activity (as reported in Eurostat) is carried out by Polish operators (Eurostat, 2016d), which have displaced Germany, the Netherlands, and Luxembourg as the dominant actors in the cabotage market (Broughton, 2015). According to the EU Reference Scenario, two thirds (67%) of all EU-28 cabotage is carried out in Germany and France (European Commission, 2016b). In 2014, the share of cabotage carried out in EU-13 states accounted for 1.6% of EU-28 cabotage - see Figure 1-1. Half of all cabotage in 2013 was carried out by operators from the EU-13, up from a third in 2010 (Broughton et al, 2015), and up to two thirds by 2015 (Eurostat, 2016f).

² Freight carried by vehicles registered in third countries, i.e. neither the loading nor the unloading country

Figure 1-1: Split between national and international road freight movements: EU15 vs EU13 vehicle parc (2015)



Source: Eurostat Dataset: "road_go_ta_tot"

Notes: While Eurostat data may underestimate actual levels of cabotage, they are the most comprehensive and most comparable data available, as they are the result of an official data collection carried out by National Statistical Offices and reported to Eurostat according to agreed standards (Ricardo et al, 2015b).

Vehicles registered in the EU-15, however, still account for over four-fifths of the total t-km generated by movements between EU-15 Member States (Broughton et al, 2015).

1.2.2.2 Market structure

In total in 2013, there were 563,598 registered road freight transport enterprises in Europe³, employing around 2.9 million people (Eurostat, 2016b). The market is broadly divided into two main segments. The first are small firms that account for the vast majority of the total number of hauliers - 90% of enterprises in the sector have fewer than 10 employees and account for close to 30% of turnover (including self-employed) (Eurostat, 2016b). These firms tend to compete mainly on price, with labour costs being a key determinant of competitiveness.

The second segment is made up of a limited number of large firms that provide complex logistics services. Firms in this segment compete on price, range and quality of the services offered (WTO, 2010). Since economies of scale are important, there is also a higher degree of market concentration; around 1% of enterprises are enterprises with over 50 persons, these account for around 40% of sector turnover.

³ Economic activity according to NACE Rev. 2 classification.

Subcontracting plays a major role in road haulage, and there has been a strong increase in subcontracting in recent years. Overall, the European road haulage market can be characterised by a chain of hire and reward companies with large pan-European logistics companies at the top controlling the largest contracts but subcontracting much of that down the chain. Small enterprises and owner drivers either form small consortiums to obtain work, rely on subcontracting from larger firms or move loads identified through freight exchanges.

In the past, the EU road haulage market has been highly competitive and price-sensitive because it has been dominated by a large number of small companies and owner-operators. Rapid expansion of larger operators offering integrated logistics services was identified at the time the Regulations were introduced, along with intense corporate restructuring (Technavio, 2016) – the importance of pan-European logistics integrators has continued to grow in recent years (AECOM, 2014c). Large multimodal third party logistics providers (3PLs) help to meet the demand for high quality, reliable and predictable door-to-door truck services (AECOM, 2014c). Cost pressures for logistics providers means that many heavily rely on subcontracting less profitable operations to smaller enterprises and owner-operators, driving the number of links in the logistics chain upward (AECOM, 2014c).

A long-term trend suggests that freight integrators and forwarding agents⁴ will play an important and growing role in the organisation of international road freight movements, helping to optimise the entire supply chain, improving vehicle usage and reducing empty running (AECOM, 2014c).

1.2.2.3 Use of light commercial vehicles (<3.5t)

It is generally the case that there has been a trend toward a higher number of vans on the roads (ETSC, 2014). LCVs account for a large percentage of commercial vehicle traffic on the roads, although registrations are strongly affected by prevailing economic conditions.

⁴ A freight forwarder is a person or company that organises shipments for individuals or firms. A forwarder is not typically a carrier, but is an expert in supply chain management.

In 2015 vans represented around 85% of new commercial vehicle registrations in the EU (ACEA, 2016), up from around 75% in 2006 (T&E, 2016). Forecasts a CAGR of 3.04% to 5.45% out to 2020, with pickup vans expected to dominate the market due to fleet owners aiming to downsize their fleet (PR Newswire, 2016) (Technavio, 2016).

This growth on its own does not indicate whether they are simply growing to meet specific demand, or if they are actually taking market share away from HGVs (“switching”) as a means to avoid legislation. Some of the most important trends are:

1. **Progressively more “punitive” regulatory measures for HGVs** in response to rising congestion, pollution and safety concerns.
2. **Changes in demand**, including relative and absolute growth of demand types that favour transport in vans.

The regulatory environment is potentially an important factor, but clearly not the only factor at work. Further examination of these factors is provided below, at a general level. In the relevant section in the baseline (Section 4.3.6) we provide a detailed analysis of the legal framework across the EU and expected development in the use of LCVs, with particular focus on their share in international transport. Furthermore, in Annex K we present a detailed analysis of the situation in five Member States (FR, DE, DK, PL, RO).

1. Progressively more “punitive” regulatory measures for HGVs

At the European level, many pieces of legislation only apply to vehicles over 3.5t, the most significant of these being the road social rules (Regulation 561/2006), road infrastructure charging (Directive 1999/62) and the tachograph Regulation (Regulation 165/2014), as well as Regulation 1071/2009 and 1072/2009 in most cases. Although a few Member States (BE, CZ, FR, EL, FI, NL, LV, SE) countries extend (at least some of) this legislation to cover LCVs, the situation is not harmonised (see Section 4.3.6). For example, Member States have typically implemented their own national drivers’ hours restrictions for vehicles <3.5t, which are typically based on the limits established in the road social legislation although there may be many exemptions (TRL, 2009), the relevance of explicitly extending the rules to vans as a means to reduce fatigue seems limited. Indeed, in some Member States the national rules for vans are even stricter than for HGVs⁵ (Ricardo et al, 2015b). Regarding road user charges, some Member States implement charges that apply to HDVs only, including distance-based charges (e.g. Belgium, Germany) or time-based charges (e.g. Sweden, Netherlands, Denmark), while still others charge all vehicle types (e.g. Lithuania, Romania) (Ricardo et al, forthcoming). Specific details of the uneven application of Regulation 1071/2009 and 1072/2009 are given in a later section.

The shortage of HGV licenced drivers also means that companies find it increasingly difficult to recruit drivers and some therefore opt for vans that can be driven on standard licences, therefore significantly expanding the base of drivers from which they can select (Browne, et al., 2010). There is reportedly a lack of an adequate supply of HGV drivers both in terms of numbers and qualifications (Bayliss, 2012) – for example, AECOM (2014b) report shortages of 30% in Germany and the UK and that 36% of transport operators in Belgium have difficulty in hiring drivers. Conversely, beyond the requirements of the driving test for regular passenger cars there is no need for additional training or experience to drive an LGV in several countries (e.g. UK, Germany, Austria, and Ireland).

Local measures may also penalise HGVs over LCVs, and increases in operating restrictions on HGVs in urban areas may have an effect on vehicle choices (RAC Foundation, 2014). For example, vans are not always subject to the same access restrictions as HGVs, speed

⁵ For example, Austria applies more stringent requirements (max. 8 hours per day instead of 9). In Germany the requirements for LGVs between 2.8 tonnes and 3.5 tonnes maximum authorised weight are the same as for heavy goods vehicles but the requirements for lighter LCVs of up to 2.8 tonnes are more stringent than for HGVs (similar to Austrian LCV requirements) Danklefsen, 2009).

limits may differ, and they may be exempt from congestion charges (T&E, 2016). For instance, in Belgium, Latvia and Slovenia higher permissible speed limits apply to trucks with GVMs lower than 7.5t and in France trucks with a mass up to 12t. Austria, France, Portugal, Germany and Italy are reported to have driving bans for HGVs during the weekend (TRL, 2009)

The culmination of these more stringent measures applied to HGVs is thought to be a contributing factor to the growth in LCV usage, e.g. in (RAC Foundation, 2014), (Association for European Transport, 2012); (T&E, 2016). However, there are no studies that quantify how much of the total growth is due to this rather than changes in demand. (T&E, 2016).

2. Changes in demand

LCVs play a crucial role in the final delivery of many time-critical, high-value goods – especially in urban areas – and are also widely used in industries that provide support services. Growth in particular types of demands are important drivers of increasing van activity, particularly in urban areas (Technavio, 2016), (Association for European Transport, 2012); (RAC Foundation, 2014):

- Increases in e-commerce and urban freight logistics:
 - A reduction in stockholding levels and movement toward a just-in-time distribution system has led to a reduction in delivery quantity and therefore encourages the use of LCVs
 - Increase in home-delivery and deliveries of small quantities from wholesalers to retailers;
 - Increase in same-day operations and time-critical parcel deliveries – the time-sensitive and geography-specific nature of such loads make consolidation of shipments nearly impossible
- Increase in outsourcing of support services to specialist companies:
 - Development of more ICT equipment, requiring installation, maintenance etc. – these sectors primarily use LCVs for their engineering and service staff
 - Increase in rapid response servicing, such as computer and boiler repairs;
- Increase in the overall number of transactions and number of households: Causes for this include a reduction in the average household size, people living longer, changes in family composition, net immigration and more people choosing to live alone. All these factors result in more households being required and hence more delivery addresses for home deliveries, which are typically made by LCVs.
- An increase in value density, especially of consumer goods, emphasises the use of LCVs at the end of the supply chain.
- The growth of e-commerce in Europe is particularly strong. It accounted for 1.27% of European GDP in 2009, and nearly doubled to 2.45% of GDP in 2014, with the biggest growth in Central and Eastern Europe (GlobalCollect, 2015). In 2014, there were an estimated 4 billion parcels sent, and forecasts expect e-commerce to reach 6% of GDP by 2020 (GlobalCollect, 2015).

These types of services are best-suited to vans rather than trucks (due to the fact that smaller vehicles are more efficient when making “last mile” deliveries from centralised distribution hubs).

LCVs have tended to receive relatively little attention in terms of either official data collection or detailed research into their activities – therefore little is known about the specific ways in which they are used. Some LCVs, particularly in the collection and delivery sector, will make multiple visits to multiple destinations. Other LCVs, such as those in the service sector, make one trip per day and sometimes several trips to the same destination over a period of days (RAC Foundation, 2014). Furthermore, a substantial share of van activity is related to self-employment, which has wide representation in skilled service

sectors such as builders, engineers, electricians etc. (Association for European Transport, 2012), but the size and importance of the LCV market varies significantly depending on Member State due to a range of cultural and economic factors (BCA, 2012).

Generation effects or replacement effects

A relevant question in the context of the study is the extent to which the regulatory and market changes result in either of the following effects:

1. A generation effect – i.e. whether vans represent the addition of entirely new vehicles to the roads.
2. A replacement effect – i.e. replacing transport that would have been carried out by other vehicles.

Regarding the regulatory drivers, it is believed that their impact is mostly a replacement effect (Association for European Transport, 2012).

For market drivers such as these, the picture is more mixed and depends on the type of activity. In the case of e-commerce, some authors argue that vans are additions to the vehicle stock (i.e. that there is a generation effect) – since in the majority of cases they are performing a function that was not previously performed by HGVs (Cullinane, 2009). Other authors believe that consumers who divert their purchases from shops to online facilities potentially cause a replacement effect by contributing to additional van trips and reducing their walking/public transport/private car trips (Association for European Transport, 2012). The second replacement effect, is that the fragmented, smaller-size deliveries require more flexible vehicles like LCVs, which removes trips previously carried out by HGVs (Association for European Transport, 2012). Studies in the UK indicate that, in urban areas, LCVs have increased their market share of v-km in absolute and relative terms, at the expense of HGVs (RAC Foundation, 2014).

A further factor that could increase the possibility that LCVs could be substituting - at least partially - for HGVs is that manufacturers have been increasing volumetric capacities of LCVs in recent years (Association for European Transport, 2012) (PR Newswire, 2016). Even so, a medium goods vehicle (12t Rigid HGV) would require four large 3.5t LCVs to replace it (payload equivalent), whereas a large 44t articulated HGV would require 17 large 3.5t LCVs to replace it (RAC Foundation, 2014).

Overall, it is likely that both generation and replacement effects are at work, and that vans only partially replace other vehicles including HGVs (and especially smaller HGVs). Although regulatory drivers are likely to be mostly replacement effects, market drivers constitute a mix of replacement and generation effects. In terms of magnitudes, the greatest driver of LCV growth is thought to be due to market effects, rather than regulatory effects. In particular, the rise of home deliveries, to which LCVs are better suited, rather than regulatory drivers (RAC Foundation, 2014); (Ricardo et al, 2015b) is an important driver of the increased used of LCVs and this is also a view of a number of industry representatives and individual firms in a number of Member States (DE, DK).

2 PROBLEM DEFINITION

2.1 Nature and magnitude of the problem

In this section we present the nature and the magnitude of the two problem that consists of two main problems areas currently associated with the two Regulation:

- uneven playing field for transport operators depending on the place of their establishment; and
- high regulatory burden for Member States.

2.1.1 Problem area 1: Uneven playing field for resident and non-resident transport operators

As discussed in the market context section, road freight transport accounts for around three quarters of land-based freight movements, and moreover it is composed largely of SMEs and characterised by thin profit margins. The establishment of a fair and level playing field – and its enforcement – is therefore vital to ensure the benefits of the open market. Indeed, a level playing field is important in the context of road transport in order to ensure fair competition, which has been a fundamental part of the EU's work ever since it was set out in the Treaty of Rome in 1957. More recently, the need for a level playing field in the road transport sector was reiterated in the Transport White Paper of 2011.

The Regulations aimed to set out a framework for access to and operations in the road transport market at the European level, since ensuring consistent standards is needed to prevent transport firms located in Member States with lower standards gaining a competitive advantage over firms in Member States with higher standards. However, the Regulations leave certain issues open for interpretation – for example, despite additional guidance released by the Commission, there are still different interpretations of the cabotage rules.

In addition, differences in the monitoring and enforcement practices can introduce competitive distortion by providing inconsistent disincentives for non-compliance. This unlevelled playing field contributes to higher “risks” of illegal activity, although it is extremely difficult to quantify the extent of current infringements due to the poor availability of relevant data. Regarding **illegal cabotage**, the available statistics suggest that the problem of illegal cabotage detected by checks is not of a significant size in most countries for which data were available (less than 1% infringement rate in Germany, UK, Poland, Italy and Denmark). However, the presence of illegal cabotage is confirmed in other countries (e.g. Sweden⁶ and France⁷). More generally, there have also been significant concerns expressed over the low levels of effectiveness of cabotage checks⁸. The problems of illegal cabotage are likely concentrated in the heavily cabotaged EU-15 Member States, potentially to a greater extent than is reflected in official statistics – a view that is supported by analysis of statistics and bottom-up modelling estimates.

Letterbox companies⁹ are a key concern for many stakeholders, since they can create unfair competition and potentially undercut legitimate businesses by avoiding other costs (such as social contributions and taxes). Ricardo et al (2015) reported a detection rate of letterbox companies of around 1% or less in the countries that could provide data¹⁰, although such figures do not capture companies that evade detection. Even so, these official statistics on infringements show that there are still at least some letterbox companies operating in Europe¹¹. This finding is supported by reports of letterbox companies found in the literature and views from the different stakeholder groups consulted (trade unions, associations, ministries and undertakings). While these anecdotal examples cannot be interpreted as evidence of a systematic or increasing problem, they

⁶ Data collected through a smartphone app suggested that there were 1,590 trucks engaged in cabotage, and potentially 379 engaged in illegal cabotage (24% of trucks engaged in cabotage and around 5% of all trucks (STERNBERG, H. , et al., 2015).

⁷ 7% of vehicles stopped for cabotage controls were issued an infringement (Ricardo et al, 2015).

⁸ For example, over two thirds of stakeholders from the road haulage industry answering the 2011 questionnaire of the High Level Group considered that controls aimed at ensuring compliance with the current cabotage rules were not effective (PR Newswire, 2016)

⁹ This term refers to companies "established" in a Member State where they do not carry out their administrative functions or commercial activities, in violation of Article 5 of Regulation (EC) No 1071/2009

¹⁰ Denmark, Poland, Bulgaria, Romania, Netherlands, Latvia

¹¹ Data collected from 6 Member States indicates that 81 letterbox companies were detected in one year (2013)

do show that letterbox companies are still found to operate within the EU. Furthermore, 43% of respondents to the open public consultation felt that the setting up "letterbox companies" is widespread practice, whilst only 9% felt this is only a minor issue. 88% of respondents from associations representing road transport workers felt this is a widespread practice, a much greater percentage than from any other respondent category (mostly between 25-44%). The issue appears to be of greater concern for stakeholders based in old (EU-15) Member States - 57% of respondents based in EU15, versus 16% among those based in EU13.

The negative impacts of letterbox companies can be disproportionately large due to the cost advantage they have over competing firms that company with legislation. According to the open public consultation 63% of respondents felt that the presence of letterbox companies leads to a competitive disadvantage for hauliers from some Member States. Again, there is a clear divide between EU-15 (77% indicating very important or significant impact) and EU-13 (31% indicating very important or significant impact). Among different categories of stakeholders, most medium and large hauliers (14 out of 22) did not consider this as an important problem. In contrast, transport workers and their representatives consider this as an important problem (27 out of 32 respondents) and the same was the case among transport associations (35 out of 34). The evaluation study 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 would be highly detrimental. There are also fiscal and labour-related losses to Member States, estimated at around €40,875 per truck per year, as well as possible detrimental effects on drivers' wages and working conditions¹².

The specific causes of an uneven playing field and the related provisions are discussed further in the section below describing the "problem drivers".

2.1.2 Problem area 2: High regulatory burden for Member State authorities, enforcers and industry

For industry, differing national interpretations leads to a higher regulatory burden in order to locate information on and understand different national rules (especially where information is hard to find or there are language barriers), as well as a higher risk of unintentional non-compliance and subsequent fines (Ricardo et al, 2015).

Regarding Member State authorities and enforcers, it is important that enforcement can be conducted as efficiently as possible, making the best use of scarce resources. For example, one of the key systems introduced by Regulation 1071/2009 was the obligation to set up national electronic registers and to interconnect them via the European Register of Road Transport Undertakings (ERRU) – a process that has been somewhat delayed but is now nearing completion¹³. However, the benefits of using this system have been uneven (see Root cause A below). Moreover, Ricardo et al (2015) found that implementation and progress towards achieving more cooperative and effective enforcement is unequal across the Member States, leading to higher-than-necessary regulatory burdens – for example, given difficulties in securing timely cooperation from Member States etc (further root causes are discussed below).

Among stakeholders that responded to the open public consultation, 65 respondents (43%) indicated that costs of compliance were identified as important or very important, whereas 40% consider the costs to be of little importance or not significant at all. Among hauliers, medium and large firms (over 50 employees), 18 out of 23 (78%) considered these costs

¹² Since letterbox companies are often (although not always) associated with criminal or dubious activities (Sørensen, 2015)

¹³ At the end of May 2016, three Member States (Poland, Luxembourg and Portugal) were still not connected (Eurostat, 2016b).

as important or very important. In comparison, among small hauliers, 7 out of 12 (58%) considered the costs to be important.

The results of the open public consultation also seem to suggest that the compliance costs for the industry are considered to be more important to EU-13 Member States. 25 of 32 respondents (78%) from EU-13 States felt the costs to be important or very important, whereas, by contrast, only 27 of 90 respondents (31%) from EU-15 Member States felt the same way.

In relation to the costs for enforcement authorities, 31 of 84 (37%) of respondents considered them significant (important or very important), with 37.5% among those representing national authorities (6 of 16).

2.2 Drivers and root causes of the problems

As shown in the problem tree (Figure 2-2), the drivers and the root causes of the problem areas are closely interlinked and therefore cannot be described separately for each problem. The drivers and root causes for both problems are discussed in the following sections.

2.2.1 Driver 1: Inconsistent and ineffective enforcement of legal framework

Ricardo et al (2015) found that enforcement practices across different Member States showed a range of approaches to control, and in the number and stringency of checks carried out (see also Root cause A below). This is in part due to differing levels of political priority given to control of the legislation, as well variations in the level of resources and experience available in the enforcement agencies (Ricardo et al, 2015).

A lack of effective enforcement has also been identified as a major concern among stakeholders, as evidenced by the research carried out in Ricardo et al (2015). One of the major concerns over social and safety issues relates to the unscrupulous practices of letterbox companies, as well as the difficulty of detecting illegal cabotage – these types of controls frequently require cross-border cooperation, and access to specific information that may not be readily available to all enforcement officers (see Root causes B, C and D below).

2.2.1.1 Root cause a: Differing levels of monitoring/control of compliance among Member states

In general, the number of checks carried out in each Member State with regard to the four criteria on access to the occupation of road transport operator under Regulation 1071/2009 varies widely. For example, in Bulgaria 5,640 undertakings were checked for stable and effective establishment in 2014, whereas in Estonia 120 checks were carried out in the period 2013-2014. In Estonia, 50 checks of good repute and 50 checks of professional competence were carried out in the period 2013-2014. In Romania, 2,543 checks of good repute were carried out in 2013 and 2,760 in 2014. In Spain, 12,415 investigations were carried out regarding the four criteria on access to the occupation of road transport operator during the period 2013-2014 (10,495 regarding freight operators and 1,920 regarding passenger transport operators). (Eurostat, 2016b).

The official monitoring data and stakeholder evidence also show that there are also differences in the stringency of certain controls. For example, regarding checks of good repute, in the first reporting period (from 4/12/2011 to 31/12/2012), eight Member States¹⁴ reported that there were no declarations of unfitness (loss of good repute). Conversely, in Hungary and Italy declarations of unfitness were quite high (129 and 348, respectively). In the second reporting period (from 01/01/2013 to 31/12/2014), most

¹⁴ Austria, Czech Republic, Greece, Malta, Netherlands, Poland and Slovakia

Member States that reported data¹⁵ still noted that there were no declarations of unfitness, whereas there were high numbers in other countries such as Italy (680)¹⁶ and the United Kingdom (493). This suggests that some Member States are more lenient than others in the application of this criterion (although some differences may also be attributable to different compliance cultures), and that these differences have persisted.

Regarding Regulation 1072/2009, some Member States dedicate substantial resources to the control of illegal cabotage as per Regulation 1072/2009, while other Member States practically do not control cabotage operations. For example, 183,200 checks in Germany in 2014, 233,188 checks in Poland in 2013, 220,965 checks in Italy in the period from January 2012 to October 2012, 50,928 checks in France in the period 2010-2011, 185 checks in Ireland in 2013 (Ricardo et al, 2015).

The responses to the open public consultation confirm that the majority (120 out of 167 respondents; 72%) of respondents were in agreement that there is significant or very significant variance in the control of cabotage operations and this is a view shared across almost all types of stakeholders (with the exception of transport workers and relevant associations where only 13 out of 33 consider that there is significant or very significant variance) and both in the case of EU15 and EU13 Member States. The impacts associated with this cabotage enforcement inconsistency between Member States include:

- Increase enforcement costs for Member States (32% of total 148 respondents consider significant or very significant)
- Increased compliance costs for hauliers (56% of total 149 respondents)
- Increase of administrative costs for Member States(29% of total respondents but only 44% among EU13 respondents)
- Increase of administrative costs for hauliers (45% of total 175 respondents but over 55% among hauliers)
- Competitive disadvantage of hauliers from some Member States (64% of 153 total respondents but only 44% among 56 EU13 respondents)

By definition, the differing levels of monitoring and control described above lead directly to the driver of inconsistent enforcement.

2.2.1.2 Root cause b: Limited and ineffective cooperation between Member States.

Information on exchanges of information in the second reporting period (from 01/01/2013 to 31/12/2014) shows that in most cases there is very little interaction, and the overall situation is highly uneven (see Table 2-1). The CR₂ index shows the concentration of total activity in the top two most active Member States – this indicates that in all cases, the majority of total activity is due to only two Member States (although the representation of countries in the top two varies). Additionally a substantial share of Member States report fewer than 10 individual requests in all categories (between 21% and 50% depending on the category), showing that a large number of Member States are not participating very actively.

¹⁵ Bulgaria, Czech Republic, Denmark, Greece, Spain, Croatia, Lithuania, Luxembourg, Latvia, Poland, Romania and Slovenia.

¹⁶ This number refers to the global amount of declarations of unfitness issued until 8 September 2015, rather than those issued during the reporting period.

Table 2-1 - Summary of administrative cooperation (via ERRU and other means¹⁷)

	Number of notifications of serious infringements		Number of requests for checks of good repute	
	Sent to other Member States	Received from other Member States	Sent to other Member States	Received from other Member States
Total	17,008	1,477	91,511	559,211
CR ₂ index*	87% (PL and UK)	61% (BG and SL)	88% (UK and SV)	50% (BG and LV)
Share of MS that reported fewer than 10 incidences	43%	21%	50%	43%

Notes: 14 countries reported information: BG, DA, ES, ET, FR, HR, LT, LU, LV, PL, RO, SL, SV, UK

Source: (European Commission, 2016c) *CR₂ index is the concentration ratio, representing the share of total activity that is due to the two most active countries.

Qualitatively, Ricardo et al (2015) confirms the highly uneven situation, with some Member States such as Cyprus, Lithuania, Malta, the Czech Republic, the Netherlands and Slovakia indicated that there was no exchange of information. In addition, several Member States (e.g. France, Denmark) have reported difficulties in obtaining responses to queries made to other Member States regarding investigations into letterbox companies (Ricardo et al, 2015).

In addition, 83% of respondents to the open public consultation felt that there are at least some instances of a lack of cooperation in monitoring compliance with the stable and effective criterion, whilst only 2% felt that Member States are cooperating well in this respect. The most critical group of the Member States' cooperation were the associations representing road transport workers, 79% of whom felt that Member States were not cooperating. Most other respondent categories felt that there were only some instances of lack of cooperation.

All of this strongly suggests that progress towards achieving more cooperative enforcement is unequal across the Member States. Although in some cases, a high level of own initiative investigations might render requests from other Member States redundant, control of letterbox companies and illegal cabotage in particular often require cross-border cooperation. As such, the issue of uneven/ineffective cooperation contributes directly to the driver of inconsistent and ineffective enforcement.

2.2.1.3 Root cause c: Difficulties to enforce current rules on cabotage

Confirming the legality of cabotage on the basis of only the CMR¹⁸ consignment note was highlighted as an issue in Ricardo et al (2015) due to two main factors:

- Firstly, the CMR document does not necessarily contain all of the information needed to verify whether a cabotage operation is in compliance with the rules. Particular difficulties highlighted in the literature (SDG (2013a); AECOM and by respondents to the survey of enforcers carried out in Ricardo et al (2015) were around verifying the start of cabotage operations, its link to international carriage,

¹⁷ Such as emails and paper-based communications

¹⁸ *Convention des Marchandises par Route*

the calculation of the 7-day period and the identification of the number of journeys carried out within the period¹⁹.

- Secondly, there is a possibility that documents are falsified or hidden. For instance, AECOM (2014b) also reports that many industry representatives feel that presentation of consignment note evidence is not reliable, because documents can be hidden by drivers. Anecdotal evidence suggests incidents of counterfeit documents in some countries (such as Spain and Austria), although the extent of such practices is unknown in these countries and more widely (Ricardo et al, 2015). Such falsification can only be detected by detailed controls at the hauliers' offices, but not during roadside checks.

Among the respondents to the open public consultation, 41% felt that the cabotage rules are difficult to enforce, 18% very difficult and 11% virtually impossible. Among national authorities, these percentages are even higher (only 6% indicate that it is easy to enforce cabotage). In contrast, small hauliers and transport operators are more positive. 38% and 29% consider that it is easy to enforce cabotage respectively.

The difficulties described above contribute directly to the driver of ineffective enforcement (of the rules on cabotage), since effective enforcement requires access to necessary information and documents.

2.2.1.4 Root cause d: Insufficient information available to authorities during enforcement

The development of national electronic registers, and the European Register of Road transport Undertakings (ERRU) were intended to result in more efficient and effective enforcement. ERRU allows exchange of information that is crucial to the enforcement activities of licencing authorities, but the information is limited to the required data on good repute, infringements and community licences. This means that by definition ERRU does not include additional information (such as conditions of establishment, registration plate numbers of the vehicles in use by the operator, financial information about the company and its risk rating, etc.) that might be beneficial to enforcers, especially regarding cross-border enforcement situations where information in national registers does not cover non-domestic operators. When it comes to cross-border enforcement situations (e.g. on-site inspections to check for possible letterbox companies), such information must be requested on a case by case basis and outside of ERRU by the enforcement authorities of one Member State to the enforcement authorities of the other Member State. This is confirmed, for example, by the exchanges between the Commission and the Belgian and Slovak authorities regarding investigations into the existence of letterbox companies in Slovakia

Moreover, according to the findings of Ricardo et al (2015) the information is not accessible to all Member State enforcement authorities (except by administrative request), including roadside inspectors, who have key responsibilities in conducting checks (in particular of cabotage). This contributes directly to the driver of ineffective enforcement, and increased access to ERRU for these officers was identified as a potential area for development in Ricardo et al (2015) since it would allow for confirmation of the validity of the certified true copy of the Community Licence in real time for these officers. However, the implementing act of Regulation (EU) 2016/480 concerning the access of roadside officers to ERRU Check Community License Functionality is already in place (European Commission, 2016e). Thus, the focus here is on extending the information base and making this information available to road side officers.

¹⁹ Enforcers participating in the survey identified difficulties regarding how to count the number of operations when there are several loading/unloading points (71% of respondents); when a haulier is permitted to start cabotage operations (62%).

2.2.2 Driver 2: Different implementation of the rules

There are no “root causes” for this driver; rather, there are several specific issues that are elaborated in the following sections. These examples show the range of different interpretations of the existing rules across Member States.

2.2.2.1 Issue i: Different interpretations of certain cabotage provisions in Regulation 1072/2009

Cabotage provisions are stipulated in Article 8(2) of Regulation 1072/2009. Haulers may carry out three cabotage operations in the host Member State within seven days following an international journey – known shorthand as the “3 in 7 rule”. Within that period, hauliers may carry out the three cabotage operations in any Member State transited on their return journey under the condition that they are limited to one operation per Member State transited, within three days of unladen entry into its territory. In any case, cabotage must always be limited to three operations within seven days.

However, since interpretation of the details of the cabotage provisions remained unclear on some points, the Commission organised in 2011 a committee meeting to discuss the main critical points, and subsequently published a “frequently asked questions” note²⁰.

Even so, since this clarification note is not legally binding, different interpretations have emerged in practice. For example, Ricardo et al (2015) found that some countries (such as the Netherlands) follow the Commission guidelines to allow several loading and unloading points per operation. Conversely, partial loading and unloading is regarded as a separate trip in other countries such as Germany and Finland. In Poland, the interpretation depends on whether the loads are for the same customer (in which case it is counted as one operation) or for different customers (in which case they are counted as separate cabotage operations). These different interpretations mean that hauliers must be aware of the specific interpretation/rules in each individual country, or else risk penalties. Furthermore, the lack of clarity in provisions was identified by enforcers responding to the survey carried out in Ricardo et al (2015) as one of the most important contributing factors to difficulties in enforcement.

Among the respondents to the open public consultation, 75% of respondents felt that the cabotage rules are not sufficiently clear and the majority felt that the outcome of this lack of clarity and the uncertainty this brings increased costs of compliance and administrative costs for transport operators (56% and 57% felt the impact was at least very important respectively).

2.2.2.2 Issue ii: Different interpretation of provisions related to conditions for access to the occupation in Regulation 1071/2009

There are several areas of Regulation 1071/2009 that have been interpreted differently across Member States, the most important being:

1. Definitions of stable and effective establishment
2. The definition of infringements leading to absence / loss of good repute
3. Terms used in the Regulation regarding proof of financial standing.

Each are discussed further below.

Stable and effective establishment

Article 5 of Regulation 1071/2009 specifies that an undertaking must have an office in which it keeps its core business documents and an operating centre with the appropriate technical equipment and facilities in the Member State of establishment. Moreover, once

²⁰ http://ec.europa.eu/transport/modes/road/haulage/doc/qa_the_new_cabotage_regime_2011.pdf

an authorisation is granted, they need to have at least one vehicle at their disposal that is registered in that Member State.

Although the minimum requirements of stable and effective establishment have been implemented by all Member States, one of the main difficulties experienced by Member States in the control of letterbox companies is a lack of clarity over how precisely to define an operating centre (Ricardo et al, 2015). As a result of the lack of precision, different practices have emerged. For example, in Luxembourg, the establishment has to be appropriate to the size of the company; the manager has to be present on a regular basis; and the existence of a parking space is checked although it is not a legal requirement (Ricardo et al, 2015). In Poland, a lack of a clear interpretation of the concept of an operational base in practice led to the adoption of an amendment of the laws. This introduced a definition of a stable and effective establishment as a place equipped with technical equipment and technical devices appropriate to carry out transport activities in a structured and continuous manner, which includes at least one of the following elements (Ricardo et al, 2015):

- A parking place;
- An unloading area;
- Equipment for maintenance of vehicles.

Among the respondents to the open public consultation, there is a largely even split between those that feel the definition is sufficiently clear and those that do not (47% versus 43%). However, 76% of associations representing road transport workers and individual workers considered that the definition is not sufficiently clear (76%). In contrast, 65% of small hauliers and 82% of medium-to-large sized hauliers feel that these definitions are in fact clear enough.

The responses suggest that this lack of clarity can lead to significant impacts on the costs to hauliers, both for compliance and administration (39% and 38% indicated a significant impact respectively). It is also suggested that this may somewhat lead to a competitive disadvantage to hauliers from some Member States.

The definition of infringements leading to loss of good repute

Under Article 6(2) of Regulation 1071/2009, Member States must determine whether loss of good repute would constitute a disproportionate response to an undertaking (or relevant person) committing a criminal offense or one of the most serious road transport offenses. Some Member States report that this is carried out on a case-by-case basis, and as such there is no specific procedure (e.g. Bulgaria) or that they are in the process of setting up the requirements (e.g. Italy). Other Member States (in particular France and Estonia²¹) have defined very detailed procedures to determine whether loss of good repute is disproportionate. In Spain, there has not been a single case of an operator losing their good repute (as of 2015), since revoking good repute is considered to be a disproportionate punishment in general (Ricardo et al, 2015).

Once good repute is lost, there are also differing procedures for its reinstatement. For example, the period of time that must elapse before rehabilitation occurs varies widely (6 months in Spain and Italy, 1 year in Romania, 2 years in Belgium, 3 years in Denmark and 10 years in Luxembourg). This may happen automatically (e.g. in Italy, Luxembourg) or through following training and pass an exam (UK, Sweden, Denmark). Finally, some Member States have no specific rehabilitation procedures (e.g. Ireland, Latvia, Bulgaria) (Ricardo et al, 2015).

²¹ For example, in Estonia the competent authority informs the transport undertaking of the start of an administrative procedure and allows them to present explanations. The explanations will be examined by the Road Transport Commission, who respond according to defined procedures that taken into account the number of penalties for most serious infringements that the undertaking has received in the last 12 months and the total number of certified true copies of the Community licence (i.e., the number of vehicles) that the transport undertaking holds, which are multiplied together to form an index.

The persons checked for good repute also vary – Article 6 states that Member States shall consider the conduct of the undertaking, its transport managers and “*any other relevant person*” in its assessment. To reduce the risk of “front men”, some Member States require other persons to be checked, for example: CEOs and general partners in partnerships (Finland) or legal representatives of the undertakings (Latvia) (Ricardo et al, 2015).

Among the respondents to the consultation, 70% indicated that this is a major problem, a view shared by all categories of respondents. The respondents felt that the inconsistency of the application of this criterion has leads to a very important impact on the equality of competitiveness of hauliers across MS, and important compliance cost considerations.

Financial standing

Article 7 of Regulation 1071/2009 contains the requirements for demonstrating appropriate financial standing. Undertakings must show that, every year, it has at its disposal capital and reserves totalling *at least* €9,000 when only one vehicle is used and €5,000 for each additional vehicle used. A number of issues still seem to be unclear according to national ministries that responded to the consultation carried out in Ricardo et al (2015):

- The following terms used in the Regulation were considered unclear:
 - What exactly is meant by professional insurance (Austria);
 - What should be understood by the notion capital and reserves (Belgium, Finland, Germany);
 - Who could be the mentioned duly accredited person having a right to certify the annual accounts of transport undertaking (Estonia);
 - With regard to the bank guarantee, it is not clear who is to be declared on the guarantee (Germany, Italy, Slovakia);
 - What liability needs to be covered by insurance (Latvia, Slovakia).
- Article 13.1(c)²² needs to be clarified (i.e. what is acceptable to demonstrate that the requirement will be satisfied again), and the derogation in Article 7.2 (i.e. permitting the use of bank guarantees, liability insurance etc) is unclear. (Ireland).
- It is undefined how a newly established enterprise has to prove its financial standing (Lithuania, Germany).

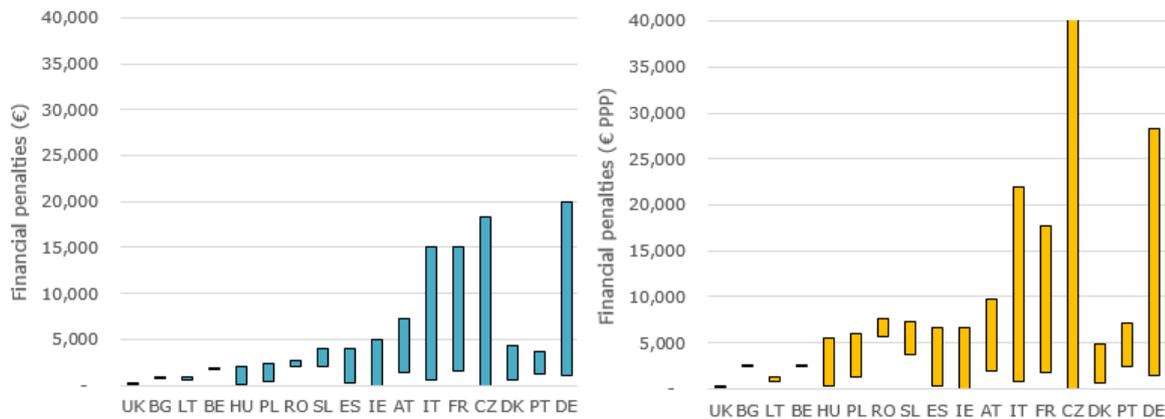
The diverse responses listed above suggest that many terms used in the Regulation cause problems in interpretation for at least a few Member States.

2.2.2.3 Issue iii: Significant variation in the level of penalties for non-compliance

In terms of the penalties in place for infringements of Regulation (EC) No 1071/2009 and Regulation (EC) No 1072/2009, there is significant variation. For example, Figure 2-1 shows the level of fines applicable to cabotage infringements – converting the fines on a PPP basis (right-hand graph) makes the discrepancies larger, indicating that socioeconomic differences between the Member States cannot explain the differences. As a specific example, the level of the fine for exceeding the maximum 6-day or fortnightly driving time limits by 25% or more (a most serious infringement) is up to €300 in Latvia and up to €15,000 in Germany.

²² A time limit not exceeding 6 months where the requirement of financial standing is not satisfied

Figure 2-1: Financial penalties applicable to cabotage infringements in selected Member States (€, left and €PPP right)



Source: (Ricardo et al, 2015).

Similarly, infringements of Regulation 1071/2009 categorised at the same level of seriousness may attract vastly different fines with ten-fold differences reported in some areas. For example, the most serious infringements are fined €1,001-6,000 in Spain, €2,040-2,720 in Romania and up to €200,000 in Germany. Serious infringements are fined at €401-1,000 in Spain, €910-1,360 in Romania and up to €100,000 in Germany²³ (Ricardo et al, 2015).

There is also wide variation in the typology of infringements applied by Member States for infringement of Regulation 1071/2009 and 1072/2009. For instance, several Member States apply only administrative sanctions (e.g. Bulgaria, Hungary, Portugal), others apply only criminal sanctions (e.g. Ireland, Denmark) and still others apply a mixture of the two (e.g. France, Germany, Netherlands) (Ricardo et al, 2015).

There are also types of sanction that vary in their application, as shown in Table 2-2 for cabotage infringement. This shows that a range of other penalties are used in Member States and that the approaches are not harmonised.

Table 2-2 : Other penalties used in connection with cabotage infringements

Penalty	Applicable	Not applicable
Retention/immobilisation of vehicle	Belgium, UK, Netherlands, France, Poland, Germany, Italy	Norway, Bulgaria, Czech Republic, Romania, Latvia
Retention of trailer	UK, Netherlands, France	Belgium, Norway, Germany, Bulgaria
Retention of goods	Norway	Belgium, UK, Netherlands, Germany, France, Bulgaria
Other	Belgium*, UK & France**	

* Belgium: require to return to the place of loading in order to unload the goods or require to reload the goods into another vehicle in order to continue the trip in a legal way

** This may be enforced in France and in the UK, in the form of a one-year ban from performing cabotage

Source: (Ricardo et al, 2015).

These are considered disproportionate in some cases – for instance, in response to the open public consultation, an association informed about high fines and vehicles being seized for periods of several months by enforcers in Italy for minor offenses.

²³ On a PPP basis: for most serious infringements approx. €1,650-9,850 in Spain, €5,700-7,600 in Romania and up to €282,400 in Germany. For serious infringements approx. €650-1,650 in Spain, €2,550-3,800 in Romania and up to €141,200 in Germany

These differences lead, on the one hand, to a high administrative burden for hauliers to understand and cope with the different national legislations and, on the other hand, to some of them being in a less advantageous position (notably those which operate mainly in markets where the penalties are higher). The responses from enforcement authorities indicate that the variation between countries may be because the current categorisation of infringements in Annex IV is not considered clear/appropriate by some Member State ministries, and the need for further guidance was highlighted, especially by EU-13 respondents.

The open public consultation also verified that the variation of the sanctions for infringements of the Regulations between Member States is considered to be a major problem for the road haulage sector by various stakeholders. Only 16% of respondents didn't consider this a problem. There is also strong agreement among respondents that this variation would lead to a at least very important impact on the competitive disadvantage of hauliers (83% of respondents felt this way). In addition, 59% and 52% felt that this has at least a very important impact on the costs of compliance and administration respectively.

2.2.2.4 Issue iv: Additional requirements for establishment in some Member States

Article 3(2) of Regulation 1071/2009 allows Member States to impose additional requirements next to the four requirements given in Article 3(1) in order to have access to the occupation of road transport operator, as long as these are proportionate and non-discriminatory.

According to Ricardo et al (2015), this possibility has been taken up in several countries: The most common additional requirement at the national level is for a parking space, which is specified in Austria, Bulgaria, Ireland, Slovakia and the UK. Other requirements may also be imposed - for example, Slovakia added a requirement defining the minimum age of a transport manager at 21 years. In Spain there is an additional requirement that applicants must have three vehicles representing at least one payload of 60 tonnes²⁴ (European Commission, 2016c).

The use of additional criteria creates an uneven playing field between Member States since it has led to different requirements in different Member States, and in particular may penalise small businesses, without clear benefits for enforcement. This view is confirmed by respondents to the open public consultation, of which 52% 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. This is a view shared by all the respondent categories). Furthermore, most respondents felt that this would have a number of effects on the haulage sector across the EU: 70% of respondents felt that this issue would result in at least a very important impact, causing competitive disadvantage to hauliers from some Member States (47% felt this would have a significant impact). 53% and 59% felt that this would have at least a very important impact on the costs of administration and of compliance respectively.

2.2.2.5 Issue v: Different approaches adopted regarding transport of empty containers / pallets

Transport of empty containers or pallets is not specifically addressed for the purposes of cabotage operations in Regulation 1072/2009. This has given rise to different interpretations: some Member States such as the Netherlands, Belgium, Poland and Ireland

²⁴ In 2016, the Commission decided to refer Spain to the European Court of Justice on the ground that this condition is disproportionate and potentially discriminatory against very small undertakings. As such, this requirement may be removed in the near future

treat it as any other commodity (Ricardo et al, 2015). Other countries do not consider transport of empty containers as giving access to legally perform cabotage (e.g. Denmark, and in Romania if not described in the CMR) (Ricardo et al, 2015).

2.2.3 Driver 3: Different scope of application of legislation

There are no “root causes” for this driver; rather, there is a single issue related to the scope of the two Regulation.

2.2.3.1 Issue i: Some Member States apply (some of) the provisions of the Regulations to vehicles below 3.5t

Article 2 of Regulation 1071/2009 defines the scope of the provisions as including all vehicles over 3.5 tonnes; however, some Member States have extended its application. For instance, France, Italy and Latvia have extended the obligation of compliance with the rules on access to occupation of road transport undertaking to road hauliers operating vehicles with a permissible laden mass not exceeding 3.5t (European Commission, 2016c).

Regarding Regulation 1072/2009, many Member States apply the same cabotage rules to vehicles less than 3.5t (Belgium, Czech Republic, Denmark, Finland, France, Latvia, Poland, Slovak Republic, Sweden), whereas others have less restrictive rules (UK, Lithuania, Ireland, Germany, Austria, Estonia) (Ricardo et al, 2015).

More generally, there appears to be growing concern over the use of vans and the fact that they are not covered by the same legislation as HGVs (including related to other areas, such as the social legislation), although it is not clear to what extent this trend is being driven by a desire to avoid such legislation versus changes in market demands. Nevertheless, a joint statement made by the French and German ministries highlighted their concerns over the increasing use of LCVs in international transport, and called for specific European regulation to establish a framework for fair and equal competition in this area (DriveEuropeNews, 2016).

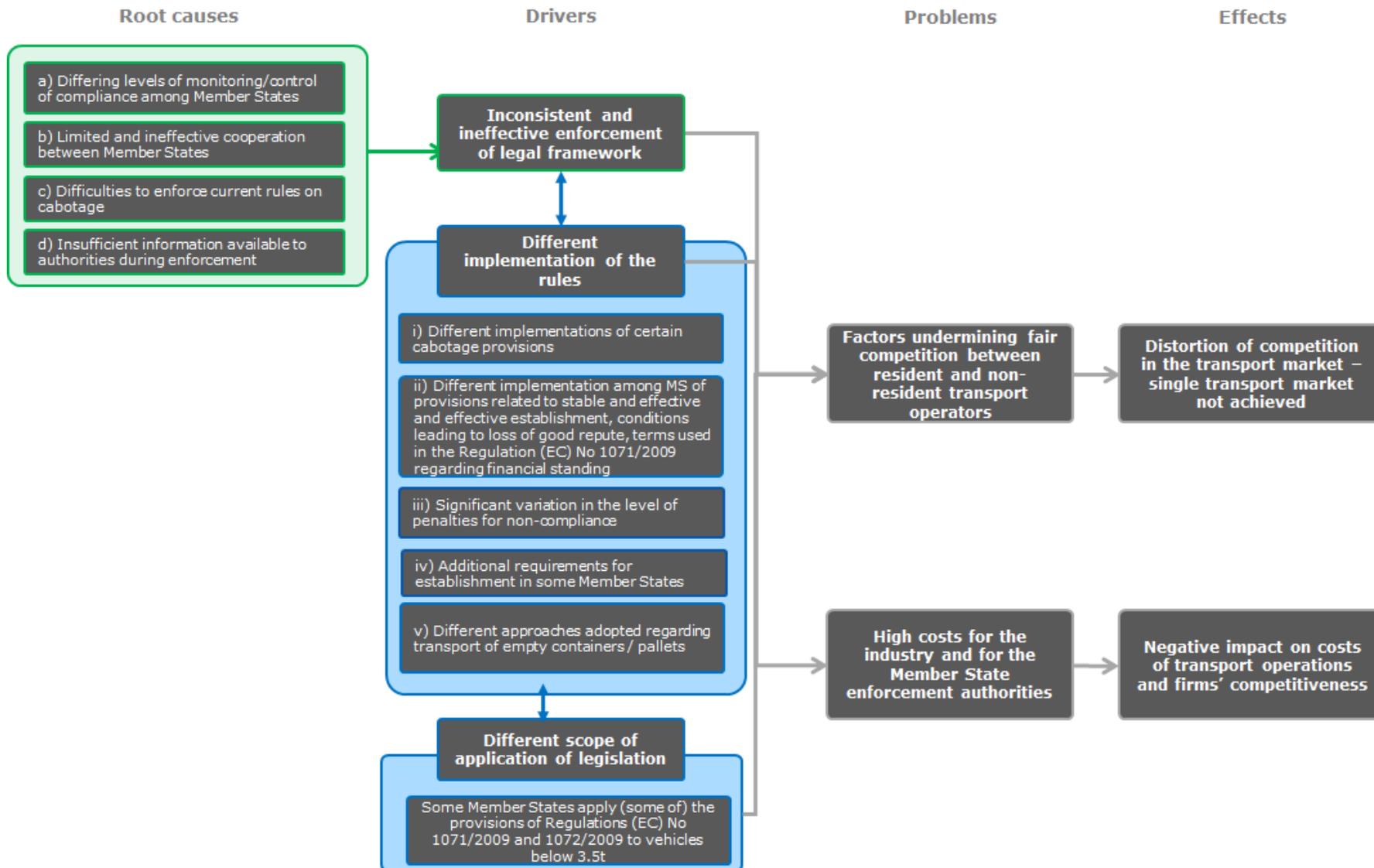
Although Ricardo et al (2015) did not find any concrete evidence that there is switching from HGVs to vans in order to avoid the Regulations, given the regulatory and market trends described above in Section A.1.2 (market context), there is a potentially increasing risk of such behaviour due to the mis-match in application of regulation and underlying market drivers. In response to these concerns, certain Member States are extending (parts of) other legislation to cover vans, creating an un-harmonised situation.

Among the respondents to the open public consultation, there is a fairly even split between responses regarding the application of some of the provisions to vehicles below 3.5t by some Member States as a problem (36%) and those that do not (30%). However, 64% of respondents from associations representing road transport workers and individual workers feel that this is not a problem, whilst 50%, 52% and 53% of respondents from logistic industry representatives, medium and large hauliers, and small hauliers respectively felt that it is a major problem that needs addressing.

2.3 Problem tree diagram

The following problem tree diagram (Figure 2-2) summarises the analysis presented in Sections 2.1 and 2.2 .

Figure 2-2: Problem tree diagram



2.4 Affected stakeholders

The following stakeholders have been identified as the main group of stakeholders affected by the existing problems described in the sections above.

- **Transport operators:** are impacted by the uneven playing field for resident and non-resident transport operators. Road transport firms are directly affected by competitors who gain an unfair advantage over them by circumventing the legislation. In particular, differing interpretations of the rules, coupled with uneven monitoring and control creates opportunities for certain companies to take advantage of lower standards in some countries (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 would 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 year²⁵ (Ricardo et al, 2015).
- **Drivers:** may be affected by illegal cabotage or the conduct of 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 contributions, although the extent to which they are affected cannot be quantified.
- **Customers of transport operators:** are affected by differences in interpretation of the rules, which create different standards of service or less efficient transport operations that undermine the efficient functioning of the Internal Market.

2.5 The EU dimension of the problems

As outlined above, the problem of an uneven playing field is linked to considerable disparities across Member States in terms of the definitions of the different interpretation of the rules (with specific examples given under Driver 2), as well as differing levels of control/enforcement of rules (root cause a), which is most logically dealt with by intervention at an EU level.

Specific difficulties in enforcing current rules on cabotage (root cause c) by definition involve international transport - Article 71 of the Treaty sets out the right of the EU to act in relation to issues of international transport. An EU framework is needed to ensure that evidence of compliance with the rules is reliable, available and efficiently provided across all Member States.

²⁵ via loss of tax revenue on vehicles, insurance, corporate income and fuel, as well as labour-related losses including unemployment compensation, loss of income tax, loss of social insurance contributions and loss of spending power

The frequent need for cross-border investigations and related difficulties in gaining support from authorities from other Member States and lack of sufficient information are linked, and are inherently EU-level issues (root cause b and d). Cooperation is particularly important in the control of letterbox companies, where investigations and enforcement are more difficult, since the Member State of establishment is not necessarily the one that is affected by the activities of the letterbox company. Similarly, in the context of cabotage enforcement it can be difficult for the countries of establishment of road hauliers to impose sanctions for violations of EU rules committed abroad, as they need first to get information from the enforcement bodies of Member States hosting cabotage operations.

3 EU RIGHT TO ACT

Three principles determine the EU's right to act:

- First, the European Union can only act within the limits of the powers given to it by the Treaties and the objectives assigned to it;
- If the problem should fall under a competence shared by the Union and the Member States, it should be shown that the problem cannot be properly solved by the Member States.
- Thirdly, fundamental rights may pose legal limits to the Union's right to take action on the problem (proportionality principle).

In relation to the first principle, Article 91 of the Treaty of the Functioning of the European Union (TFEU) gives the EU right to act on issues related to international transport as well as the conditions for access to the national transport markets to ensure Furthermore, the objective of Article 49 TFEU is to ensure a common market for goods and services. In the case of the internal market in road transport, Regulations 1071/2009 requires the uniform application of common rules on admission to the occupation of road haulage operator or road passenger transport operator (the occupation of road transport operator) setting the basis for fair conditions of competition.

At the same time, Member State action on its own cannot properly address most, if not all, the problems identified in section 2. The Impact Assessment that preceded the adoption of Regulation 1071/2009 and 1072/2009 had shown that there were considerable disparities across Member States in terms of the definitions of legal terms contained or relevant for the purposes of applying the rules, application and control/enforcement of rules on access to the profession and to the international transport market. This resulted in low effectiveness and efficiency of the rules. The impact assessment concluded that in the absence of any action such problems would remain and would even increase given the strong growth of international transport (European Commission, 2007)

The subsequent evaluation of the two Regulations (Ricardo et al, 2015) concluded that they had led to positive effects compared to the situation prior to when they entered into force. The adoption of an EU Regulation has had certain advantages in comparison to alternatives and that the use of a Regulation appears to be the most appropriate, effective and relevant instrument to achieve the objectives. In addition, Ricardo (Ricardo et al, 2015) reported that a vast majority of stakeholders among all groups (i.e. transport ministries, enforcers, transport undertakings associations, freight forwarders and trade unions) had called for further harmonisation in this field in the sense that the rules established by Regulations 1071/2009 and 1072/2009 should be more homogeneously interpreted in all Member States.

Taking into consideration the problems identified in section 2, Member State action cannot be expected to properly solve any of the problems identified. More specifically:

- In the case of uneven playing field for resident and non-resident transport operators (Problem area 1) the underlying issue is that the Regulations leave certain issues open for interpretation and that there are differences in the monitoring and enforcement practices among Member State authorities. EU action is clearly needed in order in order to address any unclear aspects of the EU Regulations. Furthermore, action at national level cannot be expected to ensure harmonised approach in

monitoring and enforcement. As indicated, it was the absence of harmonised approach that led to the adoption of Regulations 1071/2009 and 1072/2009.

- In the case of high regulatory burden for Member State authorities, enforcers and industry (Problem area 2), differences in national interpretations are found lead to a higher regulatory burden. In this case, only EU action intended to provide a common interpretation can be expected to address this problem. While Member States can voluntarily aim to harmonise interpretation, (Ricardo et al, 2015) concluded that, at least in the case of interpretation of the cabotage rules, previous efforts using Directives as well as non-binding measures have not been sufficient to ensure harmonisation.
- In relation to the Inconsistent and ineffective enforcement of legal framework (Driver 1), Ricardo et al (2015) found that enforcement practices across different Member States varied as a result of differing levels of political priority given to control of the legislation, as well variations in the level of resources and experience available in the enforcement agencies. It can be expected that in the absence of specific EU action aiming to set common standards across the EU, such differences will continue. Other aspects identified as underlying root causes (e.g. insufficient exchange of information or cooperation) could possibly be addressed on the basis of coordinated national action (as is happening for example in the context of CORTE, ECR or TSIPOL which is still voluntary). Nonetheless, there is still important added value from coordinating action at EU level by ensuring that common approaches and information exchange tools are used across all EU28 and increasing the efficiency of such information exchange mechanisms.
- Driver 2 in the problem definition refer to the different implementation of the rules among national authorities including different interpretation of the provisions under Regulation 1071/2009, significant variation in the penalties, additional requirements introduced, different approaches in the transport of empty containers and also different approaches in terms of coverage of light commercial vehicles within the scope of the two Regulations. In all these areas, action at national level cannot be expected – at least on its own – to provide an answer to any of these issues in a consistent and coherent way. In the case of regulating LCVs, Member States have adopted different approaches including fully or partial extension or no regulation at all (see section....) with limited indications of gradual convergence. Furthermore, earlier, non-regulatory action by the Commission in relation to some of these issues (e.g. in the form of Frequently Asked Question document in the case of cabotage provision) did not provide an answer to these issues (Ricardo et al, 2015). It is thus quite reasonable to conclude that only action at EU level can be expected to provide an effective answer to the issues identified.

Put together, it is quite clear that action at national level cannot provide satisfactory answers to most – if not all – aspects of the problem and their underlying drivers and root causes.

In relation to the third principle, there are no obvious fundamental rights issues in the thematic area under investigation that may limit the Union right to act.

Based on this and considering the above, we consider that both the EU right to act and potential added value from taking action at EU level are rather evident.

4 BASELINE SCENARIO

The baseline scenario reflects how the problems identified in the problem definition and the underlying drivers are expected to develop. The underlying assumptions have been developed on the basis of the research conducted in the support study for the ex-post evaluation of the Regulations (Ricardo et al, 2015), as well as further literature review and

incorporating input from the open public consultation. All assumptions were discussed and agreed with the Commission.

The baseline is described in two parts:

- The assumed evolution of main problem drivers;
- The development of quantitative baseline estimates.

4.1 Assumed evolution of main problem drivers

This section describes how the internal and external drivers identified in the problem definition are expected to evolve.

Regarding **root cause 1a (differing levels of monitoring and control)** and all of the examples of **driver 2 (different implementation of the rules)**, it is generally assumed that Member States will retain their current interpretations and approaches to enforcement in the baseline, unless there is specific information on planned changes. This assumption is taken because past experience shows that Member States are unlikely to change their national approaches often – for example, the FAQ document on cabotage that was released by the EC in 2011 (European Commission, 2011a) was not successful in ensuring harmonised interpretations due to its non-binding nature. Legal procedures have been initiated (e.g. Denmark, Finland) in order to change interpretations of the cabotage provisions where these are not considered to be in line with the Regulations (Ricardo et al, 2015). Experience in other legislative areas (such as road social legislation) also supports the assumption because differences in interpretation have persisted over long periods of time.

The single exception to the above assumption is with respect to **driver 2iii (Some MS apply (some) of the provisions of Reg. 1071/2009 & 1072 to vehicles below 3.5t)**, where concern over the use of vehicles <3.5t are growing and some MS are possibly considering extending 1071/1072 to these vehicles. As reviewed in further detail in Section 4.3.6, indications from responses received in the interviews with UETR and the Danish hauliers associations are that the Danish government is working on a law for vans, and the Dutch industry association indicated that discussions have started in the Netherlands for possible extension of the scope to LCVs below 0.5 tonnes.

Regarding **root case 1b (limited and ineffective cooperation between Member States)**, it is assumed that levels of cooperation in response to specific information requests will remain largely the same among Member States. This is because the monitoring data provided under Regulation 1071/2009 indicates that some MS are highly motivated to be active whereas others are not, and it can be expected that attitudes will remain similar, with the majority of activity being led by a few Member States (see Problem definition section of the main report). ERRU is due to be completed in the near future; however, this is not expected to impact on the overall volumes of activity, since MS that are not connected are still active in sending and receiving information requests using other means (post, email etc.). That is, it is assumed that all information requests will be made via ERRU once interconnection is completed – thereby reducing administrative costs, see Section 4.3.5 - but there will not be a significant change in the volume of such requests.

For **root cause 1c (difficulties to enforce current rules for cabotage)** it is assumed that current difficulties as outlined in the problem definition will persist due to differing interpretations of the rules and reliance on CMR. Although electronic documentation will penetrate in some Member States such as Denmark and the Netherlands, wider take-up is not expected and this will hinder the use of e-documents in cross-border transport. This assumption is made because the e-CMR protocol has only been ratified by 9 countries since it was proposed in 2008²⁶, making it ineffective for cross border transport. Furthermore,

²⁶ Bulgaria, Czech Republic, Denmark, Latvia, Lithuania, Netherlands, Slovakia, Spain, Switzerland. There are four other countries which have signed the protocol but that have not yet ratified the convention: Belgium, Finland, Norway and Sweden. Since most of the countries taking part do

the protocol only loosely defines some of the technical elements for the use of electronic consignment notes, while leaving it almost entirely to Contracting Parties to agree on the details among themselves (UNECE, 2016).

Finally, regarding **root cause 1d (insufficient information available to authorities during enforcement)** it is assumed that without further legislative action, the information available to authorities will remain at current levels. This is on the basis that only a few Member States have exceeded the minimum requirements for information contained in their national registers and risk-rating systems, but these are isolated examples (e.g. NL, UK).

A final note regarding the possible impact of the UK decision to exit the EU. Since the impact of this decision is highly uncertain, it is difficult to include formally in the baseline. Specific input from relevant stakeholders in the UK²⁷ was sought to inform this part of the baseline assumptions. The feedback from these stakeholders was that the operating license framework (including the community license) is expected to remain the same for both UK and EU hauliers and that UK will adopt the same requirements. In this case, the impacts in terms of international transport will be rather limited. Possible issue may arise in the case of cabotage operations but this is an aspect that will need to be agreed in any trade negotiations between the UK and the EU. The industry (FTA) indicated that it is favour of ensuring that cabotage is still possible. Both UK associations interviewed consider that the situation may be more complicated and problematic for Irish hauliers. It is possible that they face additional costs for accessing the EU market if they have to border control when entering the UK. It is expected that specific arrangements may be needed to ensure that any impact is minimised.

4.2 Market context

Developments in levels of transport activity are taken to be in line with the EU 2016 Reference Scenario. Total road freight activity (domestic and international) in the EU-28 is projected to increase by about 34% between 2015 and 2035, reaching 2,564 Gt-km in 2035 according to the EU Reference Scenario . The vast majority (95%) of road freight is projected to be carried by HGVs, whereas LCVs constitute only 5% of the Gt-km. International road freight activity is projected to grow by 40% between 2015 and 2035, reaching 251 Gt-km in 2035 (European Commission, 2016b).

4.3 Development of quantitative baseline estimates

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

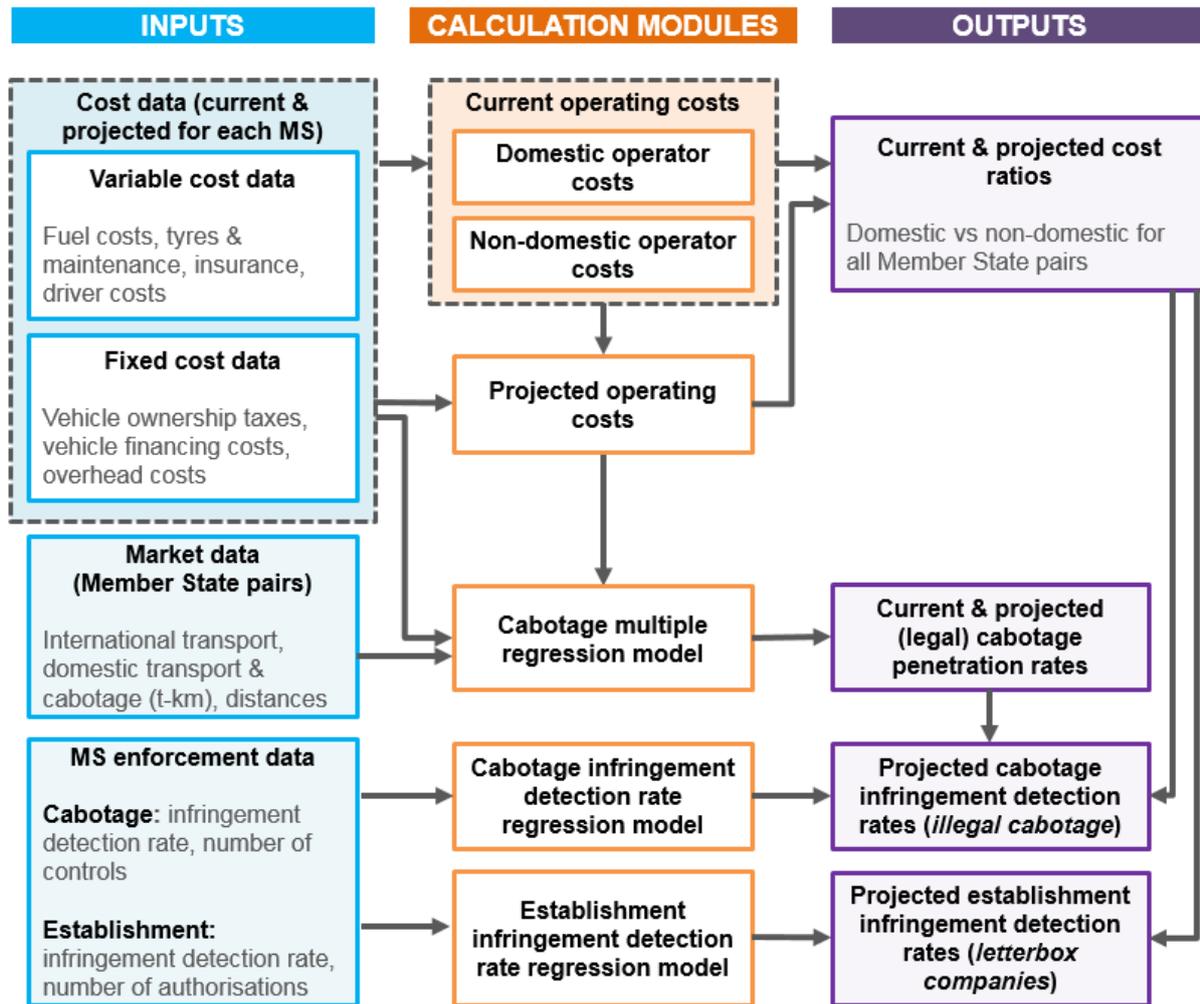
1. Cost differentials between transport operators;
2. Level of legal cabotage operations across the EU;
3. Expected level of illegal cabotage operations;
4. Expected level of letterbox companies across the EU;
5. Regulatory costs; and
6. Level of use of Light Commercial Vehicles in road freight transport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

The first four key variables are incorporated into an overarching modelling framework, which has been used to construct the baseline - see Figure 4-1. Further details, calculations and data sources are provided in the following sections, and in Annex B.

not border each other, the use of the digital consignment note for cross-border transport in practice is difficult

²⁷ We have not received any input from Ireland.

Figure 4-1: Modelling framework for analysis of cost differentials, cabotage (legal and illegal) and letterbox companies



4.3.1 Cost differentials between transport operators

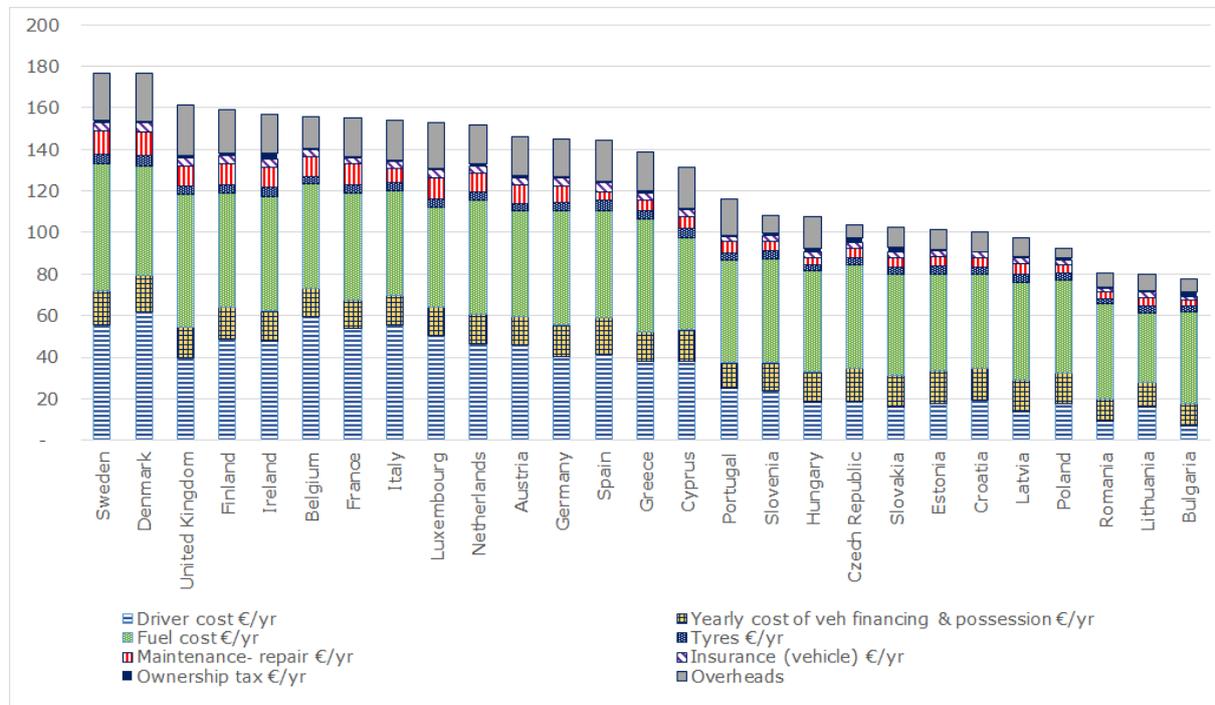
4.3.1.1 Domestic haulier operating costs

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 other 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).

Figure 4-2 shows the results of operating costs in the base year (2012) for the different cost items by Member State. A full list of data sources and the methodology used to develop the cost estimates for each country is provided in Annex B; these estimates were inflated to a consistent base year for calculations (year 2012).

Figure 4-2: Estimated average annual vehicle operating costs (EUR, 2012 prices)



Source: Model developed for this study - see Annex B

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). Following a discussion with the Commission, it was agreed to use the labour rate projections of the EU Reference Scenario for national operations.

4.3.1.2 Cost differentials for international transport operations

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

- i. A domestic haulier carrying out a transport operation in their own country (as established in the previous steps), and
- ii. 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:

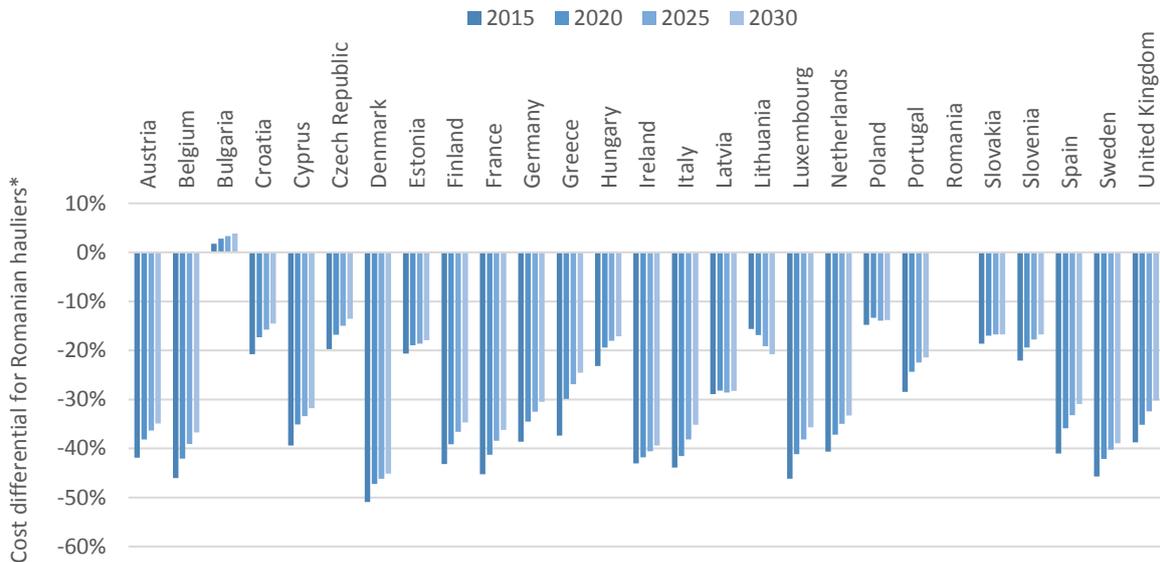
- **Fuel costs** change immediately (i.e. after 0 days of being in the host country) to the costs of the host country (the country where cabotage is carried out).
- **Driver costs behave according to two possible scenarios:**
 - **Scenario 1: They continue to follow the cost structure of the country of establishment** of the international haulier (i.e. driver costs do not change as a result of international/cabotage operation being carried out).
 - **Scenario 2: Time-based approach to account for the potential application of the Posting of Workers Directive** to transport operations as currently considered in the context of a parallel study on the revision of the road social legislation: In this scenario driver costs are assumed to change to the costs of the host country after 7 days, from 2020 onwards. The baseline assumption of 7 days for the PWD period was agreed with the Commission.
- **All other costs remain the same as the country of establishment** (e.g. insurance, vehicle costs, overheads etc.).

Note that the driver cost scenarios do not consider the implementation of minimum wage laws in Europe – a development that has been seen in recent years – due to uncertainty over how the laws will be implemented in practice amidst ongoing legal proceedings²⁸. However, Baseline Scenario 2 (BL2) can be seen to represent a situation in one “extreme” where minimum wage laws effectively are in use across the whole Union, whereas Baseline Scenario 1 (BL1) represents the other “extreme” where no countries enforce minimum wage laws. This gives the upper and lower bounds for the baseline so that these can be explored, and any intermediate situations would lie between these bounds.

Figure 4-3 shows the resulting calculations of cost differentials for the example of a Romanian haulier operating in selected host countries (for Baseline Scenario 1 where there are no changes to PWD rules). 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 cost convergence across Member States.

²⁸ See for example the press release from the Commission of 16 June 2016 entitled “*Transport: Commission takes legal action against the systematic application of the French and German minimum wage legislation to the transport sector*”

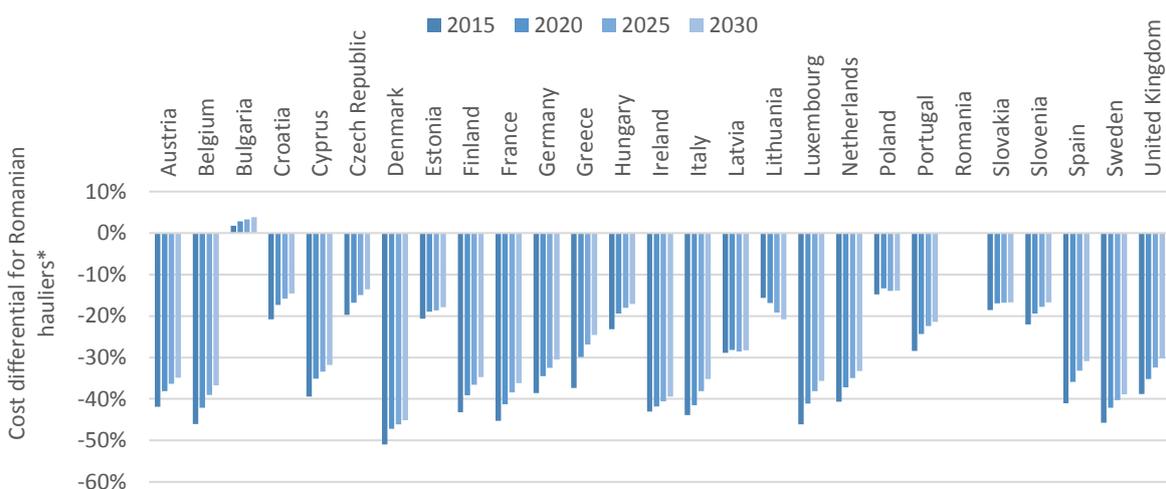
Figure 4-3: Development of cost differentials over time for the example of Romanian hauliers and selected host countries (Baseline Scenario 1 – no new posting of workers rules)



Notes: *calculated as $[total\ operating\ costs\ of\ Romanian\ haulier\ operating\ in\ host\ country\ X / total\ operating\ costs\ of\ local\ haulier\ operating\ in\ country\ X] - 1$; for baseline scenario 1 (BL1; driver costs continue to follow the structure of the country of establishment)

Figure 4-4 the same example under the Baseline Scenario 2 (BL2, i.e. under application of new PWD rules). It can be seen that the PWD rules result in a significant reduction of cost differentials compared to BL1, as would be expected. The large step in the changes in cost differentials between years 2015 and 2020 are due to the assumption that the new PWD rules 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 (Baseline scenario 2 – application of new PWD rules)



Notes: *calculated as $[total\ operating\ costs\ of\ Romanian\ haulier\ operating\ in\ host\ country\ X / total\ operating\ costs\ of\ local\ haulier\ operating\ in\ country\ X] - 1$; for baseline scenario 2 (BL2; driver costs change to the cost structure of the host country after seven days as of 2020)

4.3.2 Level of legal cabotage operations across the EU

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 Annex B. 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 H²⁹
- β_x are the respective coefficients that are estimated by the means of the regression analysis.

Figure 4-5 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 Baseline Scenario 1 (Baseline Scenario 2 respectively). For BL1, this change is largely driven by reductions in labour cost differentials seen in the EU reference scenario. For BL2, 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 BL1 and BL2 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.

²⁹ 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 4-5: Development of an aggregate EU-wide cabotage rate (indexed to 1 in 2012)

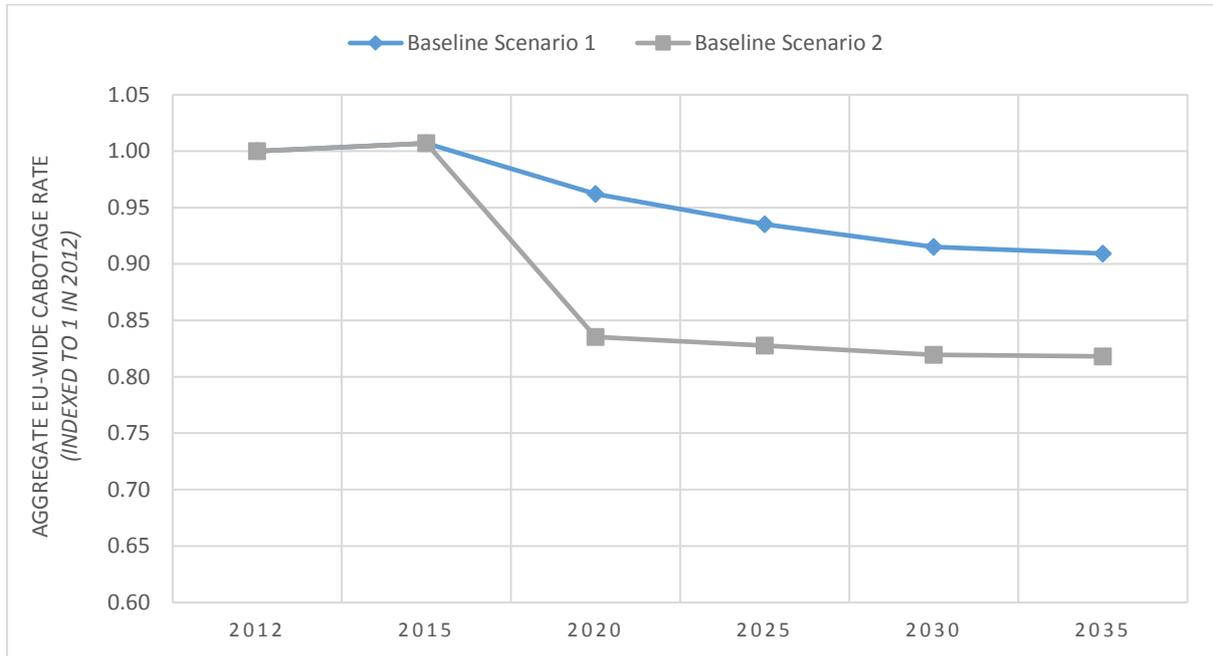
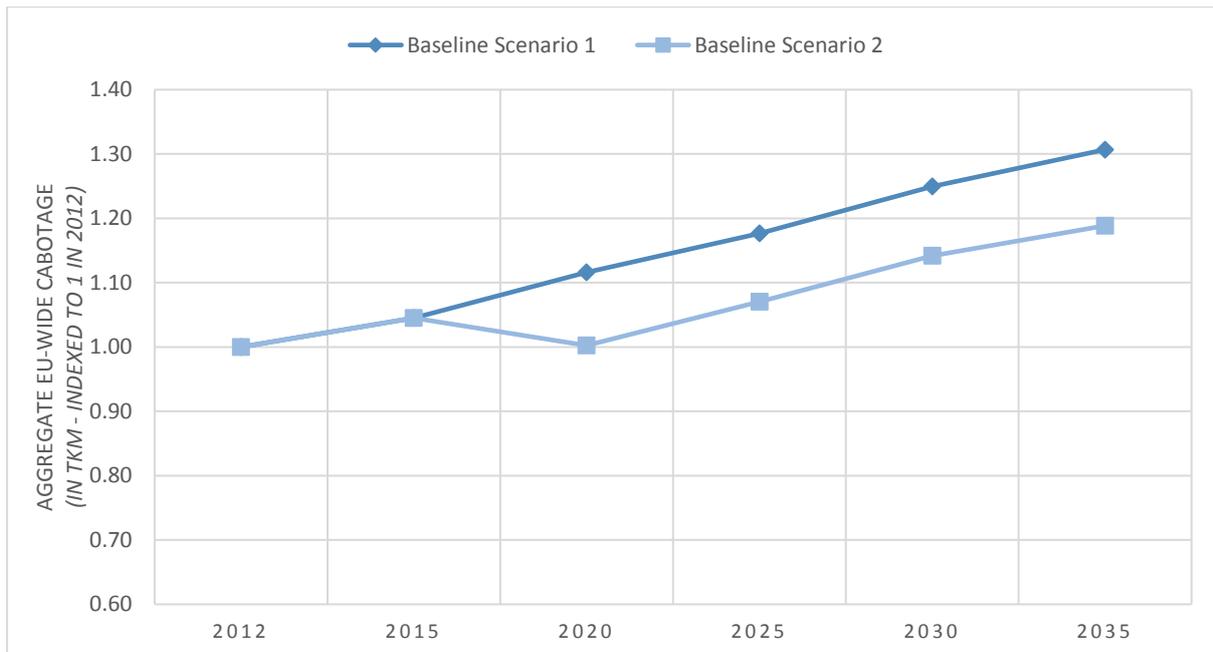


Figure 4-6 shows that in absolute terms, the overall amount of cabotage (expressed in t-km) is forecast to increase by around 30% by 2035 baseline scenario 1 (or by around 20% for baseline scenario 2). This increase in total activity (despite the reduction in the cabotage penetration rate) is due to the projected increases in overall transport activity across the EU up to 2035 (in line with the projections of the EU Reference Scenario).

Figure 4-6: Development of EU-wide absolute cabotage levels (in t-km; indexed to 1 in 2012)



4.3.3 Expected levels of illegal cabotage

Since illegal activities are by their nature difficult to observe, there is no direct data on illegal cabotage rates. Instead, the reported cabotage infringement detection rates were used as an indicator of the rate of illegal cabotage. This assumes that if underlying illegal cabotage rates increase, the infringement rates will also increase and vice versa, *ceteris paribus*. 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 (see Annex B for full details):

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

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 (see Section 4.1).

The relationship was applied at the EU level in order to estimate the level of illegal cabotage. The **development of illegal cabotage is estimated to be 0.56% of cabotage activity at the aggregate EU-28 level**. In terms of the impact on estimated cabotage penetration rates, including illegal cabotage in total activity increases the estimated aggregate penetration rate by 0.255 percentage points in the base year for EU-28, and by 0.260 percentage points in 2035. Bearing in mind the limitations explained in the previous paragraphs, the quantitative estimates must be interpreted with some caution. In other words, the baseline scenario estimates can be conservatively interpreted to predict a relatively low (likely less than 1%), but consistent level of illegal cabotage at the EU level.

It should be noted that estimates are not reported for individual countries 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.

4.3.4 Expected levels of letterbox companies

In a similar way as for illegal cabotage, the official reporting of infringements of the stable and effective establishment criterion were used as a proxy for the extent of letterbox companies. Since the establishment criteria were introduced in Regulation 1071/2009 with the specific aim of reducing letterbox companies, this is the best available proxy despite these limitations. However, infringements could be under-reported (if letterbox companies are able to evade detection) or over-reported (if companies infringe the criterion for other reasons).

Ricardo et al (2015) found that incentives for establishment of letterbox companies are strongly related to differences in the costs of operation. International road transport operators conduct transport in many countries, so it is natural to consider where it is most appropriate to register their trucks and hire their workers based on the lowest costs – which creates incentives to set up letterbox companies.

On this basis, a linear relationship of the following form was developed (see Annex B 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 indicates 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.

In a similar way as for illegal cabotage, the estimations are not reported for each country due to the lack of data. At the EU level, the average infringement rate (as an indicator of letterbox companies) is 0.19% of total authorisations granted in the base year. This falls to 0.11% of authorisations in 2035, due to the slight convergence of total operating costs foreseen in the baseline. Overall, this equates to an estimated total number of letterbox companies of around 430 in 2012, falling to 270 in 2035. Again, the EU aggregate values smooth out significant variation, ranging from estimated rates of zero letterbox companies (for example in higher cost countries) to a maximum of 0.4% of authorisations.

The estimates of letterbox companies do need to be interpreted with great caution, given the limitations discussed above, and should be taken as an indicator of risk. Hence, the baseline calculations suggest that there is currently a relatively low level of risk of letterbox companies that will diminish gradually over time, but will not be eliminated.

4.3.5 Regulatory costs

In the absence of any changes to the legal framework, MS are largely expected to maintain their current approach towards enforcement, and as such, compliance activities for industry will also be largely unchanged. Hence, our basic assumption is that most costs for authorities and operators will remain stable over time. The only area where we expect significant changes is associated with the implementation and running of ICT systems, and particularly the ERRU.

Data from Ricardo et al (2015) suggested that there represented an important part of the **costs for enforcement** (incurred by authorities).

Given that ERRU is expected to be completed in the next few years, there could be some reduction in administrative costs in the baseline. At the time that Ricardo et al (2015) was carried out, only 15 Member States were interconnected and it was not possible to quantify the expected savings. Nevertheless, the report noted that qualitative survey responses received from ministries indicated that most were hopeful that improvements in control should be achieved once interconnection was completed (Bulgaria, Denmark, Estonia, Finland, France and Sweden). Hence it seems appropriate to include some estimate of administrative cost savings in the baseline, even if the estimates are rather tentative.

It should be noted that no stakeholder contacted in Ricardo et al (2015) could provide quantitative estimates of the administrative cost savings of ERRU. Therefore a proxy indicator is needed 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. We therefore take an ex-post estimate for the time savings associated with the introduction of e-invoicing as a proxy for the possible savings related to the introduction of ERRU (the ex-post estimates were based on interviews with organisations that had made the changes). This proxy is used because the time-savings involved are likely to be similar (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 studies (i.e. (ICF, 2014)).

EBA (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 4-1. This cost takes into account savings in materials (e.g. paper, postage), back office staff, archiving costs, payment fees etc.

Table 4-1: Average costs of fulfilling paper versus electronic invoices (EUR per invoice)

	Total	Sent	Received
Paper	47.35	28.8	18.55
Electronic	14.10	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 were 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) was available from the most recent reporting period (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 was 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, we assume 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 4-2. 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.

Once ERRU is fully operational in the coming years, it is assumed that all communications will be electronic – as shown in Table 4-3 this leads to total administrative costs in the baseline of €7.38 million, a reduction of almost €5 million compared to costs in 2015.

Table 4-2: Calculations for baseline administrative costs for authorities

Data	Requests received*	Source / assumptions
Total requests received for 12 ³⁰ 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
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)

³⁰ BG, DK, EE, ES, FR, HR, LV, PL, RO, SI, SK, UK

Data	Requests received*	Source / assumptions
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

Regarding electronic documentation (e.g. e-CMR), it is assumed that there is gradual uptake in domestic operations, since there is a strong interest among the industry for digital documents (especially e-CMR), and industry solutions are being launched (Digital Transport and Logistics Forum, 2015). However, there are still difficulties for use of electronic documents in international transport operations: notably the limited number of Member States that have ratified the e-CMR protocol, and also because authorities do not always have the ability to check electronic documents during road-side checks (Digital Transport and Logistics Forum, 2015). . As such, in the baseline it is assumed that most hauliers who see a benefit from moving to electronic documents will do so for domestic operations (and hence will make the necessary investments in infrastructure/equipment), but they will continue to face barriers in using such documents in international transport operations.

4.3.6 Use of light commercial vehicles in international transport

In this section we present the expected evolution of the use of LCVs – in total and in international transport in particular – and the expected changes to the regulatory landscape. This presents the baseline against which the policy options related to changes to the scope of Regulations 1071/2009 and 1072/2009 will be assessed.

4.3.6.1 Expected evolution in the use of LCVs

To our knowledge there are no studies that quantify the underlying drivers of the increased LCV activity. The EU reference scenario (European Commission, 2016b) projects use of LCVs in Member States based on a suite of energy system and macroeconomic models and the current policy framework. It can therefore be taken, broadly, as an indication of expected overall changes in LCV activity due to underlying macroeconomic trends (such as population growth, GDP growth, technology progress etc.) and in the absence of further regulatory drivers³¹.

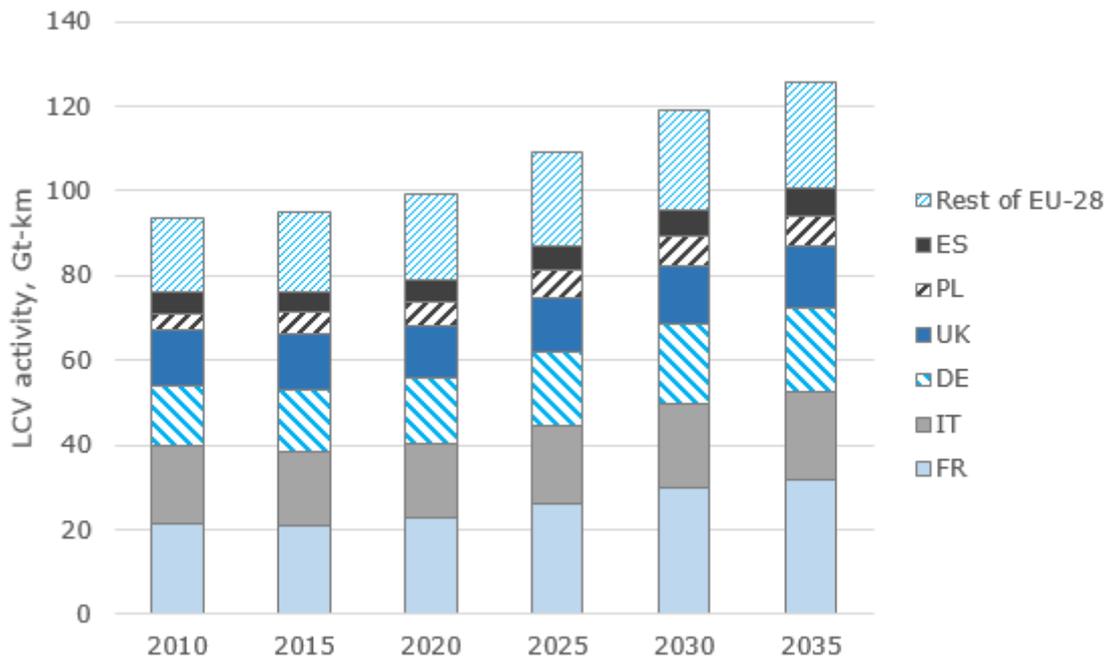
According to the EU reference scenario, LCV activity is concentrated in a few Member States (see Figure 4-7). In 2015, four countries³² accounted for 70% of total EU LCV activity in Gt-km. Conversely, in most other countries the absolute level of LCV activity is fairly minor - 15³³ countries were estimated to have less than 1 Gt-km of LCV activity in 2015. This pattern of high concentration is expected to remain out to 2035 (European Commission, 2016b). Figure 4-7 shows that, according to the EU reference scenario the total activity of LCVs is expected to rise from 95 Gt-km in 2015 to 141 Gt-km in 2035 (an increase of 33%).

³¹ This is something of a simplification - the modelling conducted for the reference scenario explicitly takes into account most EU-level policies (e.g. Eurovignette Directive, EURO Regulations, CO2 standards etc), but will not reflect detailed policies at the local/regional level that may contribute to increasing LCV use.

³² France, Italy, Germany and the UK

³³ Romania, Denmark, Ireland, Slovakia, Portugal, Finland, Hungary, Bulgaria, Slovenia, Luxemburg, Lithuania, Estonia, Latvia, Cyprus and Malta

Figure 4-7: Projected change in total LCV activity, EU-28 (Gt-km)



Source: EU 2016 Reference scenario (European Commission, 2016b)

In terms of the share of LCV activity in the total freight activity (LCVs and HGVs), across the EU as a whole LCVs account for around 5% of total road freight activity, and this is expected to remain fairly consistent over time (see Table 4-3). The final column shows the percentage point (pp) change between 2015 and 2035, indicating that overall for EU-28 there is expected to be a minor (0.04 pp) reduction in the share of LCVs in total freight activity.

Table 4-3: 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: EU 2016 Reference scenario (European Commission, 2016b)

Use of LCVs in international transport

The EU reference scenario does not split out the share of domestic versus international transport carried out by LCVs. Furthermore, there is typically no monitoring of international goods traffic by LCVs in the EU. Consequently, there is considerable uncertainty about the overall level of activity and number of LCVs active in international traffic throughout the EU.

This is clearly a major limitation for the development of the baseline, as the market share of LCVs will likely vary between domestic and international transport. Traditionally, it is expected that LCVs are more prevalent in national transport due to their deployment in cities and on shorter routes. There have been various reports of Eastern European LCVs targeting express freight traffic in Germany and France (TRUCKER, n.d.) (Lloyds' loading list, 2016) (both international and cabotage) and, during our interviews, a number of stakeholders representing the road haulage industry at EU (IRU) and national level (FR,

DE, DK) referred to an increasing presence of foreign registered LCVs in hire-and-reward traffic.

To address this limitation, we have used available data sources directly or indirectly related to the use of foreign registered LCVs at national level to estimate the levels of use of LCVs in international transport.

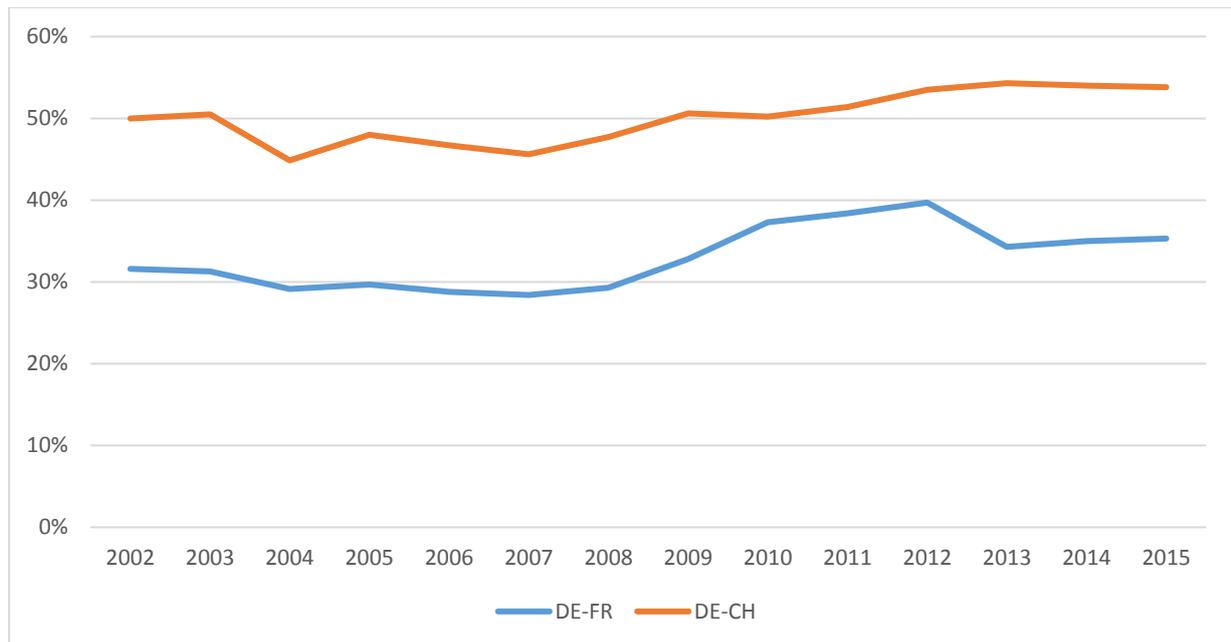
The most relevant study on the issue has been conducted by the French authorities (Ministère de l'Écologie, du Développement durable et de l'Énergie, 2016). It summarises data and information from roadside checks, as well as from a review of goods vehicles passing automatic weight measurement stations 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 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. Furthermore, 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.

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 period (Büro für angewandte Statistik, 2003; 2008). No further investigations have been undertaken since 2008 due to increasing difficulties in accurately attributing number plates to Member States as well as general practical difficulties in distinguishing between private and commercial (goods) transport in the case of vans³⁴. As a result, trends over time and the situation in recent years are less clear.

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 2015 (Road Traffic Centre of Baden- Wurttemberg, 2016). The available data (see Figure 4-8) suggest only a small growth trend over the period 2010-2015. Notably, the share of LCV traffic is much higher on border crossing with Switzerland and not 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.

³⁴ Personal communication with BAST

Figure 4-8: 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)

Finally, Transport and Environment has provided us with data on traffic counts at motorways on the BE-NL and BE-DE borders, each for a duration of two hours, so the sample size is very limited (Transport and Environment, 2015). At the BE-DE border, they found almost one LCV crossing the border for every HGV. At an international transport share of 15% this would be equivalent to an inland share of 15 LCVs in international traffic for every HGV. However, the observations are likely to include significant amounts of (regional) private as well as own-account traffic, and thus should be seen as an extreme-upper bound indicator of international LCV traffic.

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

Table 4-4 – 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 figures e.g. from Germany indicate that international LCV traffic may well be higher elsewhere)
Upper-bound	15%	(Transport and Environment, 2015) (Road Traffic Centre of Baden- Wurttemberg, 2016)	

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 large 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 4-5.

Table 4-5: 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 vkm share by international LCV are divided by 28 (from Table 4-5) to obtain an **estimate of international LCV activity in proportion to total HGV activity**.

Table 4-6 - 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: Own 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, we restrict the analysis of impacts on those two Member States, although it can be easily extended to further Member States. Results are summarised in Table 4-7.

Table 4-7: 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: Own 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 4-8.

Table 4-8: 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: Own calculation on the basis of available data

We should note that the above estimates are based on the assumptions that the share of LCVs in total vehicle fleet used in international transport remains constant. This is an important assumption for that we had to make 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. A few industry representatives (BG, ES, DK) referred to an increase in the use of LCVs in international transport – including cabotage operations - but did not provide any evidence. At the same time, the responses to the hauliers survey on the level of use of LCVs in international transport operations suggests does also 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 4-9**).

Table 4-9: 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 (±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

In addition, we should point out that, while the increase in the level of e-commerce is identified as an important market driver for the increase in the use of LCVs (see also relevant section in problem definition) this is largely related to urban rather than inter-urban or, even more so, international transport.

On this basis – and in the absence of other reliable data – we consider that assuming a standard share of LCVs in total international transport is appropriate for defining the baseline. These figures will be used as a basis for analysing the possible impact of any measures introduced in terms of the use of LCVs and the regulatory costs for authorities and industry associated with the introduction of any specific provisions at EU level. Nonetheless, a sensitivity analysis will also be used on the basis of the minimum and maximum estimates presented in Table 4-7 and Table 4-8. This will strengthen the confidence to the analysis.

4.3.6.2 Changes in the legal framework

The regulatory landscape concerning the use of LCVs is the second important variable that can affect the use of LCVs – in both domestic and international transport. The information collected from the survey of national authorities³⁵ and input from industry – as well information from the ex-post evaluation (Ricardo et al, 2015) – suggests that LCVs are covered – fully or partly – in a few Member States. Seven Member States apply to same requirements as in the case of HGVs – although in Belgium and the Netherlands vehicles of less than 0.5 tonnes are not covered. France has introduced specific requirements concerning financial standing in the case of LCVs (EUR 900/vehicle) and a smaller number of hours to prove professional competence (10 hours of training). Requirements related to good repute are also in place in the Czech Republic but no other provisions are in place. In the case of Regulation 1072/2009 the same requirements as in the case of HGVs apply in eight Member states.

In the absence of EU intervention, our basic assumption is that national legislation will remain unchanged with respect to the extent to which LCVs are covered by Regulation 1071/2009 and/or Regulation 1072/2009 (see problem definition), except where we receive indications from Member States that they plan to introduce changes.

So far, we have only received information from Denmark (interview with industry association), that a new act is currently being developed expected to extend all rules within Regulation 1071/2009 and 1072/2009 to LCVs. This act is expected to be passed next year and become operational on 1st January 2018. Table 4-10 below summarises the available information (see detail in Annex D).

Table 4-10 – Summary of the legal framework concerning the use of LCVs in road freight transport

	Member States	No.	Comments
Regulation 1071/2009			
Fully covered	BE(for over 0.5t) EL, FI, IT, LV, NL(for over 0.5t), SE	7	
Partially covered	CZ, FR	2	CZ: Good repute requirements FR: Professional competence (training of 10 hours) and Financial standing (EUR 900/vehicle)
Not covered	BG, DE, DK, EE, ES, HR, HU, LU, PL, RO, UK	11	DK expected to introduce legislation in 2018
No information	AT, CY, IE, LT, MT, PT, SK, SL	8	
Regulation 1072/2009			
Fully covered	BE, CZ, DK, EL, FI, FR, SE, SK	8	
Partially covered	-		
Not covered	BG, DE, EE, ES, HR, HU, LU, LV, NL, PL, RO, UK	12	DK expected to introduce legislation in 2018
No information	AT, CY, IE, IT, LT, MT, PT, SL	8	

Sources: National authorities' survey, Ricardo (2015), NEA (2010)

³⁵ Authorities from the following Member States had not responded by 12/1/2017: AT, CZ, FR, DK, IE, IT, SL, SK, MT, LT, ES, PT

5 POLICY OBJECTIVES

5.1 General policy objectives

As already indicated in terms of reference, the proposed initiative aims at ensuring the effectiveness of the original system in place by the adoption of the Regulations contributing to the original aims of the framework, namely:

1. To ensure a level playing field between resident and non-resident hauliers; and
2. To ensure proportionate regulatory costs.

These two objectives reflect the problem areas identified in the problem definition.

5.2 Specific objectives

In terms of the specific objectives, the ToR of the study identify the following two, which are directly linked with the general objectives indicated above:

1. To ensure coherent and consistent monitoring and enforcement of the existing rules in Member States; and
2. To ensure coherent interpretation and application of the existing rules in Member States.

Both of the stated special objectives were supported by the large majority of stakeholders in the open public consultation. 140 out of 175 respondents fully agreed with the first objective while 156 out of 175 fully agreed with the second. There was also no subgroup of respondents that disagreed with any of these two objectives.

6 POLICY OPTIONS

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)
- The previous IA carried out in 2013 (AECOM, 2014c)
- The input from stakeholders.

An initial list of policy options was developed which was then screened in terms of their Legal, technical and political feasibility and their proportionality.

This led to a final list of policy measures which were then linked to into policy packages ensuring that all packages included policy measures addressing the root cause, drivers and issues identified in the problem definition presented in Section 2.

The process for the selection of policy measures is described in detail in Annex A.

6.1 Presentation of selected policy options

Table 6-1 below provides a definition of the three policy packages. They have been defined in a way to reflect increasing level of regulatory intervention and entailing an increasing level of expected impacts. Policy options 1 to 3 are cumulative, in the sense that all measures in policy package 1 are also part of policy package 2, which itself includes further measures. Some policy measures, notably those in policy package 1, involve non-regulatory instruments (non-binding measures) and/or regulatory instruments. Policy option 4 is a horizontal package, and can be combined with the other policy packages - as well as the scenario of no action.

Table 6-1 : Definition of policy packages

Policy package 1 - Clarification of the legal framework (PP1)
<p>This focuses on:</p> <ul style="list-style-type: none"> Measures aimed at clarifying existing ambiguities (e.g. clearer definitions with regard to financial standing) without substantially changing the rules; Measures aimed at easing enforcement, whenever such measures are not expected to involve significant compliance costs or administrative burden (e.g. promote common training of enforcement officers or other measures of information exchange on a voluntary basis).
Policy package 2 - Strengthening of enforcement (PP2)
<p>Besides measures in policy package 1, this package includes:</p> <ul style="list-style-type: none"> Measures aimed at strengthening enforcement but which are expected to involve significant compliance costs or administrative burden (e.g. introducing a minimum number of checks of cabotage provisions, mandatory cooperation between Member States); This policy package does however not significantly change the overall framework of the rules.
Policy package 3 - Extensive revision of the Regulations (PP3)
<p>In addition to the measures in policy package 2, this includes further measures intended to substantially change the existing legal framework, notably by:</p> <ul style="list-style-type: none"> Changing the cabotage regime; Changing the rules on access to the profession (e.g. conditions for a stable and effective establishment) <p>Changes to the substance of the rules also require accompanying changes to the requirements for enforcement and monitoring, in order to support the transition.</p>
Policy package 4 – Extension of scope to LCVs (PP4)
<p>This policy package covers the extension of the scope of the two Regulations to cover LCVs and can be combined with the other policy packages - as well as the scenario of no action.</p> <p>Two sub-options under policy package 4 are considered to reflect different levels of coverage of light commercial vehicles:</p> <ul style="list-style-type: none"> 4a - Full extension of the scope of the two Regulation to cover the use of LCVs including all applicable provisions (full inclusion of vehicles <3.5t); 4b - Partial extension of the scope of the two Regulations (partial inclusion of vehicles <3.5t) that includes only some of the applicable provisions;

Details of the policy measure have been adjusted to be fully in line with the overall theme of the package. For example, clarifications in P1 (non-regulatory) would be in the form of guidance, whereas clarifications in other packages would be implemented in the text of the legislation. Similarly, while voluntary measures will be under P1, in the case that the similar measures are mandatory, they will be considered as part of P2. Measures that were initially considered but have been discarded are not included in this table (see Section 6.3). A more detailed description and operationalisation of the policy measures is presented in Annex E.

Table 6-2: Definition of policy packages

Key: V=Voluntary; M= Mandatory; ✓ : included

Policy measure	PP1	PP2	PP3	PP4a	PP4b
Driver 1: Inconsistent and ineffective enforcement of legal framework					
Root cause a: Differing levels of monitoring/control of compliance among Member states					

Policy measure	PP1	PP2	PP3	PP4a	PP4b
1. Promote common training of enforcement officers and a common EU training curriculum (voluntary/mandatory)	✓ V	✓ M	✓ M		
2. Introduce cross-border joints controls (voluntary/mandatory)	✓ V	✓ M	✓ M		
3. Introduce a minimum number of checks of compliance with the cabotage provisions by national authorities		✓	✓		
Root cause b: Limited and ineffective cooperation between Member States					
4. 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	✓ V	✓ M	✓ M		
5. 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).		✓	✓		
6. 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)	✓ V	✓ M	✓ M		
7. Identify minimum common data/information to be included in risk rating systems	✓ V	✓ M	✓ M		
Root cause c: Difficulties to enforce current rules on cabotage					
8. Remove maximum number of cabotage operations (currently 3), while reducing the maximum period for cabotage operations (from 7 to 4 days).			✓		
9. 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	✓	✓	✓		
10. Clarify evidence needed to prove the legality of cabotage operations		✓	✓		
11. Mandatory use of GNSS digital tachograph by enforcement authorities after a certain date.		✓	✓		
12. Mandatory acceptance of electronic consignment notes ³⁶ by enforcers after a certain date		✓	✓		
Root cause d: Insufficient information available to authorities during enforcement					
13. Increase the amount of information available in ERRU to include infringements of the condition on stable and effective establishment, financial standing and professional competence, registration plate numbers of all vehicles in use by the operator, number of employees of the undertaking, past and current companies managed by transport managers, risk rating of the operator, total assets, liabilities, equity and turnover of the undertaking during the last 2 years).	✓ V	✓ M	✓ M		
14. Extend access to additional data in ERRU to road side check officers (see policy measure 16)		✓	✓		

³⁶ E.g. e-CMR. Other forms of electronic documentation could also be considered, such as a scanned version of a paper CMR in pdf format on a mobile phone

Policy measure	PP1	PP2	PP3	PP4a	PP4b
15. Setting up electronic 'integrated compliance records' for each licensed operator		✓	✓		
Driver 2: Different implementation of the rules					
Issue i: Different interpretations of certain cabotage provisions in Regulation 1072/2009					
16. Clarify the possibility of "groupage" transport in cabotage to ensure that multiple loadings and un-loadings are possible as part of one cabotage operation	✓	✓	✓		
17. Creation of an online platform where Member States can post comprehensive information relating to applicable national rules	✓	✓	✓		
Issue ii: Different interpretation of provisions related to conditions for access to the occupation in Regulation 1071/2009					
18. Review reference points for effective and stable establishments 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)			✓		
19. Provide a clearer definition of the relevant persons to be checked for good repute (extent list beyond the transport manager)	✓	✓	✓		
20. Set more precise requirements on how a newly established enterprise can prove its financial standing.	✓	✓	✓		
21. Develop practical guide for interpretation of EU rules, prepared for the road transport sector.	✓	✓	✓		
Issue iii: Significant variation in the level of penalties for non-compliance					
22. Introduce penalties for shippers and freight forwarders, in case they knowingly commission transport services involving infringements of the Regulations (e.g. illegal cabotage operations).			✓		
23. 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.	✓	✓	✓		
24. Introduce cabotage in the classification of serious infringements leading to the loss of good repute	✓	✓	✓		
Issue iv: Additional requirements for establishment in some Member States					
25. Remove the possibility for Member States to add additional requirements for establishment.		✓	✓		
26. Allow Member States to include additional requirements for establishment in exceptional circumstances.	✓	✓	✓		
Issue v: Different approaches adopted regarding transport of empty containers / pallets					
27. 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.	✓	✓	✓		
Driver 3: Different scope of application of the legislation					
Issue i: Some Member States apply (some of) the provisions of the Regulations to vehicles below 3.5t					

Policy measure	PP1	PP2	PP3	PP4a	PP4b
28. Extend scope of Regulation (EC) No 1071/2009 to cover vehicles below 3.5 t fully.				✓	
29. Extend scope of Regulation (EC) No 1072/2009 to cover vehicles below 3.5 t fully				✓	
30. Extend scope of Regulation (EC) No 1071/2009 to cover vehicles below 3.5 t partially					✓
31. Extend scope of Regulation (EC) No 1072/2009 to cover vehicles below 3.5 t partially					✓

6.2 Choice of legal instrument

All the policy measures are linked to Regulation (EC) No 1071/2009 and (EC) No 1072/2009. Therefore, the policy measures will be introduced through a revision of these Regulations. It has not been considered to transform the Regulation into a Directive, as this could potentially disperse the internal market even further, due to diverging national implementation plans.

6.3 Measures discarded

A number of measures initially identified were discarded as part of the initial screening process. These were:

- **Establishment of a European control agency to take responsibility of enforcement:** The measure is considered outside the scope of the current study and it is covered in the context of the revision to the social legislation. The costs of establishment were also identified as potentially significant.
- **Establishment of a high level group of competent authorities to regularly follow up after rules are designed and implemented:** This is discarded on the basis that monitoring of the implementation of the Regulations is a competence and responsibility of the Commission services.
- **Removal of all cabotage restrictions:** Existing social and economic differences between MS preclude the opening of cabotage markets. As set in the recital of Regulation 1072/2009 it could be achieved only once the employment conditions in the profession are harmonized. Thus, given that this precondition is not met (wage differentials are still too high), the measure is still not considered appropriate..
- **Bring forward the deadline for the implementation of the 'smart' tachograph by means of derogation to Regulation (EU) No 165/2014:** the implementation of the smart tachograph is already provided in the Regulation and, as a result, it is part of the baseline (as from 2019). The current technical state of art does not allow for immediate implementation.
- **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 is in conflict with existing requirement for tachograph and would pose significant costs to hauliers. It was 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:** It 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 were also technical (implementation) problems identified and thus the measure was considered disproportionate.
- **Include combined transport within the scope of cabotage Regulation 1072/2009:** Besides the expected difficulties to check/prove whether an operation is combined transport or cabotage, changes to the Combined Transport Directive will also be required. It is considered more appropriate that such an issue is addressed as part of the ongoing review of the Combined Transport Directive. The

result of this impact assessment will be considered in the review of the Combined Transport Directive.

- **Provide definition of combined transport within Regulation 1072/2009:** This measure has been discarded on the basis that changes to the Combined Transport Directive are necessary to address any issues related to the status of combined transport operations.
- **Requirement for hauliers to submit a pre-notification to the respective national authorities of future cabotage operations (cabotage pre-register):** Discarded on the basis that feedback from stakeholders indicates that can be a particularly costly measure for operators and authorities with only limited impact on enforcement.
- **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:** Discarded on the basis that it overlaps with other measures focusing on the provision of information on the operators.
- **Introduce 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 (CY, EE, PL) suggested that the measure would be difficult to enforce. At the same time, hauliers responding to the survey consider that the measure will pose a significant disruption to operation and have significant costs: over 60% (45 out 70 firms) that responded to the specific questions in the hauliers survey considered that this measure will have negative impact on their overhead costs. Furthermore, if the proposed rules on posting of workers are adopted (as foreseen in baseline scenario 2, see Section 4), the attractiveness of "systematic cabotage" (which this measure is specifically aimed to address) will decrease without further intervention.

7 METHOD/PROCESS FOLLOWED

7.1 Process / methodology

The following data collection activities have been carried out:

- Desk research and data collection
- Open public consultation
- Surveys of hauliers and national authorities
- An SME panel survey
- Interviews with selected stakeholders
- Case studies

7.2 Desk research and data collection

The desk research relied on the identification, extraction and analysis of secondary data sources (studies, reports, databases). All of the literature is referenced throughout the report and a list is compiled in the references section at the end of this report.

7.3 Analysis of inputs from the open public consultation

The public consultation was launched on 15th June 2016 and was open for responses until 15th September 2016 (12 weeks). 175 responses were received, covering a variety of stakeholder groups, as shown in Table 7-1.

Table 7-1: Classification of stakeholders responding to the public consultation

Stakeholder category	Number of responses	% of responses
Medium and large hauliers	23	13%
Small hauliers	18	10%
Logistics industry representatives	17	10%
Associations representing road transport workers and individual workers	33	19%
Transport operators' associations	48	27%
National authorities and relevant associations	18	10%
Other	18	10%
Grand 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.

The responses to the open public consultation report have been analysed and a detailed overview of the results is provided in Annex F.

7.4 Stakeholder surveys

Two surveys were carried out: one of national transport ministries and national enforcers and one of individual hauliers. They were open for a total period of 6 weeks (deadline of the 16th December) although late responses were still accepted.

A total of 18 responses were received for the survey of **national competent and enforcement authorities**, covering 16 Member States³⁷. We also received an answer to the same survey from Euro-Controle-Route.

We received a total of 80 responses to the survey of hauliers. As Table 7-2 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 7-2: Responses to the hauliers' survey

Member State	Number of responses	Percentage
Total	80	100%
EU13	55	69%
Poland	31	39%
Bulgaria	24	31%

³⁷ BE, BG, CY, DE, EE, EL, FI, HR, HU, LU, LV, NL, PL, RO, SE, UK. The authorities in the Netherlands indicated that their responses should be considered as representing the official government position.

EU15	25	31%
Belgium	13	16%
Denmark	2	3%
France	1	1%
Germany	7	9%
United Kingdom	1	1%
Ireland	1	1%

SME Panel Survey

An SME Panel Survey was launched on 26th September – mainly focussing on issues around the use of light commercial vehicles in road transport, as agreed with the Commission. The survey was open for responses until 11th November (8 weeks).

Only 17 responses were received to this survey including 7 providers of road freight transport services using owned or hired vehicles, 7 firms that use owned or hired goods vehicles for the transport of their own goods, and 8 users of road freight transport services³⁸. In terms of geographical distribution, responses were received from SMEs established in the following countries IT, PL, SK, ES, DE and EL. A detailed analysis of the responses to the SME Panel Survey can be found in Annex G.

7.5 Stakeholder interviews

An initial set of 5 interviews with key stakeholders (IRU, CLECAT, ETF, ECR) was carried out to help scope out the initial design and ensure that relevant issues are addressed. Stakeholder interview programme

A total of 31 additional phone interviews were carried over the period of 15/11/2016-13/1/2017, as show in Table 7-3 . The interviews cover one or more stakeholders in a number of Member States (BG, CZ, DE, DK, ES, FR, IT, LV, PL, RO, UK) and at EU level.

Table 7-3: Overview of interview progress

Type of Stakeholder	Interviews		
	Invited	Declined	Carried out
Total	117	12	31
Transport Company (BG, DE, DK, ES)	23	3	4
International transport Companies	3	0	1
National Transport companies Associations (BG, CZ, DE, DK, ES, FR, IT, LV, NL, PL, RO, UK)	62	9	16
National Authorities (Transport Ministries and Enforcement Authorities) (BG, DE, LV, PL, RO, UK)	25	0	6
International Association of Transport Companies (IRU, UETR)	3	0	2
EU Enforcement Body (TISPOL, CORTE)	3	0	2

³⁸ Respondents could indicate more than one type of activity.

7.6 Case studies

Five case studies were developed, focusing on the level of use of LCVs in road freight transport, examining existing trends and assessing the role of regulation, where applicable in the following countries:

- Denmark,
- Germany,
- Poland,
- Romania,
- France.

The case studies were based on the interviews with key stakeholders, reports/studies in relation to the use of LCVs in the specific member states and available data. They are presented in Annex K.

7.7 Stakeholder report

The input from all stakeholders' activities will be brought together in a stakeholder report. The report will be submitted following together with the final report. It will include:

- **Documentation of the consultation activities undertaken**
- **Information on which stakeholder groups participated:** Brief profile of the respondents by stakeholder type and Member State, along with a comment on the size and representativeness of the sample.
- **Description of the results of each consultation activity, a comparison of their results including interdependencies, consistencies or contradictions:** We will summarise stakeholder views for each question, provide a discussion of qualitative responses, and highlight any particular groups of stakeholders or regions that held particular views.
- **Feedback on how the results of the consultation have fed into policy making:** The report will reflect how the results were actually used in the study.

7.8 Research limitations – robustness of findings

In general, the level of stakeholder participation for this study has been lower than hoped for. For instance, 117 stakeholders were contacted for interviews, but only 31 agreed to participate. The response to the survey of hauliers was limited despite providing the survey in a number of national languages, with only 80 responses in total and very small or no participation from a large number of Member States (including Member States with large share in total freight transport such as DE, FR, UK). The responses to SME panel were also very limited (17 responses). Overall, stakeholder fatigue appears to have had a negative impact on the level of participation. This affects the robustness of the conclusions that can be drawn, in particular in terms of impacts of changes in the legislation for different stakeholder types and/or Member States.

In terms of the input from national authorities – another key stakeholder affected by the proposed measures – the total number of 16 Member States covered, including eight of the EU13 and eight from the EU15 Member States is considered satisfactory for the analysis. However, responses to the authorities' survey were not always complete and they were often not able to provide input on the expected cost implications of the measures considered (most often indicated "Do not know"). As such, the analysis of the cost implications or of relevant savings is often based on input from only a small number of Member States which means that they often need to be treated with caution and considered as informed estimates.

When possible, we addressed the above limitations by cross-checking the figures provided with other stakeholders (e.g. industry representatives) and other sources (e.g. literature, ex-post evaluation). Furthermore, when possible, we used available data to develop upper and lower bound estimates (or best/worst case scenarios).

Another limitation was the absence of data in relation to the use of LCVs in domestic and international transport. This is due to the absence of relevant legislation and monitoring requirements in most Member States. Qualitative input was provided by actual data on the use of LCVs in road freight transport are not collected, particularly in relation to international transport. We have relied on data from a small number of key countries (DE, FR) and developed upper and lower bound estimates to address this aspect. Nonetheless, there are clear limitations to estimates that need to be kept in mind.

8 ANALYSIS OF IMPACTS OF POLICY OPTIONS

This section summarises analysis on possible economic, environmental and social impacts from pursuing the policy options, building on the stakeholder interviews as well as quantitative modelling.

8.1 Analysis of economic impacts

The initial assessment of the policy measures pointed to potential important economic impacts that need to be examined in detail. These include:

- Impact on businesses : including impact on operating costs for hauliers, cost of doing business (compliance and administrative costs)
- Impacts on level of transport activity, primarily in terms of cabotage
- Impact on regulatory costs for public authorities
- Impact on the functioning of the road transport market, competition including effects on particular Member States/regions through possible business relocation
- Specific impact on SMEs
- Impact on prices to users of hauliers services and final consumer

8.1.1 Impacts on businesses (costs of operation)

8.1.1.1 Policy package 1 (clarification of the legal framework)

The measures in policy package 1 are not expected to have any significant impacts on the costs of operation of hauliers. Major costs would only arise as a result of measures that might involve significant changes to administrative processes, or measures that would require investment in equipment; however, policy package 1 is mainly focussed on clarifications of the existing legal framework, or changes that aim to improve enforcement (that would mainly affect enforcers' costs, rather than hauliers).

8.1.1.2 Policy package 2 (strengthening of enforcement)

- The main measures in policy package 2 that have potentially significant impacts on costs of operation are mandatory acceptance of electronic consignment notes. Introduction of a minimum number of checks of compliance with the cabotage provisions

As in the case of policy package 1, the remaining measures under policy package 2 are not expected to have significant impacts on the costs of operation of hauliers, since they do not involve any extensive amendments to the legislation.

The **mandatory acceptance of electronic consignment notes** (e.g. e-CMR³⁹) is expected to lead to cost savings. This would affect cabotage operations, and also have a

³⁹ e-CMR is representative of a widely supported initiative (Digital Transport and Logistics Forum, 2015); however, other forms of electronic documentation could also be considered, such as a scanned version of a paper CMR in pdf format on a mobile phone

co-benefit of allowing the wider use of e-CMR for international transport operations. Generalised benefits from moving to e-CMR include: lower handling costs, faster administration and invoicing, reduction of errors, better control/monitoring and real-time access to information (IRU, 2017).

The parameters for the cost saving calculations from mandatory acceptance of e-CMR are summarised in Table 8-1. Switching from paper to e-CMR is associated with cost savings of €4.34 in the Netherlands to €6.21 in Belgium per consignment note (TransFollow, 2017); (Suivo, 2017) – a reduction in administrative costs of around 70% compared to paper-based consignment notes. There are an estimated 377 million international CMRs used annually in Europe today (Suivo, 2017). Assuming that all of the savings could be attributed to the proposed measure seems to be overly-optimistic, especially given the growing number of signatories to the e-protocol convention⁴⁰. Since it is impossible to predict how adoption of the e-protocol will pan out in future (since it is driven by political process), a conservative estimate is that the savings due to the policy measure will be 30% of the total.

To estimate the NPV, costs in each year were indexed to growth in cabotage activity from the cabotage model (see Annex B). It was assumed that the measure would come into force in 2022, which is in line with the responses of authorities to the survey question on what they consider as a “reasonable timescale for mandatory use of electronic consignment notes”. The majority of respondents (9 out of 16, 56%) felt that 2022 was the most appropriate date.

Table 8-1: Administrative cost savings for hauliers from mandatory acceptance of e-CMR (2035)

Parameter	BL1		BL2		Source
	Lower bound	Upper bound	Lower bound	Upper bound	
Relative cabotage transport activity level in 2035 (1.00 = 2015)	1.25		1.14		Cabotage model for index; (Suivo, 2017) indicates 377m CMR in Europe in 2017
Number of CMR (millions) in 2035	471		429		(Suivo, 2017), scaled to 2035 level
Saving per cabotage trip (EUR) due to e-CMR	4.34	6.21	4.34	6.21	(TransFollow, 2017); (Suivo, 2017)
Assumed amount due to the policy measure	30%				Assumption, based on the fact that there are 11 signatories in 2016 and this may increase in future

⁴⁰ As of 2016, Estonia and France became signatories, added to Bulgaria, Czech Republic, Denmark, Latvia, Lithuania, Netherlands, Slovakia, Spain, Switzerland. There are four other countries which have signed the protocol but that have not yet ratified the convention: Belgium, Finland, Norway and Sweden. Since most of the countries taking part do not border each other, the use of the digital consignment note for cross-border transport in practice is difficult

Average savings (in 2035) (EUR millions)	610	880	560	800	
Total NPV over the 2020-2035 period (EUR millions)	6,180	8,850	5,610	8,020	

Notes: Cost estimates rounded to the nearest EUR 10 million. NPV assumes the measure comes into force in 2022 and uses a discount rate of 4% in line with the Better Regulation Guidelines.

In addition to the operational cost savings of e-CMR, there may be an initial investment cost to set up the system. Literature suggests that the initial set-up costs are considered modest – ranging from around €170⁴¹ to €2,500 (TransFollow, 2017) depending on the system. It can be expected, however, that most firms will have already migrated to use e-CMR in *national* operations by 2035 (the barriers to use of e-CMR that were discussed in the problem definition apply to *international transport/cabotage*), hence the investment costs cannot be attributed to the Regulation.

Requiring Member States to check a minimum share of cabotage operations carried out in their territory (**minimum number of checks of compliance with the cabotage provisions**) will also have costs implications for operators from additional roadside checks. The level of impact will depend on the level of the target set. In order to assess the extent of additional effort that may be needed we looked into data on cabotage activity to estimate the number of cabotage trips in 2035⁴². We have assumed that 3% of trips will be controlled as a central scenario and also looked into a smaller level (1%). In Annex C we explain how we have estimated the additional number of trips that will be checked, depending on some key assumptions concerning the average trip distance and the current checking intensity. At EU level, we estimated that the additional number of checks in 2035 will be in the range of 170-696 thousands under the 3% scenario and 2.2-77 thousand in the case of the 1% scenario.

Furthermore, to estimate the relevant additional costs arising for operators from the additional checks we have also used an average of 1 hour per cabotage check (based on Ricardo et al (2015)). We also used average labour costs of 18.7 EUR/hour for the transport sector from the labour force survey (Eurostat, 2016c).

On the basis of the above, the estimated total annual cost in 2035 in the case of 3% of cabotage trips checked for the EU28 are in the range of €4.5-15.5 million for Baseline Scenario 1 and €3.8-13.8 million for Baseline Scenario 2 depending on the distance per cabotage trip assumed. The Net present values for the period 2020-2035 have been calculated assuming that the number of checks will follow the growth rate of cabotage activity during the period (according to the EU Reference scenario (European Commission, 2016b)).

Table 8-2 – Estimated additional costs for business from the minimum number of cabotage checks

	BL1		BL2	
	210 km/trip	450 km/trip	210 km/trip	450 km/trip
3% of trips checked				
No of additional checks (000s)	696	199	635	170
Annual Cost at EU28 (million EUR) in 2035	18.9	5.7	16.9	4.7

⁴¹ http://www.cmrwaybill.com/offer_version_comparison

⁴² Based on the hauliers survey and data from Germany, we used an a range of 210-450 km/trip and also an average load of 10 tonnes/vehicles (Eurostat, 2015b)

NPV	210.6	63.2	188.6	52.6
1% of trips checked				
No of additional checks (000s)	77	2.8	59	2.2
Annual Cost at EU28 (million EUR) in 2035	2.3	0.1	1.7	0.0
NPV	25.5	0.7	18.5	0.0

The overall impacts of policy package 2 are summarised as follows:

Table 8-3: Overall additional costs to business for PP2 (NPV for period 2020-2035)

Policy measure	BL1		BL2	
	Mid-estimate	Range	Mid-estimate	Range
Mandatory acceptance of electronic consignment notes	-7,515	-8,850 to -6,180	-6,815	-8,020 to -5,610
Minimum number of cabotage checks for businesses	136.39 (3%)/ 13.1 (1%)	0.7-210.6	120.6 (3%)/ 9.3 (1%)	0.0-188.6
Overall impact of PP2	-7,379/ -7,502	-5,969 to -8,849	-6,694/ -6,806	-5,421 to -8,020

8.1.1.3 Policy package 3 (extensive revision of the Regulations)

Policy package 3 contains all of the measures included in policy package 2, therefore the above analysis also applies here. The additional measures in policy package 3 that are expected to lead to changes in costs are:

- Review of reference points for stable and effective establishment; and
- Remove maximum number of cabotage operations (currently 3), while reducing the maximum period for cabotage operations (from 7 to 4 days).

Other measures of policy package 3 are expected to have only minor impacts on the costs to businesses and were therefore not assessed in detail. No indications were given in the survey of hauliers that major cost implications were expected from other measures⁴³.

To explore the potential costs implications of **changes to the reference points for stable and effective establishment**, respondents to the survey of hauliers were asked about the extent of any cost increases. The weighted average total increase in overhead costs was estimated to be 18% in EU-15 and 36% in EU-13 based respectively on 9 and 7 responses (see Annex C for full details).

Given that the number of respondents to the survey of hauliers was rather low, it was considered that there is a risk that the results are not necessarily representative when taken at face value. In addition, the impacts will depend very strongly on the details of the implementation of this package of measures, not all of which can be fully defined at this stage, and it is highly likely that respondents interpreted the requirements (and

⁴³ Weighted average answers from respondents to the hauliers survey, indicated that the expected increase in costs from other measures in PP3 to be 1.6% regarding the need to carry evidence of cabotage on-board the vehicle (n = 63)

associated costs) differently, potentially leading to higher cost estimates than would be the case in practice. Moreover, general literature evidence suggests that cost estimates given in surveys tend to be overestimates where situations are hypothetical (CEPS, 2013).

Qualitatively, responses from the interviews suggest that the survey-derived estimates could be pessimistic – several respondents indicated that they felt that for legally operating international hauliers, there should not be any significant cost implications from the proposed measures. Specifically, several requirements were considered to incur no additional burdens – i.e. for core business documents to be held in the office, that the operator be subject to the fiscal system of the Member State, and that the operator has a transport manager (an international haulage operator, associations from BG, CZ, DK, LV, PL, RO). Incidentally, these options generally received lower weighted average cost estimates from the survey, indicating fair agreement amongst the two sources over the rank ordering of measures that impose costs. Conversely, requirements for commercial contracts and employment of staff were considered to be potentially very high by some stakeholders (an international haulage operator, associations from BG, DK, RO).

As a result of these uncertainties, it was considered appropriate that upper and lower bound be developed:

- To create upper bound estimates, the total increase (straight addition of cost increases for individual components) was used. This gave estimated cost increases of 18% in EU-15 and 36% in EU-13.
- To create a lower bound estimate, the estimated cost increase was reduced by 10%, due to the factors discussed above, giving estimated cost increases of 16% in EU-15 and 33% in EU-13.

The percentage cost increases were multiplied by the overhead costs calculated in the cost model (see Section 4.2) to give an average cost increase per firm in each Member State. This was multiplied by the number of authorisations in each country from the 2016 monitoring data (gap-filled by scaling to the number of enterprises in each Member State from Eurostat). The number of authorisations from the 2016 data were indexed to the projected level of transport growth from the 2016 EU Reference Scenario to give an estimate of the change over time. The overall results are shown below, and full details of the calculations are provided in Annex C.

Table 8-4: Additional costs to businesses due to adjustments to establishment criteria (EU-28) Scenario	Total annual cost increase (EUR millions) for 2035	NPV (period 2020-2035) (EUR millions)
Lower bound	980	10,810
Upper bound	1090	12,010

Notes: Cost estimates rounded to the nearest EUR 10 million

These estimated costs cover only the direct costs to hauliers for compliance with the specific criterion. It does not cover any offsetting factors, such as increases in revenue due to fairer competition and lower potential for unscrupulous companies to undercut legitimate businesses, since such factors are impossible to quantify. These possible benefits of the measure to adjust the establishment criteria are captured qualitatively in the assessment of the impacts on competition (see Section 8.1.6).

There were some indications from the survey of hauliers that the measure to **remove the maximum number of cabotage operations (currently 3) and reduce the maximum period for cabotage operations from 7 days to 4** would have an impact on overhead costs due to a loss in flexibility to organise transport. The weighted average estimated increase in overhead costs due to this measure was reported as 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 per day is more to do with the number of trips that can be physically carried out given the distances involved, and hence removal of the number of operations on its own (i.e. without changing the number of days allowed for each cabotage period) does not have a large impact on cabotage activity parameters.

Converting these estimates into additional cost increases was done using the same process as described above for the establishment criteria (see Annex C for details). This results in total additional costs of €3.4 million across the EU in 2035. In the sensitivity option, where the maximum period for cabotage operations is kept unchanged (at 7 days), there would be no reduction in flexibility – instead, there could be increased flexibility (although this impact was not quantified by respondents to the survey, hence a conservative estimate of zero is taken). Overall, the impact of this measure on operating costs for hauliers is potentially slightly negative (increase in costs) if the time period is reduced to 4 days – likely due to a loss in flexibility to organise operations - or neutral if the time limit is kept at 7 days.

Table 8-5: Additional costs to businesses due to adjustments to rules on cabotage (EUR millions)

Scenario	Total cost increase in 2035 (EUR millions)	NPV for period 2020-2035 (EUR millions)
Lower bound (retain 7 days and remove maximum number of operations)	--	-
Upper bound (reduce time limit for cabotage period to 4 days and remove maximum number of operations)	3.4	40

Finally, the removal of maximum number of cabotage operations under PP3 will also have a positive impact (savings) on the costs associated with the introduction of a minimum number of checks for cabotage under Policy Package 2. The reduction to the time needed should lead to a reduction to the estimated costs for operators. **Table 8-28** summarises the costs savings in relation to the initial costs presented in section 8.1.4.2, Table 8-28. They are in the range from € 0 (in the case of 1% checked) to up to €47.9 million under the most demanding scenario.

Table 8-6 – Cost savings to measure of minimum number of cabotage checks (Policy package 2) for operators as a result of the removal of the maximum number of cabotage operations

	BL1		BL2	
	Upper bound	Lower bound	Upper bound	Lower bound
Distance/trip	210 km/trip	450 km/trip	210 km/trip	450 km/trip
Assumed time saving per check	10%/25%			
3% of trips checked				
Annual Cost reduction at EU28 (million EUR)	1.4/4.3	0.6/1.4	1.2/3.9	0.5/1.2
NPV (million EUR)	15.3/ 47.9	6.3/15.8	13.8/43.0	5.3/13.2

	BL1		BL2	
1% of trips checked				
Annual Cost reduction at EU28 (million EUR)	0.2/0.6	0.01/0.01	0.2/0.4	0.0/0.0
NPV (million EUR)	2.5/6.4	0.1/0.2	1.9/4.6	0.0/0.0

The overall impacts of policy package 3 are summarised as follows, where costs are shown as positive figures and savings are shown as negative figures. The costs of measures of PP2 have been adjusted to take into account changes in the volume of cabotage activity that are expected due to the proposed measure in PP3 to change the rules on cabotage (see next Section for analysis of impacts on cabotage activity).

Table 8-7: Overall additional costs to business for PP3 (NPV for period 2020-2035)

Policy measure	BL1		BL2	
	Mid-estimate	Range	Mid-estimate	Range
Measures of PP2 (adjusted to take account of lower cabotage activity under 4 day cabotage period)	-5,185	-6,110 to -4,260	-4,700	-5,530 to -3,870
Measures of PP2 (under 7-day cabotage period)	-7,745	-8,850 to -6,180	-7,020	-8,020 to -5,610
Review reference points for effective and stable establishments to ensure that the establishment in a given Member State is indeed effective and stable	11,410	10,810 to 12,010	11,410	10,810 to 12,010
Remove maximum number of cabotage operations (currently 3), while reducing the maximum period for cabotage operations (from 7 to 4 days)	40	40	40	40
Remove maximum number of cabotage operations (currently 3), while keeping the maximum period for cabotage at 7 days	0	0	0	0

Savings to operators from change to definition of cabotage	-24.0	-0.1 to -47.9	- 21.5	0.0 to -43.0
Overall impact of PP3 – 4 day period for cabotage	6,241	4,740 to 7,766	6,726	5,320 to 8,156
Overall impact of PP3 – 7 day period for cabotage	3,641	1,690 to 5,616	4,366	2,550 to 6206
5 days	5,381	3,730 to 7,056	5,941	4,400 to 7,506
6 days	4,506	2,700 to 6,336	5,151	3,470 to 6,856

Notes: impacts for a cabotage period of 5 and 6 days have been calculated using linear interpolation for the relevant policy measures (i.e. change of cabotage period and measures of PP2)

8.1.1.4 Policy package 4a/b (extension of scope to include LCVs)

The **extension of the scope of Regulations 1071/2009 and 1072/2009** to LCVs will clearly lead to an increase of compliance costs for hauliers that make use of LCVs in their operations.

The hauliers’ survey provides a basis for assessing the level of impact from the proposed provisions. **Table 8-8** shows that firms that use only LCVs expect a weighted average increase of annual operating costs of 3.3%-6% from the introduction of each of the four key provisions of Regulation 1071/2009, totalling to 20%. For firms that use both LCVs and HGVs, the expected increase is 15.1%.

Table 8-8: Expected impact on annual costs of operation from the introduction of requirements according to Regulation 1071/2009 in relation to the use of LCVs

	Effective and stable establishment	Good repute	Financial standing	Professional competence	Total
Firms that use only LCVs (n=10)	5.0%	3.3%	5.7%	6.0%	20%
Firms that use both LCVs and HGVs (n=20)	4.2%	3.1%	3.1%	4.7%	15.1%

Notes: Weighted average of expected impact on operating costs; positive values denote increases

Source: Survey of hauliers. 10 respondents that use only LCVs and 20 that use both LCVs and HGVs

Input from two stakeholders representing hauliers gathered from the interviews, focused primarily on the costs of the proving financial standing and professional competence, which will require specific expenditure (for the training). In the case of the former there are associated administrative costs, but also possible compliance costs for firms that need to ensure that they meet the thresholds. According to a Polish association, the existing limits for financial standing can be too burdensome for the owners of small trucks, the value of which is relatively low and the load capacity is limited. Regarding training, European Road Hauliers Association (UETR) considered that the costs for training of transport manager should be in the range of €1,000. This is a similar figure with that reported in (Ricardo et al, 2015b) (€1,030 per candidate). On the other hand some stakeholders (e.g. DK and CZ associations) proposed that €1k/year should be sufficient for LCV operators to cover the cost associated with all four provisions.

Overall, we consider that the estimated increase in operating costs from the survey (20%) represents an upper estimate of the possible costs, since it does not allow for any possible synergies or the possibility that firms may already meet some of these requirements. As a lower bound, we can use the share of the costs of Regulation 1071/2009 to firms that are already covered by the Regulation (firms that use HGVs). The responses to the hauliers' survey suggest that compliance with Regulation 1071/2009 among firms using HGVs represents around 8% of the total operating costs of firms (6.2% among respondents in EU-15 and 8.2% in EU-13) which we also consider as a lower bound for firms using LCVs.

In terms of the number of firms affected by the extension, it is only possible to provide a rough estimate due to the absence of relevant data. One option would be to refer to the number of enterprises in the sector (NACE H4941 – Road freight transport) based on Eurostat data and deduct the number of firms already authorised to perform transport operators according to the data reported by authorities. However, besides the fact that Member States follow a different licensing approach⁴⁴, Eurostat data does not seem to provide a full picture. Specifically, for some countries the total number of national licenses and/or international (Community) licenses in road freight, is greater than the number of firms in the sector. This is possibly due to the fact that firms outside the road freight transport sector may also apply for such licences but more specific information is not available. Data from the German authorities⁴⁵ suggest that firms with licenses to use goods vehicles (in the case of Germany this applies to firms that use vehicles >3.5 tonnes) were around 75% of the total in 2015⁴⁶. Similar data are not available in other Member States. In the hauliers' survey, 11 out of 80 hauliers indicated that they only use LCVs (ca. 14% of respondents) and would be expected to be covered by the Regulations in the case of the extension of the scope. Furthermore, data from France and Denmark suggest that LCVs are mostly used for own account operations⁴⁷, with only 5-6% of the LCVs used by hauliers.

Overall, the data suggest that the situation varies among Member States and it is difficult to provide a reliable estimate of the additional number of firms that will fall within the extended scope of the Regulation. However, it appears reasonable to conclude that an extension of the Regulation will affect only a minority share of hauliers in each Member State. In the absence of more specific data and based on the considerations explained above, we expect that between 5-25% of additional firms in the sector will be covered by an extension of the scope. Considering also that 9 Member States already include LCVs in the scope of their national legislation⁴⁸ we can estimate that the firms affected will be in range of 23,000-114,000 across the EU⁴⁹.

In the case of a partial extension of the scope, the impact on operating costs will vary depending on which of the measures are included. The good repute requirement is expected to have the least impact, according to the survey responses and the input from the UETR. In the case of financial standing, a number of associations (PL, NL) considered that the value set per vehicle should be lower in order to be in line with the potential turnover from vans. In the case of professional competence, a potential lighter version of the test requirements (as is the case in France) could also mean reduced costs for hauliers.

⁴⁴ The concept of "authorisation" varies between Member States. For example, in BG, LU, UK and LT there are different authorisations for national and international transport while in FI and RO all undertaking are obliged to apply for Community license.

⁴⁵ (Bundesamt für Güterverkehr, 2015)

⁴⁶ 33,683 out of 45,051.

⁴⁷ In Denmark, Incentive (2013) estimated that the number of LCV's primarily used in hire and reward transport services in 2012 represented around 5% of the total LCV fleet (12,445). The remaining 225,184 are considered to be used for own account operations. In France, the share of LCVs used for road freight transport was estimated at around 6% in 2012. (Commissariat Général au Développement Durable, 2012)

⁴⁸ BE, FR, EL, LV, NL, BG, CZ, IT, SE

⁴⁹ There are around 540,000 enterprises in the sector (European Commission, 2016a) and around 457,000 in the 21 Member States where legislation is not in place.

However, no specific estimate was possible. Partial extension should, in principle, not reduce the number of firms affected unless this also set a minimum threshold depending on the load capacity of LCVs, as is currently the case in some Member States (e.g. NL).

Concerning the **extension of Regulation 1072/2009** the responses from the firms that use only LCVs suggest a total increase of annual operating costs of 15% from the introduction of the requirement for Community licence and the limit of the overall duration of cabotage operations. For firms that use both LCVs and HGVs the expected increase in the costs is around 6.6%.

Table 8-9: Expected impact on annual costs of operation from the introduction of requirements according to Regulation 1071/2009 in relation to the use of LCVs

	Requirement to hold a Community license	Limit of overall duration of cabotage to 7 days and sets the maximum number of allowed cabotage operations to 3	Total
Firms that use only LCVs (n=10)	5.0%	10.0%	15.0%
Firms that use both LCVs and HGVs (n=20)	3.0%	3.6%	6.6%

Note: Figures represent weighed average of expected impact; Positive denotes increase.

Source: Survey of hauliers. 10 respondents that use only LCVs and 20 that use both LCVs and HGVs

We consider the 15% as an upper bound of the possible impact in the case of no previous experience with the specific provisions. The input from the hauliers' survey suggests that compliance with Regulation 1072/2009 among hauliers using HGVs represents around 7% of the total operating costs (5% in EU-15 and 8% in EU13). We consider that this could as a lower bound of a possible full scale extension.

The number of operators possibly affected by the extension of Regulation 1072/2009 is most probably smaller than what is the case under Regulation 1071/2009. According to the input from almost all stakeholders interviewed, LCV are used much less than HGVs in cabotage operations. According to the baseline (Section 4.3.6), the expected share of LCVs in cabotage operations should be expected to remain rather limited. For the main cabotage market (DE), representing over 40% of the total cabotage market in 2012 (in t-km), the number of foreign registered LCVs used is expected to be around 7,000 in 2020, reaching 9,000 by 2035. Based on the hauliers' survey, the average fleet size for a firm using only LCVs is around 5 vehicles, suggesting that a total of 1,400-1,800 hauliers will be affected. At the EU28 level, the total number of hauliers affected should, most probably, not exceed 3,000, considering also that LCVs are already within the scope of the Regulation in the other large cabotage market (FR). Furthermore, as analysed further in Section 8.1.2.2, the adoption of these measures may actually lead to a reduced use of LCVs in international operations.

In the case of a **partial extension**, the responses to the hauliers' survey suggested that most important impact on operating costs should be expected to arise from the introduction of the limit of the overall duration and number of cabotage operations, which will reduce the flexibility of those operators that use LCVs to perform cabotage. Nonetheless, removing the requirement to hold a community licenses should be expected to lead to certain costs savings in comparison to the full extension scenario.

Table below summarises the expected impact of the extension of the two Regulations under Policy Package 4.

Table 8-10 – Expected impact on businesses from the extension of the scope of Regulations 1071/2009 and 1072/2009

Policy measure	Expected impact on business
Extend scope of Regulation (EC) No 1071/2009 to cover vehicles below 3.5 t fully.	Expected increase in operating costs in the range of 8%-20% of their current operating costs. A total of 23,000-114,000 operators affected.
Extend scope of Regulation (EC) No 1071/2009 to cover vehicles below 3.5 t partially	Impact will depend on the specific measures included. Good repute requirement is expected to have the least impact. Requirement on financial standing will have the highest impact unless reduced thresholds are adopted. Number of firms affected will remain the same unless provisions cover only LCVs above certain weight limit
Extend scope of Regulation (EC) No 1072/2009 to cover vehicles below 3.5 t fully	Expected increase in operating costs in the range of 7%-15% of existing operating costs. Given that relevant provisions are already in place in 7 MS, the total number of firms affected is not expected to exceed 3,000 across the EU28, although there is significant uncertainty.
Extend scope of Regulation (EC) No 1072/2009 to cover vehicles below 3.5 t partially	Impact will depend on the specific measures included. Imposing limits on the number of operations will bring greater costs to firms that use only LCVs. Number of firms affected may reduce further since hauliers suggest that the proposed measures may lead to reduced use of LCVs.

8.1.2 Impacts on transport activity

8.1.2.1 Policy package 1 (clarification of the legal framework)

The measures of policy package 1 are not expected to have significant impacts on transport activity.

The main measures that are expected to have an impact on transport activity are the two clarifications:

- Clarify the possibility of "groupage" transport in cabotage to ensure that multiple loadings and un-loadings are possible as part of one cabotage operation.
- Clarify 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.

In cases where the clarification results in a material impact compared to existing interpretations, the above could affect the extent of operations considered as giving access to cabotage. In the case of groupage transport, AECOM (2014a) asked 14 organisations from 13 Member States whether a single load with three delivery locations for a single customer within their state would constitute a single cabotage movement, three cabotage movements or something else. In 10 Member States this would constitute one cabotage movement, in France it would constitute three cabotage movements if there are three consignment notes. In Estonia it would depend on the number of consignment notes, whereas the Romanian road haulage association stated that this was not specified by any legal requirement. According to the Danish interpretation, cabotage can include several loading or unloading places, but not both. As regards empty containers, this is not currently counted as cabotage in Denmark and the UK (AECOM, 2014a), and furthermore respondents from Romania, Germany, Czech Republic and Ireland felt that this did not

constitute a cabotage movement. Previous studies also revealed uncertainty over what the precise interpretation was in certain countries (for example, SE) (Ricardo et al, 2015).

For both clarifications, the available evidence suggests that the measure would lead to some changes, although the impacts are expected to be minor because the changes will only affect a subset of operations in a subset of countries, and furthermore, cabotage typically only accounts for a small share of transport. Since the measures tend to allowing cabotage operations where previous interpretations are more restrictive, the overall impact could be expected to be a slight increase in cabotage activity.

The remaining measures aim at clarifying the existing rules, provide for more efficient enforcement through harmonisation and sharing of best practice, as well as aiming to smooth the path for cooperation between authorities – this should not be expected to impact on the movement of vehicles in any significant way. Note that the impacts on *illegal* transport activity (i.e. impacts on compliance) are expected to arise from the measures in policy package 1, but these are considered separately, as part of Section 8.1.3.1.

The overall impacts of policy package 1 are summarised in Table 8-11

Table 8-11: Impact of PP1 on transport activity

Measure	Reduction in risk of letterbox companies compared to baseline in 2035
Clarify the possibility of "groupage" transport in cabotage to ensure that multiple loadings and un-loadings are possible as part of one cabotage operation.	Marginal or slight increase in cabotage activity, due to changes in interpretation where MS previously counted multiple drops as separate operations (e.g. France, Denmark).
Clarify 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	Marginal or slight increase in cabotage activity, due to changes in interpretation where MS previous did not consider movement of empty containers/pallets as a transport operation (and hence did not allow access to cabotage)
Overall impact of PP1	Marginal or slight increase in cabotage activity, due to clarifications of the rules that would lead to more cabotage operations being allowed in some MS compared to current interpretations

8.1.2.2 Policy package 2 (strengthening of enforcement)

The measures of policy package 2 aim to set more rigorous requirements for enforcement and information exchange – as for policy package 1, the majority of such measures should not be expected to significantly impact transport activity. The only measure that was determined to have a possible effect was the mandatory acceptance of electronic consignment notes by enforcers after a certain date.

This measure may have impacts on overall transport activity by changing the administrative cost of cabotage trips, and hence the attractiveness of engaging in cabotage. Section 8.1.1.2 outlines the costs of the individual measures - the estimated savings per trip from e-CMR (€4.34) are assumed to apply to 30% of trips, which gives average saving of €1.30 per trip.

This administrative cost saving was plugged into the cabotage model, to calculate the overall impact as shown in Table 8-12. For both baselines, there is a small (3%) increase

in cabotage relative to the baseline in 2035, arising as a result of the savings in administrative costs.

Table 8-12: Changes in transport activity due to PP2

Measures	Impact on transport activity
Measures of PP1	Marginal or slight increase in cabotage activity, due to clarifications of the rules that would lead to more cabotage operations being allowed in some MS compared to current interpretations
Mandatory acceptance of e-CMR	Small increase in cabotage activity under both baselines in 2035 (+3%)
Overall impact of PP2	Overall small increase in cabotage activity, of the order of +3%

8.1.2.3 Policy package 3 (extensive revision of the Regulations)

In policy package 3, the following measures are expected to have an impact on transport activity:

- a) Changes to the cabotage rules, i.e. removing the maximum number of cabotage operations (currently 3), while reducing the maximum period for cabotage operations (from 7 to 4 days).
- b) Changes to the reference points for stable and effective establishment.

Other measures, as for PP1 and PP2, are not expected to significantly affect transport activity.

Hauliers were asked in the survey carried out for this study about the expected impact of **removing the maximum number of cabotage operations (currently 3) and reducing the maximum period for cabotage operations from 7 to 4 days**. Overall, the responses suggested that hauliers expected negligible changes to their cabotage behaviour: Weighted average changes were estimated to be -0.1% for number of cabotage operations per day (-0.6% for the 55 EU-13 respondents and +1.2% for the 25 EU-15 respondents). Overall weighted average for the distance per cabotage operation was -0.4% (-0.6% for EU-13 respondents and 0.0% for EU-15 respondents). Such small overall changes cannot be interpreted as signals of major changes in underlying behaviour, and hence it was assumed that these parameters would remain constant.

These parameters were encoded in the cabotage model, by changing the period available for cabotage operations and assuming that each international transport either side would also require 1 day. As a result, a haulier aiming to engage in the maximum amount of cabotage possible in a 30 day month would be able to complete 3.33 cabotage periods under the 7 day rule (i.e. $30/(7+2)$), requiring 6.67 days to cover international transports either side (assuming one day of international transport is needed either side of each cabotage period, therefore the haulier needs $2*3.33$ days of international transport). The parameters to calculate the impact of the policy measure were derived as follows:

- **If the period available for cabotage was reduced to 4 days**, an operator could complete a maximum of 5 cabotage periods in a 30 day month (including a day either side for international transport).
 - This would require an extra 3.33 days of international transport to cover the trips either side (i.e. one day each side, or two days per cabotage period given to international transport, requiring a total of $5*2 = 10$ days, which is 3.33 more than the existing rules).

- Based on the survey responses outlined above, the measure was not modelled to have an impact on cabotage behaviour in terms of the distance/km per trip or the number of operations per day.
- A small overall increase in willingness to engage in cabotage operations was included in the model, based on the responses to the hauliers’ survey⁵⁰, but this factor has an overall negligible impact on the results.
- Under the sensitivity option where **the current limit of 7 days remains unchanged**, based on the feedback from the hauliers survey already described, it was assumed that there would be no discernible impact on cabotage behaviour in terms of the number of trips, distance per trip etc. However, several respondents to the survey of authorities noted concerns about restrictions to the single market and difficulties for hauliers due to the reduction of the time period to four days (EE, LV, RO).

The results are shown in Table 8-13. In the option where the 4 day limit is imposed, there is a substantial drop in cabotage activity (31% in 2035 for both baselines), due to the loss in flexibility. As discussed in Section 8.1.1.2, it is expected that hauliers would find it more difficult to locate appropriate loads, and this would limit their ability to engage in cabotage. In the sensitivity option where the limit of 7 days is kept, there is a slight increase (+3%) in cabotage activity compared to the baseline due to the reduced administrative burdens (from the measures of PP2 that are also included in PP3, i.e. e-CMR).

Table 8-13: Changes in cabotage activity due to removal of maximum number of cabotage operations (and optional reduction in period for cabotage)

Scenario	Change in cabotage activity compared to the baseline in 2035			
	4 day limit	5 day limit	6 day limit	7 day limit
BL1	-31%	-20%	-8%	+3%
BL2	-31%	-20%	-8%	+3%

Notes: modelling of impact on cabotage activity includes also the effect of measures in PP2 (i.e. that lead to a slight increase in cabotage activity)

The second measure in policy package 3 that could affect transport activity is the option to **revise the reference points for stable and effective establishment**. In principle, changes to the requirements could impact on the overhead/operating costs of firms, which may in turn affect their competitiveness on cabotage markets by changing the cost ratios. The extent to which cost increases are expected has been calculated in Section 8.1.1.2. These figures were encoded into the cabotage model, and the results showed a small reduction (-3%) in cabotage activity when the measure was implemented on top of PP2 (i.e. interactions are taken into account in the modelling).

Table 8-14 shows the overall modelled results when all of the measures are implemented in the model together (i.e. changes in the establishment criteria in combination with the changes to the definition of cabotage described above and the measures of PP2).

⁵⁰ Weighted average answer indicating change in willingness to engage in cabotage was +1.1% (0.9% for EU-13 respondents, +1.5% for EU-15 respondents).

Table 8-14: Changes in transport activity due to PP3

Measures	Impact on transport activity
Measures of PP2 + Removing maximum number of cabotage operations (currently 3) and reducing the maximum period to 4 days	Substantial reduction in cabotage activity (-31%) if the period available for cabotage is reduced to 4 days. Small increase (+3%) if the time period remains at 7 days
Measures of PP2 + Removing maximum number of cabotage operations (currently 3) and keeping the cabotage period at 7 days	Small / negligible increase (+3%) in cabotage activity if the time period remains at 7 days
Measures of PP2 + Revise reference points for stable and effective establishment	Small reduction in cabotage activity (-3%) due to increased overhead costs for hauliers, which changes relative cost advantages for domestic vs non-domestic operators
Overall impact of PP3 – 4 day period for cabotage	Substantial reduction in cabotage (-35%) if the period available for cabotage is reduced to 4 days.
Overall impact of PP3 – 7 day period for cabotage	Small / negligible reduction in cabotage activity (-3%) if the time period remains at 7 days
5 days	Reduction in cabotage activity (-23%)
6 days	Reduction in cabotage activity (-11%)

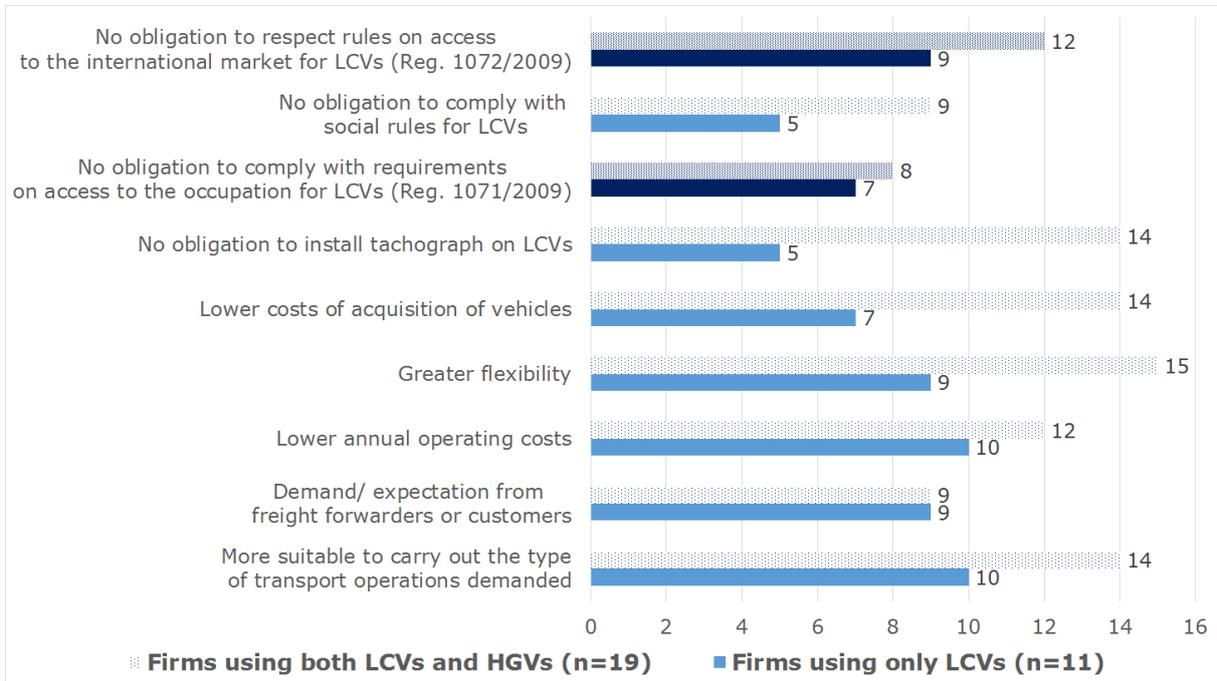
8.1.2.4 Policy package 4a/b (extension of scope to include LCVs)

The extension of Regulations 1071/2009 and 1072/2009 to cover LCVs is expected to have an impact on the level of use of LCVs in domestic and international transport.

It should be noted though that it is not clear to what extent the Regulations do or do not play a role in the decision to use LCVs in transport operations. The responses of hauliers concerning their reasons for using LCVs suggests that the absence of requirements in relation to the two Regulations is less important than other, operational, considerations. These include: appropriateness for the specific type of operations, vehicle and operating costs, flexibility and also the expectations from freight forwarders. Nonetheless, they are still considered as important by around half of respondents that use LCVs and replied to the survey in both cases and for both regulations (see Figure 8-1)⁵¹. This view was also supported by a number of stakeholders during the interviews. Haulage associations from a number of countries (DK, CZ, UK) claimed that LCVs are in most cases not appropriate for long distance operations and are predominantly used for shorter distances and in urban transport. The analysis of the situation in the five case study countries (FR, DE, DK, RO, PL) seems to support this conclusion, even though there are also references to an increasing use of LCVs (see Annex K). NEA (2010) also support this conclusion on the basis that HGVs are significantly cheaper than LCVs, both per tonne of freight (16% cheaper) and per m³ (60%).

⁵¹ No obligation to comply with requirements on access to the occupation for LCVs (Reg. 1071/2009): 7 out of 11 among firms using LCVs only and 8 out of 19 among firms using both LCVs and HGVs. ; No obligation to respect rules on access to the international market for LCVs (Reg. 1072/2009): 5 out of 10 among firms using LCVs only and 9 out of 19 among firms using both LCVs and HGVs

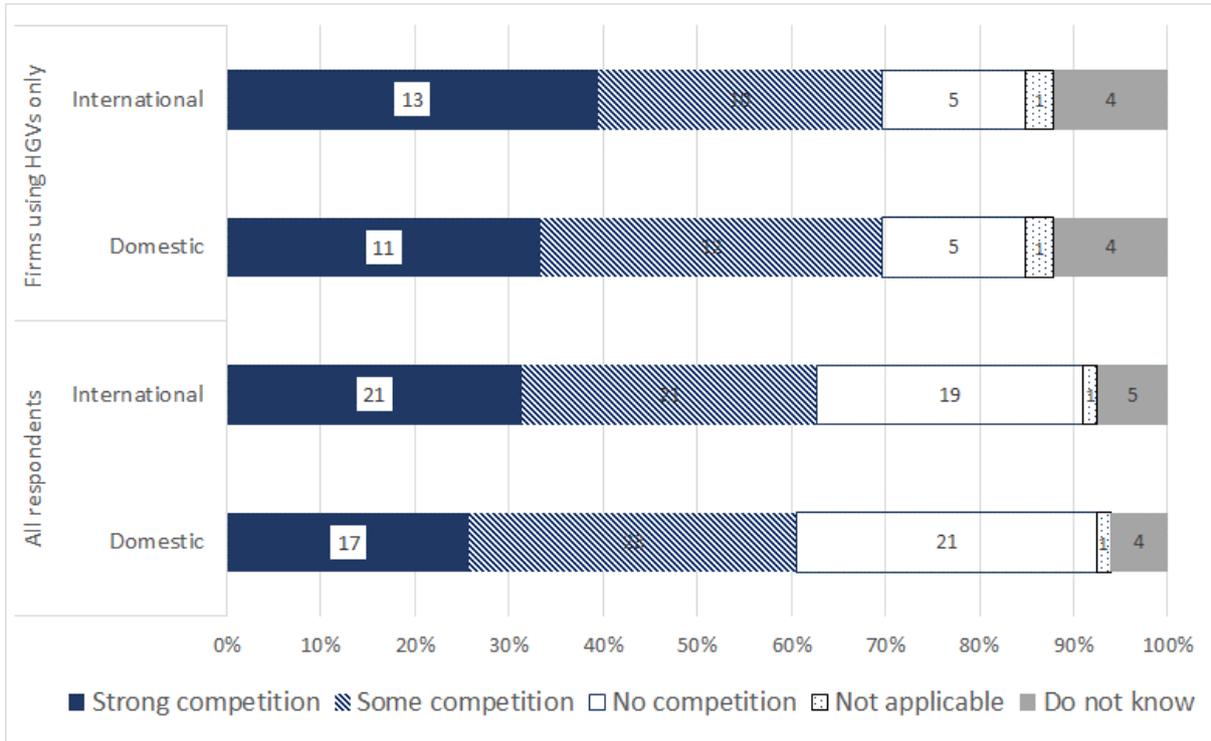
Figure 8-1: Reasons for using LCVs rather than HGVs in transport operations (% of firms indicating that the proposed reasons are somewhat or very important)



Source: Survey of hauliers. 11 respondents that use only LCVs and 19 that use both LCVs and HGVs

At the same time, the hauliers’ survey also suggests that LCVs do compete with HGVs in both domestic and international transport (see Figure 8-2) 31% of respondents (21 out of 67) felt that LCVs strongly compete with HGVs in international operations and 31% that they represent some competition while, similarly, among HGVs users, 13 out 33 respondent (39%) indicated that they strongly compete.

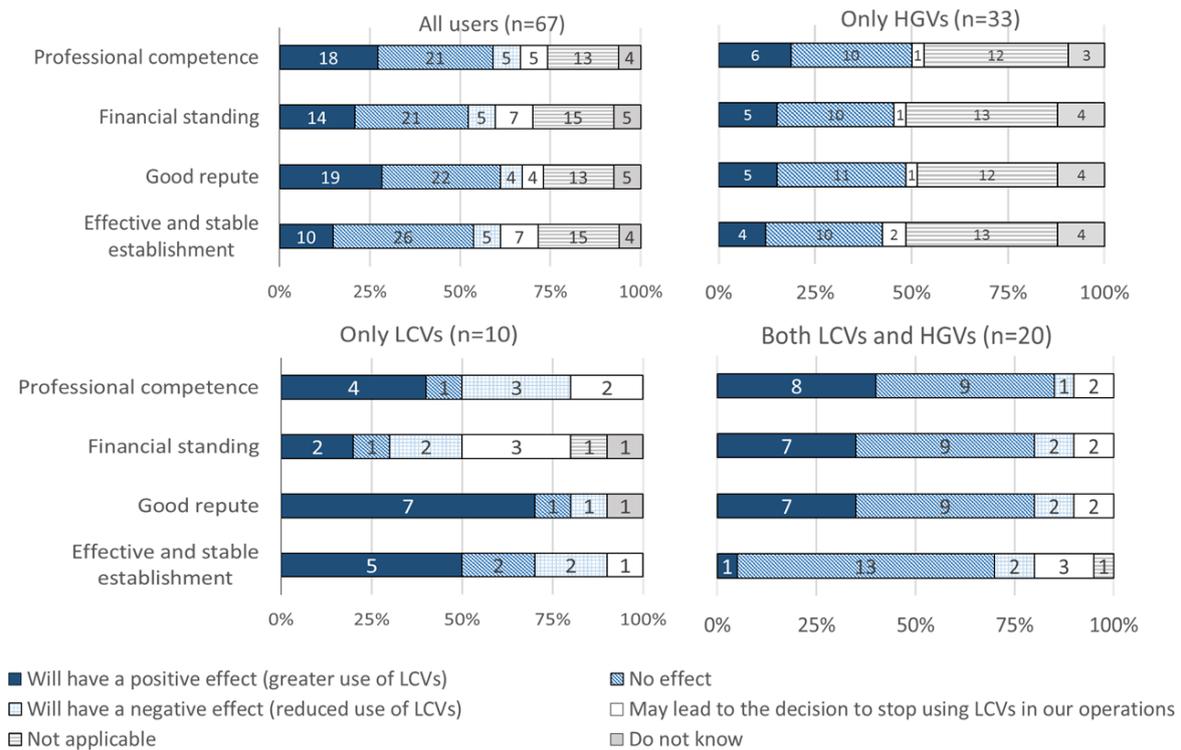
Figure 8-2- Extent that use of LCVs compete with (replace) the use of HGVs in road freight transport (domestic and international)



Source: Survey of hauliers. Total respondents : 67 for international, 66 for domestic; Firms that use HGVs: 33 for both international and domestic

In the case of the **extension of the scope of Regulation 1071/2009**, it should, in general, have only a minor impact on the level of use of LCVs in transport operators (see Figure 8-3). Between 8 and 12 out of 67 respondents that replied to the survey indicated that the provisions will lead to the decision to reduce the use of LCVs or stop using them completely, while a slightly higher share (10 to 19 out of 67 depending on the measure) suggested that there should be an increase. Most stated there should not be any impact. Among operators using HGVs, the proposed extension is considered as a positive step and, around 1 out of 8 suggested that may lead to a decision to use LCVs in their operations. Among operators that use both types of vehicles there is again a similar positive view on the impact of the adoption of these measures.

Figure 8-3: Impact of extension of scope or Regulation 1071/2009 to the choice of using LCVs road freight transport operations (number of firms indicating)

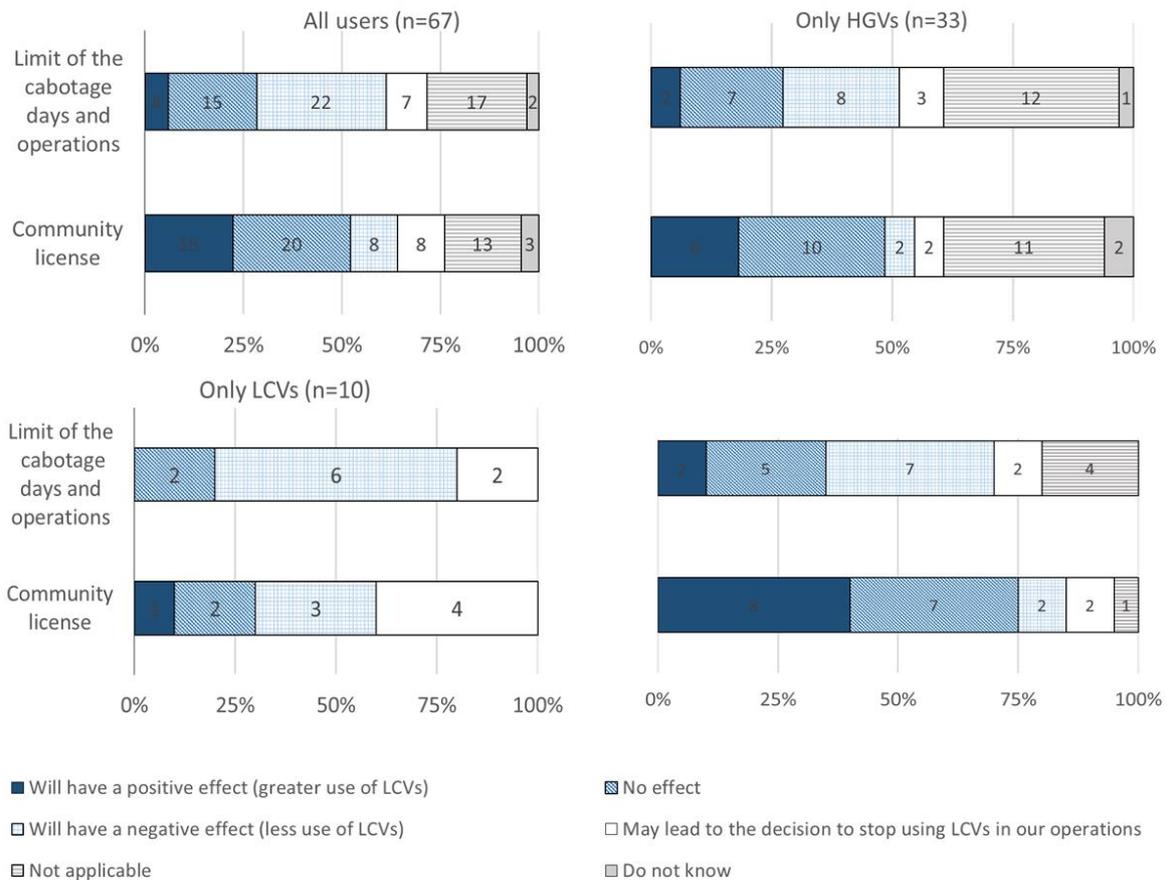


Source: Survey of hauliers. Total respondents: 67; Firms that use HGVs only: 33; Firms that use LCVs only: 10; Firms that use both LCVs and HGVs: 20

This view is also supported by comments from some stakeholders. UETR (representing mainly small hauliers) referred to the important role in the professionalisation of the sector brought by these measures, pointing to the examples of Belgium and the Netherlands where such measures are already in place for LCVs over 0.5 tonnes. A similar argument was brought forward by the Czech and Danish haulage association and this is also very strongly supported by the hauliers. 45 out of 64 that responded to the specific question considered that the extension of Regulation 1071/2009 will ensure level of quality of service of transport operators that use LCVs.

In the case of **extension of Regulation 1072/2009**, the hauliers’ responses suggest that the extension of the scope should probably lead to a reduced level of use of LCVs in international transport and in cabotage operations. This is particularly the case in relation to the introduction of a maximum number of days or number of operations (see Figure 8-4). Among firms using only LCVs, more than 7 out of 10 considered that the proposed measures will have a negative effect or even make them decide to stop using LCVs in international operations. Firms that also use HGVs focused mainly on the introduction of a maximum number of operations. 9 out of 20 of them considered that this will reduce the level of use of LCVs. Taking also into consideration the responses presented in Section 8.1.1.2 above – concerning the role of costs and flexibility in operations – it is reasonable to expect the adoption of cabotage provisions will probably lead to a reduction in the level of use of LCVs in international transport.

Figure 8-4 : Impact of extension of scope or Regulation 1072/2009 to the choice of using LCVs in international transport operations (number of firms indicating)



Source: Survey of hauliers. Total respondents: 67; Firms that use HGVs only: 33; Firms that use LCVs only: 10; Firms that use both LCVs and HGVs: 20

Source: survey of hauliers

Contrary to the concerns expressed by hauliers above, the presence of Regulation covering the use of LCVs in cabotage in France does not appear, as reported by the French authorities (Ministère de l'Écologie, du Développement durable et de l'Énergie, 2016), to have limited the use of LCVs in cabotage operations and international transport. However, according to the French hauliers association, the key issue is the weak enforcement of the Regulation.

Overall, we consider that the available evidence provides only some indications of the possible impact of the extension of the scope to transport activity. It should be expected that any impact on costs of operation and reduction in the flexibility of operations will have some impact on the use of LCVs. However, in the case of domestic operations it is most probably the case that the extension of Regulation 1071/2009 will, overall, not affect the level of use of LCVs given that this usually driven by demand for the specific services and the significant flexibility and cost advantages provided. The possible benefit of professionalisation of the sector – as pointed out by some hauliers – may also represent a positive drive in the use of LCVs services. In contrast, in the case of international and cabotage operations, the extension of Regulation 1072/2009 will, most probably, have a negative impact (reduce) the level of use of LCVs given that it will reduce the flexibility. However, given the small share of LCVs in international transport, any impact activity should be, in absolute figures, rather limited.

Partial extension of the two Regulations will also have a minor impact. In the case of Regulation 1071/2009 any impact will largely depend on the costs resulting from the adoption of the specific measures. Financial standing provisions may pose significant burden to LCVs if they are set at high levels and, as reported in Ricardo (Ricardo et al, 2015b), can lead to some firms withdrawing from the market. On the other hand, good reputation or professional competence criteria can help the professionalisation of the sector, as argued by UETR, which will help the sector in the medium to long term. In the case of Regulation 1071/2009, the adoption of a maximum number of days and/or operation should, in principle, reduce the overall use of LCVs. However, again, given the limited level of use of LCVs, the impact in terms of number of operations should be limited.

Table 8-15 : Expected impact on transport activity from the extension of the scope of Regulations 1071/2009 and 1072/2009

Policy measure	Expected impact on transport activity
Extend scope of Regulation (EC) No 1071/2009 to cover vehicles below 3.5 t fully.	Limited impact on the level of use of LCVs expected – Possible benefits from improved professionalisation to counterbalance some firms limited activity as a result of increased costs
Extend scope of Regulation (EC) No 1071/2009 to cover vehicles below 3.5 t partially	Overall limited impact. Depends on the specific measure adopted. More relaxed financial standing measure may limit the negative cost implications.
Extend scope of Regulation (EC) No 1072/2009 to cover vehicles below 3.5 t fully	(Very) small negative impact on the use of LCVs in international transport and cabotage
Extend scope of Regulation (EC) No 1072/2009 to cover vehicles below 3.5 t partially	As above, in the case the limit on the number of operations is imposed.

8.1.3 Impact on levels of compliance with Regulations

In general, the impact on compliance derives from improvements in enforcement. In the **short-run**, improvements in enforcement might lead to increased infringement detection rates (since better enforcement increases the probability of infringements being detected and punished). This should not be confused with a change in the underlying compliance rates, which in the very short-run would remain constant (since actors would not immediately react to the changes in enforcement) and would adjust more gradually to changes in the enforcement regime.

It is the **longer-term** effects that are of more interest and relevance to the analysis of impacts. It is widely considered that increasing the probability of being caught in an illegal activity has a deterrent effect on infringement rates⁵². This long-term causal chain is the main rationale used to support the analysis in the following sections.

8.1.3.1 Policy package 1 (clarification of the legal framework)

Policy package 1 includes several measures that aim to improve enforcement of Regulations 1071/2009 and/or 1072/2009. The measures expected to be most relevant are:

- a. Promote common training of enforcement officers and a common EU training curriculum (voluntary);
- b. Introduce cross-border joint controls (voluntary);

⁵² For example, see the Research Handbook on the Economics of Criminal Law, Harel & Hynton, which discusses the economic theories supporting the view that the probability of detection (and to a much lesser extent the size of the sanction) has a deterrent effect.

- c. Clarify the conditions leading to loss of good repute, including the relevant persons to be checked for good repute;
- d. Changes to risk rating systems (voluntary):
 - i. Opening up of national risk-rating systems to other Member States;
 - ii. Adopt common classification of undertakings to indicate risk levels;
 - iii. Identify minimum common data to be included in risk-rating systems.
- e. Increase the amount of information available in ERRU (voluntary);
- f. Provide a clearer definition of the relevant persons to be checked for good repute (beyond the transport manager).
- g. Measures that aim to clarify the rules/promote a common understanding of the rules and/or providing information for hauliers, including:
 - i. Clarifying the evidence needed to prove the legality of cabotage;
 - ii. Clarification of possibility of "groupage" transport;
 - iii. 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;
 - iv. Creation of an online platform where Member States can post information on national rules;
 - v. Develop practical guide for interpretation of EU rules, prepared for the road transport sector.

In the case of **voluntary common training of enforcement officers**, experience from implementing a similar (voluntary) common curriculum under the auspices of the EU road social legislation can be used to illustrate the extent of impacts that could be expected. Firstly, if the scheme is voluntary, it should be expected that not all Member States will adopt it⁵³. Second, common training is generally supported by enforcers and considered to have a positive contribution – in the survey of enforcers carried out in Ricardo et al (2015b), where 14 out of 18⁵⁴ enforcement authorities responding to the relevant question considered that the TRACE curriculum has had positive impacts on the effectiveness of enforcement. More generally, harmonisation of training is widely recommended in the literature (e.g. (Bayliss, 2012); (TRT et al, 2013)) as a means to improve the quality and consistency of enforcement. Overall, it can be said that a voluntary common training curriculum will have a positive effect on enforcement for those Member States that choose to adopt it. Moreover, a joint training curriculum was widely supported by authorities consulted for this study, with 15 out of 17⁵⁵ believing that it would help to ensure consistent and coherent monitoring.

Regarding **voluntary joint cross-border controls**, there is again similar experience in the area of EU road social legislation (where concerted checks are mandatory) indicates that positive effects can be expected. The majority of the national level enforcement authorities responding to the survey in Ricardo et al (2015) indicated that they saw concerted checks as an effective means of detecting infringements, and agreed that they contribute to a harmonised understanding of the rules (thereby improving enforcement in

⁵³ The TRACE common curriculum for EU road social legislation has reportedly been taken up fully by eight national enforcers (CZ, LT, LU, LV, NL, NO, RO, SI), and partially taken up by a further eight (BE, CY, DE, GR, HU, PL, SE, SI) (Ricardo et al, 2015b)

⁵⁴ Two authorities from BE, GR, LU, NL, SE, CY, CZ, LT, LV, PL, SL, SK, RO

⁵⁵ BG, CY, EE, HR, LV, PL, RO, BE, DE, EL, FI, NL, SE, UK & ECR

the longer run)⁵⁶. Respondents to the survey of authorities for this study indicated a high degree of support, with 13 out of 17⁵⁷ believing it would help to improve consistency and coherence. Overall, joint cross-border controls can be expected to improve enforcement capacity (in terms of knowledge and best practices) over a longer period of time, through the exchange of experience between enforcement officers and establishing common approach to enforcement.

Common requirements for the administrative procedure to be followed to assess good repute and rehabilitation would also contribute to more harmonised enforcement, and help to assuage concerns that some Member States take a lenient approach when assessing whether the loss of good repute would be disproportionate (Ricardo et al, 2015). Due to the causal chain described above, increased risk of being punished in Member States that previously took a lenient approach would lead to gradual improvements in compliance in these Member States. Respondents to the survey of authorities indicated broad support for the introduction of specific measures in this area:

- **Introduction of a points-based system (e.g. points based on number and seriousness of infringements) and a threshold to assess when good repute should be lost** – 15 out of 16 surveyed authorities⁵⁸ felt that it would contribute to more consistent and coherent monitoring. The effectiveness of this measure in practice would depend on the detailed design, which would need to be clear, understandable, and proportionate to the size of the company.
- 11 out of 17⁵⁹ surveyed authorities considered the same of a requirement that **the person who lost good repute must follow a specific training course before good repute is reinstated**. Several respondents (NL, UK, SE) commented that training courses could be appropriate for minor offences, and where a clear link to the shortcomings of skills can be assumed, but would not necessarily be sufficient in all cases (such as where there is clear intent).
- A slight majority of surveyed authorities (8 out of 14⁶⁰) felt that **the minimum period that must elapse before good repute can be reinstated** should be 12 months – while several respondents made the point that the period should depend on the seriousness of the measures, with longer periods for more serious offenses (EE, LV, FI, SE, UK).

Voluntary changes to risk rating systems and voluntary increases in the amount of information in ERRU are included in policy package 1. It may be expected that this would only be minimally effective due to well-understood “free-rider” problem. Namely, if a Member State invests in upgrading their enforcement systems in this way, the benefits will accrue to other Member States by improving cross-border enforcement. Since the benefits from investment by one actor are dispersed among many actors who do not pay for them, underinvestment should be expected. Under assumptions of rationality, Member States would not implement such changes and hence the impacts would be minimal.

Providing a clearer definition of the relevant persons to be checked for good repute (beyond the transport manager) would support improvements in compliance by reducing the risk of possible “front men” who rent out their good repute to companies without really managing the business. Although there are no statistics to show the extent of the use of front men, it can be expected that checking other persons would reduce the

⁵⁶ 18 out of 28 respondents agreed that concerted checks are an effective means of detecting infringements; 24 out of 28 respondents agreed that concerted checks contribute to harmonised understanding and hence will have a positive effect on enforcement in the longer run

⁵⁷ BG, CY, HR, HU, LV, PL, RO, BE, DE, EL, FI, NL, SE

⁵⁸ BG, CY, EE, HR, PL, two respondents from RO, BE, DE, EL, FI, LU, NL, SE, UK

⁵⁹ BG, EE, HU, LV, PL, two respondents from RO, EL, LU, SE, UK

⁶⁰ HU, LV, PL, two respondents from RO, FI, LU, NL

risk of such practices by negating the potential benefits. 12 out of 18 respondents to the survey of authorities⁶¹ indicated support for checking of legal representatives, while the remainder did not support extension of the requirements to these actors. At the same time, several Member States already consider a wider range of persons⁶². Feedback from interviews indicated that several interviewees felt that the measure could help to reduce front men (associations from BG, ES and DK, operator from BG), but at the same time the use of front men was not a pressing issue (associations from DK, DE, NL and RO). Hence, it can be expected that the main benefits would come from increased harmonisation of enforcement and the overall effect on compliance could be slight.

The measures listed above that aim to **clarify the rules for hauliers and promote a common understanding** will help to resolve issues with *un-intentional or accidental non-compliance*, which has been found to be driven by differences in national interpretation across Member States (Ricardo et al, 2015). These create complications for hauliers trying to comply with the rules, especially if information is difficult to find or there are language barriers.

Table 8-23 summarises the impacts of the individual measures included in policy package 1.

Table 8-16: Summary of impacts on effectiveness of enforcement under measures of PP1

Policy measure	Impact on effectiveness of enforcement	
	1071/2009	1072/2009
Promote common training of enforcement officers and a common EU training curriculum (voluntary)	Slight positive effect due to harmonisation of training quality and interpretation of the rules, but full uptake in all MS would not be expected, so harmonisation would be incomplete	
Introduce cross-border joints controls (voluntary)	Slight positive effect due to improvement in enforcement capacity (in terms of knowledge and best practices) over a longer period of time, through the exchange of experience between enforcement officers and establishing common approach to enforcement	
Set common requirements for the administrative procedure to be followed to assess good repute and rehabilitation procedure.	Slight positive effect due to a more harmonised enforcement approach, which provides more consistent and proportionate signals to hauliers	N/A
Changes to risk rating systems (opening up, common classification, common data) (voluntary)	Minimal effect due to lack of aligned incentives for individual Member States to invest in upgrades, meaning the uptake is likely to be low under a voluntary measure.	
Increase the amount of information available in ERRU (voluntary)	Minimal effect due to lack of aligned incentives for individual Member States to invest in upgrades, meaning the uptake is likely to be low under a voluntary measure.	
Provide a clearer definition of the relevant persons to be checked for good repute (beyond the transport manager)	Marginal positive effect due to reduction in the risk of "front men" from more harmonised enforcement	N/A

⁶¹ BG, CY, HR, LV, RO, BE, DE, EL, FI, LU, NL, SE

⁶² For example, legal representatives are already checked in BE, IT and SE (survey of authorities)

Policy measure	Impact on effectiveness of enforcement	
	1071/2009	1072/2009
Clarifying the evidence needed to prove the legality of cabotage	N/A	Slight positive effect due to ensuring a common understanding of the rules and hence lowering the risk of unintentional non-compliance due to a lack of familiarity
Clarification of possibility of "groupage" transport	N/A	
Clarify the treatment applicable to the transport of empty containers or pallets	N/A	
Creation of an online platform where Member States can post information on national rules	Slight positive effect due to ensuring a common understanding of the rules and hence lowering the risk of unintentional non-compliance due to a lack of familiarity	
Develop practical guide for interpretation of EU rules, prepared for the road transport sector		
Overall impact of PP1	Small positive effect due to better cross-border cooperation, more harmonised enforcement practices/interpretation of the rules, sharing of best practices, and providing a more consistent dissuasive signals to hauliers regarding the loss of good repute. Overall effect is small due to the voluntary nature of measures for training/joint controls and changes to risk-rating/ERRU systems, which will limit uptake.	

8.1.3.2 Policy package 2 (strengthening of enforcement)

Policy package 2 includes the same measures as policy package 1, although the voluntary measures would now be made mandatory, in particular:

- a. Measures regarding common training and joint controls would now be mandatory;
- b. Changes to risk-rating systems and ERRU would now be mandatory.

In addition to the mandatory nature of the measures, several additional policy measures are included in policy package 2 that are expected to have a relevant impact:

- c. Introduce a minimum number of checks of compliance with the cabotage provisions by national authorities;
- d. Facilitate cross-border checks on establishment and good repute 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);
- e. Clarify evidence needed to prove the legality of cabotage operations.

The positive impacts from the **measures regarding common training and joint controls could be expected to be stronger** (given that uptake will be wider), although it is still not possible to quantify their extent.

For the **changes to risk-rating systems and ERRU** that were previously voluntary in policy package 1, uptake would be mandatory in policy package 2. Further strengthening measures would be introduced, including extension of access to roadside operators and inclusion of cross-checking of information held in different systems. As a result of the changes becoming mandatory, the "free-rider" problem would be solved. In this case, the policy measure should be expected to be far more effective. Responses from the survey of authorities indicate that respondents generally believe the measures will contribute to better enforcement: the **common risk-classification of undertakings** was believed by

12 out of 17⁶³ surveyed authorities to contribute to better enforcement, while **opening up of registers** was thought to contribute to more consistent enforcement by 14 out of 17⁶⁴ respondents. **Extension of the type of information in ERRU** and the **extension of access to ERRU to roadside officers** were both supported by 13 out of 16⁶⁵ respondents in terms of improving the enforcement of both Regulations. Together, the changes should be expected to allow better targeting of checks and increase the probability that illegal activities are detected and punished, which in the long term should contribute to better compliance.

Specifically for the impact on cabotage checks, the baseline assumes that the infringement rate is representative of the overall performance⁶⁶. In order to estimate the potential impact, the changes are modelled as an increase in the overall number of checks (as perceived by those infringing the rules, due to the increased probability of being caught). Information from the UK indicates an improvement in the effectiveness of checks when using risk-targeting⁶⁷ using their Operator Compliance Risk Score (which includes data on roadworthiness and traffic offenses such as drivers’ hours and tachograph rules). No further quantitative data could be provided by stakeholders on the increased effectiveness of checks, although the qualitative responses reported above indicate widespread belief that effectiveness will improve.

The calculated results are shown in Table 8-17 – the wide range indicates the high level of uncertainty over the effectiveness improvements, since only data for the UK were available to indicate the difference in effectiveness of random vs targeted checks (and these figures were applied to all of the EU). The calculated impacts represent a potential range that will depend on how well checks can be targeted in practice using the improved information available. Similar calculations were not possible for the impact on infringements of Regulation 1071/2009 due to a lack of data that could link checking intensities/risk targeting with infringement detection rates.

Table 8-17: Reduction in cabotage infringements due to improvements in risk-rating systems and ERRU

Scenario	Reduction in cabotage infringements compared to baseline (2035)
Lower bound (14.2 pp improvement)	9% lower (i.e. an improvement)
Upper bound (17.8 pp improvement)	11% lower (i.e. an improvement)

Notes: Using the functional relationship described in Section 4.3.3: $I = 0.029C^{-0.71}$, the impact is modelled as an effective increase in checking intensity C, which provides the impact on the infringement detection rate I. Results are reported only at the EU level due to uncertainties in the data, and should be interpreted with care.

The measure to **introduce a minimum number of checks of compliance with the cabotage provisions** is defined in the **upper bound** as: *Member States would be required to check 3% of the cabotage operations carried out in their territory.* For the lower bound,

⁶³ BG, CY, EE, LV, PL, two respondents from RO, EL, FI, NL, SE and ECR

⁶⁴ BG, CY, EE, HU, PL, RO, DE, EL, FI, LU, NL, SE, UK and ECR

⁶⁵ BG, CY, EE, HR, HU, PL, two respondents from RO, EL, FI, NL, UK and ECR

⁶⁶ This is because checks should be non-discriminatory, and also because we assume that national risk-rating systems remain domestic only, which means they cannot be used for targeting cabotage checks (which would require information on non-domestic operators). We therefore assume that the infringement rate reflects overall performance and use it directly to calculate total detected & undetected illegal cabotage.

⁶⁷ The prohibition rate of targeted checks in the UK was 26.6% on average in 2013-2014, compared to a rate of 12.5% found for random checks (Ricardo et al, 2015), which is used for the lower bound. In 2012-2013, the percentage point difference between risk-targeted checks and random checks was 17.9 percentage points, which is used for the upper bound (VOSA annual report and accounts)

the requirement is reduced to 1% of checks. The impact of this change was modelled by directly adjusting the checking intensity in the cabotage model – where countries already exceed the minimum limit set by the legislation, it was assumed that their checking intensity would remain the same (since it is a minimum requirement, and previous experience in the road social legislation shows that many countries exceed the minimum threshold set) (Ricardo et al, 2015b). The functional relationship used to determine rates of illegal cabotage in the baseline was a constant elasticity relationship between the intensity of cabotage controls (checks per million t-km cabotage) and the infringement detection rate. See Annex C for further details.

As seen in Table 8-18, the estimated reduction in cabotage infringements is significant because the effective checking intensity would be increased compared to current practices. This is largely because Member States are assumed to maintain the same level of checks as they currently have in the baseline, where many countries have low checking intensities (see Section 4.3.3). The 1% threshold has the effect of bringing the “worst” performing countries up to a common minimum level, and this has a relatively large impact at the aggregate level due to large improvements in a few countries. Conversely, the 3% threshold would affect more countries and hence the benefits are more diffuse. The low checking intensities seen in current national practices are largely due to a low priority given to enforcement and a lack of resources available for enforcement (Ricardo et al, 2015) – therefore, the calculated reductions should be considered as a *maximum* indicative value for improvements in compliance, should Member States be capable of resourcing the required minimum number of checks, and without sacrificing quality (see also Section 8.1.3 on costs to authorities). Moreover, interviews with stakeholders indicated some concerns over how this measure could be defined in an enforceable way, since Member States would need extensive information on cabotage (UETR, LV authority).

Table 8-18: Reduction in cabotage infringements due to introduction of a minimum number of checks

Scenario	Reduction in cabotage infringements compared to baseline (2035)
Lower bound (1% of cabotage)	30% lower
Upper bound (3% of cabotage)	58% lower

Notes: km per trip as previously calculated in Section 8.1.1.2. Results are reported only at the EU level due to uncertainties in the data, and should be interpreted with care.

The proposed measure to **implement a maximum period for responses**, will ensure cooperation in cross-border enforcement cases, which is particularly important in the case of identifying letterbox companies (Sørensen, 2015). Currently, a commonly reported issue that impedes effective detection of letterbox companies is the lack of cooperation (Ricardo et al, 2015); hence, this policy measure will overcome one of the main barriers and thereby improve enforcement. 14 out of 18⁶⁸ surveyed authorities believe that a maximum time period for responses will contribute to better enforcement. Similarly, 14 out of 18⁶⁹ authorities believe that setting a standardised template for responses will contribute to better enforcement. The proposed measure would be aligned with Directive 2014/67/EC, i.e. Member States would be obliged to reply to reasoned questions from other Member States within 25 working days, unless a shorter time limit is mutually agreed. The survey of authorities indicated that – based on their current experience - responses to requests are considered to be timely in around 50% of cases (weighted average response), whereas they suffer from delays of less than 2 months in 22% of cases. Significant delays (more than 2 months) are experienced on average 13% of the time, and in a further 13% of cases, no responses are received at all. Taking the survey responses

⁶⁸ ECR, BG, EE, HR, LV, PL, RO, BE, DE, EL, FI, NL, SE, UK

⁶⁹ ECR, BG, CY, EE, HR, HU, PL, RO, DE, EL, FI, NL, SE, UK

as a cautious basis for analysis, the introduction of the new measure would therefore improve responses in 26% (i.e. 13% that have no responses plus 13% that are delayed by more than 2 months) to 50% of cases (i.e. all those that are not considered timely – from above estimates).

Clarifying the evidence needed to prove legality of cabotage operations would make enforcement more effective by reducing incidents of confusion (due to inconsistency in national legislation) and/or intentionally hiding relevant documents. Regulation 1072/2009 does not explicitly require that relevant documents must be on-board of the vehicle when it is stopped for control purposes, and Ricardo et al (2015) found that this can lead to inefficiencies where drivers need to request the documents from their company, leading to additional time lost for authorities and drivers. Regarding the requirement to keep evidence on-board the vehicle, 12 out of 17⁷⁰ respondents to the survey of authorities felt that this measure would improve enforcement (while the UK and SE additionally noted that this was already required nationally). A further refinement to this measure that was supported by 12 out of 18⁷¹ authorities was to provide the possibility for the driver to contact their head office and present proof of legality during the roadside check. This is the situation for example in Denmark at the moment, where electronic forwarding within a quite short time is accepted, but causing considerable delays to inspections is not permitted (Ricardo et al, 2015).

Table 8-19 summarises the impacts of the individual measures included in policy package 2, as well as the overall impact. Note that the overall impact of the package of the reduction in cabotage infringements is not the straight addition of the measures – the total effect models the combined impacts, assuming the mid-range effectiveness for the improved risk-targeting/information in ERRU. The results illustrates that there are large gains to be had from bringing up the performance of the Member States to a common minimum level (1% coverage of cabotage t-km). Beyond this point, there are still gains from requiring more checks, but the rate of improvement slows – the optimal level is therefore a question of cost-effectiveness.

Table 8-19: Summary of impacts on effectiveness of enforcement under measures of PP2

Policy measure	Impact on effectiveness of enforcement	
	1071/2009	1072/2009
Measures of PP1	Small positive effect due to better cross-border cooperation, more harmonised enforcement practices/interpretation of the rules, sharing of best practices, and providing a more consistent dissuasive signals to hauliers regarding the loss of good repute. Overall effect is small due to the voluntary nature of measures for training/joint controls and changes to risk-rating/ERRU systems, which will limit uptake	
<i>Additional impact of mandatory common training curriculum and cross-border controls</i>	Fully harmonised training and mandatory joint controls will contribute to more effective enforcement	
<i>Additional impact of mandatory changes to risk-rating systems and information in ERRU</i>	Positive impact due to better information availability - improvements expected by the majority of authorities consulted	Reduction in cabotage infringements of 10% (9-11%, depending on how effectively checks can be targeted)

⁷⁰ BG, CY, EE, HR, LU, LV, RO, EL, FI, SE, UK and ECR

⁷¹ BG, CY, EE, HU, PL, RO, DE, EL, FI, LU, SE and ECR

Policy measure	Impact on effectiveness of enforcement	
	1071/2009	1072/2009
Introduce a minimum number of cabotage checks	N/A	Significant reductions in cabotage infringements of (maximum of) 58% for a 3% checking threshold, 30% for a 1% checking threshold
Introduce a maximum time period for replies to questions regarding establishment (voluntary)	Positive impact due to improved cooperation in cross-border enforcement, which is especially important for detection of letterbox companies. Faster response time for approximately 38% (26% to 50%) of requests	N/A
Clarifying the evidence needed to prove legality of cabotage operations		Slight improvement of enforceability of cabotage
Overall impact of PP2	Strong positive impact due to: Mandatory upgrades to risk-rating systems and ERRU, combined with minimum checks of 3% of cabotage may reduce infringements by 62% (37% for a 1% checking threshold). Qualitative improvements are expected due to all other measures	

8.1.3.3 Policy package 3 (extensive revision of the Regulations)

The most relevant measures considered in policy package 3 are:

- Remove maximum number of cabotage operations (currently 3), while reducing the maximum period for cabotage operations (from 7 to 4 days);
- Review reference points for effective and stable establishment;
- Introduce co-liability for shippers and freight forwarders;
- 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; and
- Introduce cabotage in the classification of serious infringements leading to the loss of good repute.

Removal of the maximum number of cabotage operations would help to address challenges in the enforcement of cabotage (intentional non-compliance), where a frequent complaint highlighted in Ricardo et al (2015) was that the number of operations was difficult to control. This may help to improve the quality of enforcement by decreasing the efforts that were previously directed towards establishing the number of operations and directing them toward more efficient enforcement of the new (simpler) rules. It was not possible to quantify what the extent of this effect would be, but it can be expected to have a positive effect. Qualitative responses to the survey of authorities revealed that 8 out of 18 respondents⁷² felt that this measure would contribute to more effective enforcement. Three respondents felt that it would be detrimental to enforcement (two respondents from RO and FI). Interviewees from other stakeholder groups also indicated that they felt the removal of the maximum number of operations would improve enforcement (UETR, CORTE, industry associations from BG, CZ, DE, PL, ES, and authorities from UK and BG).

At the same time, the removal of the maximum number of cabotage operations would simplify the rules for cabotage by referring to a single limitation (in terms of the maximum

⁷² BG, CY, BE, DE, LU, NL, SE, UK

number of days), rather than both days and number of operations as is currently the case. This will help to reduce unintentional non-compliance with the rules. Unclear provisions and differing interpretations of cabotage were found to be one of the factors that contribute to unintentional non-compliance in Ricardo et al (2015).

A sensitivity option of keeping the limit at the current level of seven days was also considered, in which case it can be expected that enforcement would be improved and there would be no additional restrictions to movement.

Reviewing requirements for stable and effective establishment is the main additional measure in policy package 3 that is expected to impact on enforcement and infringements. There is general support among both hauliers and authorities that the proposed individual measures will contribute to better enforcement (see previous analysis in Section 8.1.1.2). The impact on the risk of letterbox companies is calculated in Table 8-12 using the functional relationship and the previously calculated upper and lower bound incremental costs to businesses (see Section 4.3.4 and Section 8.1.1.2), and based on the findings in Ricardo et al (2015) that is could be considered more attractive to set up letterbox companies in low-cost countries where savings/competitive advantages can be gained. Note that the calculations of the reduction in the risk of letterbox companies captures the *expected effect in terms of the reduction in "incentives" for such companies to form*, given the lower cost savings available. On the enforcement side, there is also likely to be a positive effect because of the stricter standards in place, meaning that such letterbox companies would be more likely to be detected in the event that they do form, and this would have a feedback effect in terms of further reductions in letterbox company formation. However, due to a lack of quantitative data, it was not possible to calculate the effect.

Table 8-20: Reduction in risk of letterbox companies (EU-28)

Measure	Reduction in risk of letterbox companies compared to baseline in 2035
Changes to reference points for stable and effective establishment	10 to 11% reduction in "incentives" for formation of letterbox companies. Additional positive effect in terms of improved effectiveness of enforcement

Notes: Results are reported only at the EU level due to uncertainties in the data, and should be interpreted with care. The calculations assume a 1:1 relationship between infringements of stable and effective establishment and letterbox companies, since there is no more specific data that can be used (e.g. on infringements not detected, or on the share of unintentional infringements committed by companies that are not letterbox companies).

Feedback received during the interviews suggested that the proposed additional requirements were already in place in at least some Member States (UETR, an international road haulage operator, industry associations from BG, DK, UK). Even among stakeholders that supported the revision of the criteria, stakeholders emphasised that the practical implementation of the measure would need to be carefully considered in order to ensure its enforceability and proportionality – particularly for small operators (associations from DK, IT, NL, RO and FR, an international road haulage operator, trade union from PL).

The **mandatory introduction of co-liability for shippers and freight forwarders** could be expected to contribute to minor improvements due to increased understanding of the rules among customers. Co-liability in connection with infringements of cabotage rules is already implemented in several countries (BE, SE, FR, DE, DK and NO) (Ricardo et al, 2015). Responses from the survey of authorities for this study indicated that some felt EU-wide take-up could be beneficial in terms of better control of cabotage (BG, EE, LV, PL, RO, BE, EL, SE, UK). At the same time, such a measure could be difficult to enforce at the roadside where the operator, the shipper and the consignee can be situated in different Member States, so the practical implementation would need to be designed with this in mind. In countries where co-liability is implemented for forwarding agents, enforcement is challenging due to the complex subcontracting arrangements in place that make it difficult to determine responsibility and meet the burden of proof (Barbarino et al, 2014). The overall impacts could therefore be seen to be positive in terms of improving

harmonisation (and providing more consistent disincentives for forwarding agents to knowingly commission non-compliant operations). In terms of direct impacts on enforcement, the impacts are more difficult to discern as it depends strongly on the practical enforcement – nevertheless, as shown from experience in the road social legislation, to the extent that such a measure would increase knowledge of the rules among hauliers’ clients it would contribute to lowering pressure on the hauliers and potentially improve compliance. More specifically, perceptions given by consulted hauliers on the co-liability principles in the EU road social legislation indicates that they see benefits due to increasing awareness of the rules among clients (thereby lowering pressure on hauliers to break the rules), and that these benefits are slowly increasing and will become more apparent in the longer term (Ricardo et al, 2015b).

Extending 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 1071/2009 on the most serious infringements would help to harmonise the approach to enforcement. Currently there is a wide variation in the dissuasive effect of sanctions and the same infringement can attract vastly different penalties (Grimaldi, 2013a). The responses from enforcement authorities in the survey conducted in Ricardo et al (2015) indicated that the variation between countries may be because the current categorisation of infringements in Annex IV is not considered clear/appropriate by some Member State ministries. Respondents to the survey of authorities indicated expected benefits in terms of better compliance (PL, LV), a more coherent/simpler legal framework (FI, UK, CY) and fairer competition (BE, EL). Similarly, **introducing cabotage in the classification of serious infringements leading to the loss of good repute** will help to provide a more consistent dissuasive effect against infringements of cabotage legislation and such benefits were highlighted by respondents to the survey of authorities (CY, BE, EL, FI, UK). When asked to identify any potential barriers to these changes, several respondents (HR, LU) mentioned possible legal barriers, without more specific elaboration on what these might be, while others felt that there would not be legal barriers (BG, CY, EE, HU, RO, BE, EL, FI).

Table 8-21 gives an overview of the impacts of the individual measures of policy package 3.

Table 8-21: Summary of impacts on effectiveness of enforcement under measures of PP3

Policy measure	Impact on effectiveness of enforcement	
	1071/2009	1072/2009
Measures of PP2	Strong positive impact due to: Mandatory upgrades to risk-rating systems and ERRU, combined with minimum checks of 3% of cabotage may reduce infringements by 62% (37 % for a 1% checking threshold). Qualitative improvements are expected due to all other measures	
Remove maximum number of cabotage operations (currently 3), while reducing the maximum period for cabotage operations (from 7 to 4 days).	N/A	Small positive effect due to more efficient and effective enforcement
Review reference points for effective and stable establishments	10.5% (10-11%) reduction in “incentives” for formation of letterbox companies due to lower cost savings. Additional positive effect in terms of improved effectiveness of enforcement due to additional criteria designed to improve detection of letterbox companies that do exist.	N/A

Policy measure	Impact on effectiveness of enforcement	
	1071/2009	1072/2009
Introduce co-liability provisions for shippers and freight forwarders	N/A	Slight positive effect by increasing knowledge of the rules among hauliers' clients and providing a deterrent for these actors to knowingly commission transport services involving 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.	Slight positive effect due to a more harmonised enforcement approach, which provides more consistent and proportionate signals to hauliers regarding the seriousness of infringements	N/A
Introduce cabotage in the classification of serious infringements leading to the loss of good repute	N/A	Slight positive effect due to a more harmonised enforcement approach, which provides more consistent and proportionate signals to hauliers regarding the seriousness of infringements
Overall impact of PP3	Strong positive impact due to: Measures of PP2, plus additional reductions in the risk of formation of letterbox companies due to establishment criteria – 10.5% (10-11% reduction in risk). Qualitative improvements are expected due to all other measures, including more positive effects due to co-liability principles, more harmonised definitions of infringements and easier enforcement of cabotage	

8.1.3.4 Policy package 4a/4b (extension of scope to include LCVs)

In relation to the impact of the extension of the scope of the two Regulations to cover the use of LCVs, we expect there are different possible impacts depending on the type and underlying reasons of non-compliance. We can distinguish between unintentional non-compliance (due to a lack of familiarity with the rules or due to inability to meet specific requirements) and intentional non-compliance (where unscrupulous hauliers seek to gain competitive advantage by circumventing the rules). Furthermore, besides compliance among hauliers using LCVs, the implications for firms already covered by the Regulation (i.e. those using HGVs) and the possibility of using LCVs to legally avoid compliance with Regulations 1071/2009 and 1072/2009 should be considered.

The extension of the scope can lead to an increase in the levels of **unintentional non-compliance** among hauliers using LCVs due to lack of familiarity, at least in the short term. It should be expected that some hauliers will have difficulties in ensuring that they comply with the two Regulations due to limited prior experience with similar requirements. As indicated earlier in 8.1.2.3, absence of requirements related to Regulations 1071/2009 and 1072/2009 is considered an important criterion in the choice of some hauliers to use only LCVs in transport operations. Furthermore, a larger number of hauliers using LCVs are very small business (with zero or very few employees) with reduced capacity and resources to familiarise themselves and ensure that they are in compliance with the new provisions. Nonetheless, this should largely be expected to be a short term impact and does not concern all aspects of the Regulations. According to an interview with UETR, compliance with provisions related to stable and effective establishment should not

represent a significant problem given that firms should in principle already comply with such requirements. The Danish association that represents firms using LCVs was also supportive of adopting the same requirements and criteria concerning stable and effective establishment provisions and did not expect that their members will have any problem complying with them. The same arguments were put forward in relation to good repute requirements. In general, these are considered as being straightforward to comply with and a transition period until their entry into force should also help reduce any issues.

Difficulties to meet some of the requirements may also lead to non-compliance when they do not lead firms to withdraw from the market. This is specifically the case in relation to Regulation 1071/2009 and the financial standing requirements. Financial standing is the most common cause of non-compliance that leads to withdrawals among hauliers that use HGVs, (Ricardo et al, 2015b). The share of withdrawals due to not meeting this requirement account for a large share of total withdrawals in France (85%) and Austria (90% - i.e. 9 out of 10). It can be expected that in the case of hauliers using LCVs – many of them being very small firms with one or a few vehicles- compliance with the financial standing will be even more difficult if the levels applicable to HGVs also apply to LCVs (see also Section 8.1.1.3 on the costs for hauliers from the possible extension of the scope to cover LCVs). Thus, most of the hauliers' associations that supported the extension of the Regulation (DK, NL) proposed that financial standing requirements should be set at a lower level to be more in tune with the characteristics of smaller size firms. Similar concerns were also raised in relation to professional competence requirements for transport managers. A number of haulage associations (NL, DK, CZ, ES) considered that reduced requirements should apply in the case of LCV users to reduce costs for firms. In both cases, more demanding requirements may lead to higher levels of unintended non-compliance if they do not lead firms to withdraw from the market.

In relation to Regulation 1072/2009, the adoption of the cabotage provision is expected to increase the relevant costs and reduce the flexibility for those hauliers using LCVs (as discussed in Section 8.1.1.2). This will make compliance more costly or lead some of them to withdraw from cabotage operations. A partial extension of the Regulation – not requiring a Community license – would probably mean some reduced costs (thus reducing the incentive for non-compliance). However, this is expected to be rather minimal and should not make any measurable difference.

Considering **intentional non-compliance**, possible difficulties in enforcement in the case of the use of LCVs can provide an incentive for unscrupulous operators to circumvent the rules and obtain competitive advantage. More specifically, controlling the presence of operating centre under Regulation 1071/2009 in the case of hauliers using LCVs can be more challenging. Lack of cooperation among Member States in the exchange of information has been identified as an important issue in the effective enforcement of the Regulation as already indicated in the problem definition (Section 2.2.1.2) and extending information in the national register and the ERRU is considered as measured to improve enforcement. In the case of LCVs, such information is often not available and a certain level of additional resources and effort will be needed before such tools effectively cover the increased number of hauliers within the scope (see also Section 8.1.4.4 below on the costs to authorities from the extension of the scope). Thus checking of establishments and operating centres in the case of hauliers using LCVs may be more challenging – and possibly less effective that in the case of checks for hauliers using HGVs – at least for a certain initial period. A preparatory period prior to the extension of the scope will probably help mitigate any such problems.

Enforcement difficulties are also relevant in the case of Regulation 1072/2009. Absence of tachograph in LCVs will make it more difficult for authorities to effectively control cabotage operations. Mandatory introduction of tachographs (currently not required for LCV under Tachograph Regulation 165/2014) will represent a significant cost for firms using LCVs and cannot be considered realistic, at least in the short to medium term. It will thus be easier for dubious hauliers engaged in illegal cabotage to avoid being caught when using LCVs and reduce the risks of being caught and face penalties. Reduced risk of being caught should in principle lead to increase levels of non-compliance. However, it should be noted

that, a number of haulage associations (DE, DK) considered that the use of a CMR or log book should be sufficient while an increase the use of e-CMR may also have a positive contribution towards more effective enforcement.

Intentional non-compliance among those using LCVs should be expected to reduce over time once relevant enforcement processes and mechanisms– similar to those used for HGVs - are properly in place. In the case of Regulation 1071/2009, UETR suggested that the introduction of specific provisions in Belgium has helped avoid transport managers with criminal record (i.e. bad repute) enter the haulage profession while strengthening the professionalisation of the sector. Unfortunately, comparable information concerning the levels of compliance – and possible trends – is not available from any of the other Member States where relevant legislation covering LCVs has been in place.

Similarly, once authorities are able to effectively control cabotage operations by LCVs and ensure that they follow the same rules, levels of compliance should become similar to those observed in the case of HGVs.

Concerning the use of LCVs to avoid the existing scope of the Regulations, UK hauliers associations suggested that LCVs are used by hauliers - often overloaded - in order to perform cabotage operations which are typically performed by HGVs. In most Member States, such operations do not need to comply with Regulation 1072/2009. There are no data available on the extent of these specific type of operations. However, most industry representatives (UK, DK, NL, CZ, BG) consider that LCVs do not directly compete with the HGVs although, among hauliers that participated in the survey the majority considered that there is significant competition in both domestic and international operations (Section 8.1.2.3). Thus, to the extent that this happens, the extension of Regulation 1072/2009 will eliminate any such incentive and ensure fair competition among LCVs and HGVs, a view that is broadly shared among hauliers in the survey and among most industry representatives (NL,BG, DE, ES) (see also Section 8.1.2.3).

Overall, higher levels of intentional and unintentional non-compliance with Regulations 1071/2009 and 1072/2009 among hauliers using LCVs should initially be expected. This will depend on the exact provisions and the effectiveness of enforcement. Partial extension of the Regulation 1071/2009 provisions concerning financial standing and professional competence should help reduce non-compliance in the short term. Increased and more targeted enforcement effort focusing on LCVs from the point of view of authorities may also be needed (to a certain extent). In the longer term, extension of the scope should probably lead to similar levels of non-compliance as in the case of LCVs but, in parallel, limit the opportunity of hauliers using HGVs to circumvent the legislation by using LCVs.

Table 8-22 : Expected impact on compliance levels activity from the extension of the scope of Regulations 1071/2009 and 1072/2009

Policy measure	Expected impact on levels of compliance
Extend scope of Regulation (EC) No 1071/2009 to cover vehicles below 3.5 t fully.	<p>In the short term it is expected that unintentional and intentional non-compliance among hauliers using LCVs will be higher than those using HGV (depending on level of familiarity, compliance costs and the effectiveness of enforcement)</p> <p>In the long term, both types of non-compliance will reduce on the basis of increased familiarity and improved enforcement</p>
Extend scope of Regulation (EC) No 1071/2009 to cover vehicles below 3.5 t partially	<p>Reduced requirements (particularly in relation to financial standing and professional competence) will reduce costs and incentives for unintentional non-compliance among hauliers using LCVs</p> <p>In the long term, similar to full extension</p>

Policy measure	Expected impact on levels of compliance
Extend scope of Regulation (EC) No 1072/2009 to cover vehicles below 3.5 t fully	<p>In the short term it is expected that unintentional and intentional non-compliance among hauliers using LCVs will be higher than those using HGV (depending on level of familiarity, compliance costs and the effectiveness of enforcement)</p> <p>In the long term, overall levels of non-compliance will reduce since dubious hauliers will not be able to use LCVs to circumvent cabotage rules</p>
Extend scope of Regulation (EC) No 1072/2009 to cover vehicles below 3.5 t partially	As above. Reduced requirement in terms of Community license should not make any difference in terms of compliance levels.

8.1.4 Costs and benefits (costs savings) for national authorities

8.1.4.1 Policy package 1 (clarification of the legal framework)

As expected, measures under Policy package 1 are not expected to have measurable impacts on the costs for authorities (see summary in Table 8-23 below) since Policy Package 1 has been designed to have minimum or no impact on compliance and administrative burden. The following measures have been considered in more detail:

- Promote common training of enforcement officers and a common EU training curriculum (voluntary);
- Introduce cross-border joint controls (voluntary);
- Introduce penalties for shippers and freight forwarders, in case they knowingly commission transport services involving infringements of the Regulations ;
- Increase the amount of information available in ERRU (voluntary).
- Set common requirements for the administrative procedure to be followed to assess good repute and rehabilitation procedure.
- Changes to risk rating systems (voluntary):
 - I. Opening up of national risk-rating systems to other Member States;
 - II. Adopt common classification of undertakings to indicate risk levels;
 - III. Identify minimum common data to be included in risk-rating systems;
- Provide a clearer definition of the relevant persons to be checked for good repute (extent list beyond the transport manager).

As already indicated (Section 8.1.3.1) the voluntary nature of the first two measures means that not all authorities will have to incur the relevant costs. In the case of **common training of enforcement officers (voluntary)** there seems to be general support for this measure among national authorities (88% of responding authorities; see Section 8.1.2). However, this is also a measure that is considered by most authorities as leading to additional costs. 4 authorities (CY, LV, NL, SE) and the ECR considered that there will be additional costs in the range of 5-15% of existing costs for authorities while 2 more (HR, BG) that they the additional costs will be more than 15% (a weighted average of 4.2% increase in the costs). However, given the voluntary nature of the measure, we expect that authorities will aim to minimise costs by ensuring training takes place on the basis of a new curriculum as would have happened in any case. In that case, the additional costs will be much reduced.

Concerning **the organisation of joint cross-border controls (voluntary)**, there is high level of support for such measures for both Regulations. Only one authority indicated that there should not be any controls for 1071/2009 (EE) and for 1072/2009 (BE). We can

conclude that even on a voluntary basis, most authorities will be willing to participate in such activities.

However, given the voluntary nature of these controls considered, only some Member States should be expected to be involved and most probably in less than 3 controls per year. Taking also into account that MS are already involved in such controls through TISPOL, we expect that costs will be less than the lower estimate of €1.2 million which is our estimated costs in the case of mandatory joint cross-border controls (see Section 8.1.4.2).

Concerning the adoption of common requirements for the administrative procedure to be followed to assess good repute and rehabilitation, most MS authorities felt that there are sizeable costs associated with it. In particular:

- **In the case of the introduction of a points-based system and a threshold to assess when good repute should be lost** 4 MS authorities (CY, PL, SE, LU) expected to add to their costs by 5-15%, while the German authorities by over 15%; five (EE, HT, BE, FI, UK) did not expect any change (weighted average increase of 4%). The Swedish and Finish authorities commented that a point based system should be relatively easy to administer although the Latvian authorities considered that there will be some extra costs for administering the systems.
- In the case of the **requirement to follow a specific training course**, more authorities expected that there will significant costs associated.³ Member States (UK, SE, LV) expect an increase of 5-15% and 5 (CY, PL, BE, LU, DE) over >15% (weighted average increase of 11%). The main concern is that the organisation of retraining is considered will require to check that training is appropriate and did take place. The UK authorities referred to existing experience from similar schemes that proof of attendance and avoiding fraud can pose an additional burden. Data from Denmark, where the proposed measure is already in place were not available since the authorities did not contribute to the survey. In their evaluation of the legislative framework on training of professional drivers Panteia and TML (2014) estimated the costs for authorities from periodic training of drivers to be in the range of €4-11 million per year but this refers to a total number of over 3.6 million drivers. In the case of re-training for rehabilitation the actual number of cases is expected to be much smaller. In many Member States there are no reported withdrawals on the basis of loss of good repute since many authorities are reluctant to take such a measure. The adoption of the point-based system could probably lead some of these Member States to issue withdrawals which can also lead to an increased training cases. However, the data on declarations of unfitness of transport managers for the period 2013-2014 show that even in Member States that issued withdrawals (DE, SE, UK, EE, FI, FR, IT) these are only a few. Only UK had over 100 for the two year period⁷³. Thus, we consider that the overall cost of this measure will remain very limited.

In the case of the **voluntary increase of the amount of information available in ERU**, as analysed in section 8.1.3.1, the free-riding problem is expected to lead to underinvestment. As a result, the actual costs for authorities are most probably going to be limited.

In relation to the adoption of **penalties for shippers and freight forwarders**, five (BG, CY, PL, BE, EL) of the 18 authorities indicated that they do not expect additional costs. The German authorities – where certain provisions in relation to this aspects are in place - indicated that the enforcement of this measure can add between 5-15% of the enforcement costs while the UK authorities suggested that it can be burdensome to gather evidence to be able to prove responsibility but did not provide any estimate of costs. UETR also pointed out that the experience from Belgium – where this measure is already in place - is that is indeed often quite demanding to provide responsibility. Overall, the costs of this measure

⁷³ United Kingdom (493), Germany (62), Sweden (52), Estonia (7), Finland (5) and France (1). Italy reported 680 but they include all declarations since the adoption of the Regulation.

for authorities is not expected to be significant but it will depend on the clarity of the provisions and how difficult will be for authorities to prove responsibility.

Providing a clearer definition of the relevant persons to be checked for good repute (beyond the transport manager) – namely extending the list of person to consider- is generally not expected to lead to significant additional enforcement costs for authorities. As indicated in section 8.1.3.1, several Member States already consider a wider range of persons⁷⁴. One third of responding authorities, (CY, HR, SE, BE, UK, FI) stated that they do not expect additional costs and the UK authorities consider that, if any, they will be negligible. SE, BE already include legal representatives and the Finish authorities indicated that the existing licensing system in place has been developed to allow for additional information to be considered which means that it very easy to check for additional persons. Only three (EE, PL, NL) expect some costs as a result of the extension of this list, in both cases referring to possible need to expand the existing IT system to allow for these additional searches. Thus, while some MS may need to invest in increasing the capacity of the existing system, overall the costs will probably be very limited.

In terms of the **changes to the risk rating systems**, as indicated in Section 8.1.3.1 it is expected that most MS will not undertake any such changes on a voluntary basis. As a result, regulatory costs in the context of PP1 are also expected to be close to zero.

Other measures under PP1 are not expected to have any regulatory costs.

Table 8-23: Summary of impacts on regulatory costs of measures of PP1

Policy measure	Expected regulatory costs
Promote common training of enforcement officers and a common EU training curriculum (voluntary)	Minimum costs on the basis that MS will aim to coordinate training on this aspects with training already organised
Introduce cross-border joints controls (voluntary)	Costs less than the lower estimate of €1.2 million in the case of mandatory controls (<€0.1 annually). MS already involved will not incur any costs.
Set common requirements for the administrative procedure to be followed to assess good repute and rehabilitation procedure.	Certain regulatory cost from the measures should be expected (4.2% increase from the use of a point based system; 11% from mandatory re-training). Given the very small number of withdrawals mandatory re-training should not lead to significant costs.
Changes to risk rating systems (opening up, common classification, common data) (voluntary)	No costs - MS are not expected to expected to be involved on a voluntary basis
Increase the amount of information available in ERRU (voluntary)	No costs - MS are not expected to expected to be involved on a voluntary basis
Provide a clearer definition of the relevant persons to be checked for good repute (beyond the transport manager)	Very limited – Some Member States already do so and those that do not do not think it will pose significant costs
Overall impact of PP1	Very limited/insignificant costs (unless all or most MS voluntarily undertake training and make changes to risk rating systems and ERRU)

⁷⁴ Legal representatives are already checked in BE, FI and SE (survey of authorities)

8.1.4.2 Policy package 2 (Strengthening of enforcement)

Measures included in Policy package 2 aim to strengthen enforcement but are, in general, expected to have greater regulatory burden. In particular, we expect that the following measures could have significant regulatory costs:

- Measures regarding common training and joint controls (mandatory)
- Extension of the type of information in ERRU and the extension of access to ERRU to roadside officers
- Changes to risk rating systems (mandatory):
 - I. Opening up of national risk-rating systems to other Member States;
 - II. Adopt common classification of undertakings to indicate risk levels;
 - III. Identify minimum common data to be included in risk-rating systems
- Introduction of a minimum number of checks of compliance with the cabotage provisions
- Introduce maximum time period for replies to questions regarding establishment.
- Mandatory use of GNSS digital tachograph for enforcement and mandatory acceptance of electronic consignment notes (e-CMR) by enforcers

In the case of **common training of enforcement officers (in this case mandatory)**, the additional costs analysed earlier will apply to all EU-28 MS. As already analysed, the exact cost will depend on the scale of the training activity. The representative of TISPOL also indicated that such training activities already take place but are costly and indicated that a total costs of one course is around €100k for the training of 20 officers. Complete data on the number of enforcement officers is not available. According to the data provided in the ex-post evaluation from 17 MS⁷⁵, we estimated that these range between 5,100 and 8,500. Aiming to cover 10% of the enforcers on an annual basis will probably require an annual budget of EUR 2.6-4.3 million. However, as in the case of voluntary training under Policy Package 1 Member States may also adopt an approach where any training takes place on the basis of a new curriculum as would have happened in any case. In that case, the additional costs will be much reduced. Furthermore, covering a small group of enforcers from each Member State and expecting that they will transfer experience through standard training organised at national level may also reduce the costs. Thus, the above estimate should be seen as the upper bound of the costs of this measure.

Table 8-24 – Estimated costs for training of officers

	Lower estimate	bound	Upper estimate	bound	Source
Number of officers	5,600		8,500		Estimated based on data from authorities
% of officers trained annually		10%			Assumption
Cost/course (€ million)		0.1			TISPOL
Officers/course		20			TISPOL
Annual costs at EU level (€ million)	2.6		4.3		

⁷⁵ Data were provided for BG, CZ, DE, DK, EL, ES, FI, FR, IE, LU, LV, NL, PL, RO, SE, SI, UK. Total number for these 17 MS was 4,651. Our total estimate is based on an average number of officers for groups of countries with different levels of cabotage activity (High or Low). We applied a ±25% range.

NPV over 2020-2035 period (€ million)	32	54	
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Concerning **the organisation of mandatory joint cross-border controls**, the regulatory costs will largely depend on the option adopted. Mandatory participation in 3 joint-cross-border controls is expected to lead to significant (5-15%) or very significant (>15%) additional costs by 7 out of 18 authorities⁷⁶ (weighted average cost increase of 3.9% in the case of Regulation 1071/2009 and 4.2% in the case of Regulation 1072/2009). It should be noted that such joint-cross border controls already take place in the context of ECR, CORTE and TISPOL. ECR and CORTE charge a fee (small according to the interview with ECR) to organise the various activities with some additional travelling and accommodation costs. TISPOL provided some figures for Operation TRIVIUM that lasted for 2 years and included a total of 20 policing operations/year with a budget of 300k (€15k/operation)⁷⁷. However, this was a much more extensive joint operation involving 10 MS authorities which lasted for a full week (5 days) and covered a broader range of aspects covering also criminal activity. In our case, we expect that no more than 3-4 MS authorities will be involved in any joint cross border check. Assuming a smaller scale operation including 2-4 MS, we estimate a total cost of €5k-10k per cross-border control. In total, a budget of less than €0.1million seems sufficient for participation in one joint cross border control for all 28 MS, while 3 cross-border controls may incur a cost of €0.2million. For the 2020-2035 period this is a total cost of €0.9-2.7 million on the basis that the number of cross-border operations will not necessarily as a result of an increase in transport activity (see Table 8-25).

Table 8-25 –Estimated costs for the organisation of mandatory joint cross-border controls

MS/operation	Cost per operation (Based on data from TISPOL)	Number of operations across EU
2 MS	5k	14
4 MS	10 k	7
Number of mandatory cross border operations/year	Total EU28 costs/year (million EUR)	NPV (period 2020-2035) (million EUR)
One	0.07	0.9
Two	0.14	1.8
Three	0.21	2.7

In the case of the **mandatory increase of the amount of information available in ERRU**, TISPOL commented that, given that most authorities have already the basic infrastructure, the costs will be limited. Still, certain costs for extending the current database will be needed, something that will also depend on the exact type of information to be included and the size of the registry. The Dutch authorities (operating a large registry) estimated that the one-off costs for the extension would be in the range of €100k-1 million, with additional annual costs of €10k-100k for maintenance⁷⁸. The Cypriot authorities – which operate a small registry and will have a much smaller volume of information to process – indicated that initial costs should be € 10-100k with <€10k ongoing costs. Other authorities were unable to provide any estimates. On the basis of these figures, we have estimated the total start-up and maintenance costs. We have

⁷⁶ BG, CY, EE, HR, LV, DE, SE

⁷⁷ <https://www.tispol.org/trivium>

⁷⁸ Euro-Controle-Route also made the same assessment.

classified MS registries on the basis of the number of authorisations⁷⁹. We estimate annual costs of around €5million for all EU-28 and additional annual maintenance costs of €0.5 costs. The Net present value for the period 2020-2035 is estimated at – assuming that the costs for running the registers are proportionate to the total transport activity as provided in the EU Reference scenario - , with a net present value of around €11.2 million.

Table 8-26 –Estimated costs for a mandatory increase of the amount of information available in ERRU

	Small registers	Large registers	Total EU28	Source
Number of MS	21	7		Ricardo et al (2015)
Set-up cost per register (million EUR)	0.055	0.55	5	Authorities survey: Responses from CY (Small) and NL (Large)
Maintenance costs per register	0.005	0.055	0.5	
NPV (2020-2035) (million EUR)			11.2	

In the case of extension of the information accessible to roadside officers in ERRU, the same authorities (NL, CY and the ECR) provided some estimates of the expected set-up and maintenance costs at around €10-100k⁸⁰. On this basis, we estimated total EU-28 set up costs of €1.5 million and annual maintenance of €0.5 million (NPV over the period 2020-2035: €7.7 million assuming that running costs will increase in proportion to total transport activity). It is not clear whether the above estimates include the provision of relevant infrastructure (equipment) to roadside officers in order to be able to access ERRU during the checks. TISPOL commented that an increasing number of Member States already have relevant equipment. Furthermore, there is already an implementing act concerning the access of roadside officers to ERRU Check Community License Functionality (European Commission, 2016e). Thus some of the estimated costs – mainly those related to the set-up of the system- should not be associated to the specific measure. In the absence of more detailed additional information, we considered that maintenance costs will represent the main cost element of the measure. This provides a total of €6.2 million over the 2020-2035 period.

⁷⁹ Small: AT, BE,BG, CZ, CY, DK, EE, EL, FI, HR, HU, IE, LT, LU, LV, MT, NL, PT, RO, SK, SI; Large: DE, ES, FR, IT, PL, RO, UK

⁸⁰ <€10k annually for maintenance according to Cyprus

Table 8-27 : Upper bound estimate of costs of extending the information accessible in ERRU to roadside officers

	Small registers	Large registers	Total EU28	Source
Number of MS	21	7		Ricardo et al (2015)
Set-up cost per register (million EUR)	0.055	0.005	1.5	Authorities survey: Responses from CY (Small) and NL (Large)
Maintenance costs per register	0.055	0.055	0.5	
NPV (2020-2035) (million EUR) (assuming no system already in place)			7.7	
NPV (2020-2035) (million EUR) (assuming no set-up costs)			6.2	

Irrespective of the exact costs of these two measures, 7 of the 18 authorities⁸¹ that responded to the survey considered that, overall, the savings– in the form of faster controls and increasing capacity to work on a risk basis - should outweigh or significantly outweigh the costs. Only the Latvian authorities stated that the costs of extending the information will outweigh the benefits while 7 could not make an assessment.

Requiring Member States to check a minimum share of cabotage operations carried out in their territory (**minimum number of checks of compliance with the cabotage provisions**) will have costs implications for some authorities depending on the level of the target set. In order to assess the extent of additional effort that may be needed we have used data on cabotage activity to estimate the number of cabotage trips in 2035⁸². We have assumed a 3% of controls as a central scenarion and also looked into smaller levels in order to identify the minimum number of trips that should be checked.

In the assessment of the costs, we also considered that there are difficulties for Member States' authorities to target cabotage operations. As pointed out by some stakeholders, enforcement authorities cannot know before a check whether a vehicle with foreign plates is engaged in cabotage. ECR suggested that authorities will need to have system that provide them with real-time vehicle tracking information and TISPOL referred to vehicle recongintion technologies. Specific figures for the costs of such systems were not available. In general, it should be expected that a larger number of vehicle checks will be needed in order to reach any set target. Focusing controls on entrance points (ports, warehouses) could possibly increase the probability that the vehicles are engaged in cabotage – as proposed by the Latvian authorities. The UK authorities also follow a similar approach as reported in the trade press (Commercial motor, 2014b). The Dutch authorities reported that in targeted checks in key routes led around 34% of the foreign vehicles checked in 2014 were involved in cabotage (Inspectie Leefomgeving en Transport, 2014) and we have used this figure to estimate the total number of checks that will be needed. Similar approaches are expected to be followed by other authorities.

We then compared the number of checks that will be needed in order to reach the 3% against the baseline, namely the checks that we should expect on the basis of the checking intensity (actual number of checks per million trips) in 2014 data from Ricardo et al (2015). The analysis suggests that a few Member States already meet or exceed the 3% target even under the assumption of 210 km/trip (At, BE, PL, UK, SK, IT). For all other Member States a certain increase in the number of roadside checks should be expected although, most of the additional activity (and hence the costs) will need to take place in France and Germany (representing 85% of the total number of additional checks). As expected, in the

⁸¹ HR, LV, PL, RO, BE, LU, NL in the case of the extension of information; CY, HR, LV, PL, RO, BE, NL in the case of the extending access to roadside officers.

⁸² Based on the hauliers survey and data from Germany, we used an a range of 210-450 km/trip and also an average load of 10 tonnes/vehicles (Eurostat, 2015b)

case of 1% threshold, the total number of checks needed is significantly reduced under all scenarios, and a higher number of Member States already meets or exceeding the threshold, particularly under the assumption of average trip distance of 450km/trip (20 Member States in total).

To estimate the relevant additional costs arising for the additional checks we have also used an average of 1 hour needed per cabotage check (based on Ricardo et al (2015)) and also used average labour costs for the public sector from the labour force survey (Eurostat, 2016c). On the basis of the above, the estimated total annual cost in 2035 in the case of 3% of cabotage trips checked for the EU28 are in the range of €4.5-15.5million for Baseline Scenario 1 and €3.8-13.8 million for Baseline Scenario 2 depending on the distance per cabotage trip assumed. The Net present values for the period 2020-2035 have been calculated assuming that the number of checks will follow the growth rate of cabotage activity during the period (according to the EU Reference scenario (European Commission, 2016b)).

A detailed presentation of the calculations is also provided in Annex C.

Table 8-28 – Estimated costs of minimum number of cabotage checks

	BL1		BL2	
	Upper bound	Lower bound	Upper bound	Lower bound
Distance/trip	210 km/trip	450 km/trip	210 km/trip	450 km/trip
Total No. of trips (millions) (in 2035)	13.6	6.3	12.6	5.9
Success rate	34%			
3% of trips checked				
Additional no of checks (000s)	696	199	635	170
Annual Cost at EU28 (million EUR) in 2035	15.5	4.5	13.8	3.8
NPV (million EUR)	172.3	50.4	153.9	41.8
1% of trips checked				
Additional no of checks (000s)	77	2.8	59	2.2
Annual Cost at EU28 (million EUR) in 2035	1.8	0.1	1.3	0.0
NPV (million EUR)	20.5	0.6	14.8	0.0

In relation to the **opening of the national registered systems to other MS**, most respondents to the authorities' survey (10 out of 18) were unable to provide an estimate of expected additional costs. Among respondents, a relatively small increase in the cost was suggested (weighted average cost increase of 3.5%). Concerns for the additional costs of this change were also reflected in the input from EU level stakeholders (ECR, TISPOL), both of whom proposed that ensuring access to other Member States systems will be difficult to achieve and will probably require significant time and effort. The Bulgarian and Latvian authorities indicated that there may be some initial additional preparatory time needed before they will be able to make use of information from other authorities while the Belgian and UK authorities pointed out that language constraints may also have a negative impact on costs.

In relation to a **mandatory adoption of a common classification to indicate risk-levels**, 3 (CY, EE, DE) out of 18 authorities considered that would increase to the annual

operating costs of their organisation by 5-15% and 2 (HR, HU) by more than 15% (weighted average of 10% increase). However, 8 out of 18 respondents to the survey were unable to provide an estimate. ECR commented that, making the various systems used across the EU compatible will probably take significant amount of time and may end up being difficult to implement. Similar responses were provided in relation to the setting of **minimum common data to be included in risk-rating systems, where** 1 (EE) authority considered that would cause an increase in operating costs of 5-15% and 3 (HR, LV, DE) of more than 15% (7.8% weighted average). In both cases, the German authorities' main concern was that the extension of the level of information in these national register requires additional specialised resources which are often difficult to find.

Ricardo (2015) estimated the annual maintenance costs of the national registers at EU28 level at around €1.7 million which we consider that is a more reasonable basis to use for the type of changes considered. Adding up the estimated cost increases for the three separate aspects considered, suggests total annual cost increase of €0.4 million (NPV over the period 2020-2035: €5.2 million). However, if these changes take place simultaneously, there will be synergies that should reduce costs. On the other hand, there may be need for changes to the existing registers in some countries which may require some additional one-off costs. At the same time, possible time savings should be expected, given that they are expected to contribute to the effectiveness of the control of operations (as reported in Section 8.1.3.1) and some MS refer to possible efficiency gains. Thus, the proposed figure of €0.4 million annually is probably an upper estimate of the costs of this measure for authorities.

Concerning the introduction of **a maximum time period for replies to questions regarding establishment** most national authorities do not seem to expect significant additional costs from the setting of a maximum period. Only 1 (CY) suggested that this will create additional costs, 7 out of 18⁸³ did not expect any impact on operating costs. This was also the conclusion of the analysis of a similar measure in relation to cooperation for the enforcement of the Posting of Workers Directive (considering a maximum period of 2 weeks) (European Commission, 2012b). To this we should also point out that completing the ERRU should also help expedite the process and reduce some of the time associated with responses to information requests. Overall, the additional costs are expected be insignificant, if not zero.

In relation to the **mandatory use of GNSS digital tachograph by enforcement authorities to control cabotage**, most respondents to the authorities' survey were unable to provide an assessment of the costs of setting the relevant system in place to be able to monitor vehicles equipped with smart tachographs. Only 4 authorities responded, providing a broad range of values that do not correspond to the respective levels of cabotage activity in their country⁸⁴. Thus, we do not consider that they can be used as a basis of quantification. At the same time, unless the measure is introduced before 2034 (as already provided in tachograph regulation), there are no additional costs to authorities. In that respect, most (10 out of 18) respondents to the authorities' survey indicated that the measure should only be introduced in 2034⁸⁵ although six supported an earlier adoption⁸⁶ (2019) on the basis that almost all vehicles will be equipped with smart tachographs by then (according to DE).

In relation to the **mandatory acceptance of electronic consignment notes (e-CMR) by enforcers**, most authorities were unable to provide estimates of the costs for setting-

⁸³ EE, HR, LV, BE, DE, FI, SE

⁸⁴ CY: € 10-100k for setting up and maintenance; DE: € 10-100k for setting up and maintenance; SE: >1 million for setting up and €100k-1 million for maintenance; BG: €100k-1 million for setting up

⁸⁵ BG, EE, HR, LV, PL, two Romanian authorities, EL, FI, UK.

⁸⁶ CY, HU, DE, LU, NL and the ECR

up the relevant infrastructure and maintenance costs (13 out of 18 and 15 out of 18 respectively). Again, the figures provided by the few respondents do not represent a reliable basis for an overall assessment of the costs⁸⁷. In other MS (UK, BE) where e-CMR is already used and accepted by authorities, it was suggested that most of the necessary infrastructure is already in place and any set-up costs will be limited. At the same time, use of e-CMR can help expedite cabotage controls and make them both effective and efficient. Overall, when asked to assess the relationship between costs and benefits, 9 out of 18 respondents⁸⁸ considered that the benefits of using e-CMR in enforcement will outweigh any costs. Only the Latvian authorities considered that the costs will be greater.

An estimate of the possible cost savings from a full scale use of e-CMR for authorities was made on the basis that the use of e-CMR will lead to reduce time needed per check. We use the expected number of cabotage checks from the baseline and – in the absence of any specific estimates from stakeholders – we considered a 10% reduction in the total time as a reasonable assumption. Furthermore, it is not possible to associate all savings to the proposed measure given that there are already different levels of adoption of e-CMR and various political developments.

However, assuming that 30% of those savings are associated with policy measure, would suggest savings of €1.0 million annually. For the period 2020-2035 the cost savings are estimated in the range of €10.6-10.8 billion assuming that the number of checks will evolve in line with the evolution of cabotage activity.

Table 8-29: Estimate cabotage checks costs savings for national authorities from the use of e-CMR

Scenario	Total no. of cabotage checks in 2035 from baseline (EU28) (millions)	Check duration (baseline)	Total annual cost savings from use of E-CMR - 10% time saving (million EUR)	Share of savings associated with the policy measure	Savings associated with the policy measure (million EUR)	NPV (period 2020-2035) (million EUR)
BL1	1.35	1 hr	3.22	30%	0.97	10.8
BL2	1.33		3.17		0.95	10.6

Sources: Baseline scenario, Ex-post evaluation and Labour cost survey

Overall, while it has not been possible to estimate the costs for authorities, it is generally expected that there will be net benefits from the adoption of this measure.

Table 8-30 summarises the impacts of the individual measures included in policy package 2, as well as the overall impact.

Table 8-30: Summary of impacts on regulatory costs under measures of PP2

Policy measure	Expected regulatory costs
Measures of PP1	Very limited/insignificant (unless all or most MS voluntarily undertake training and make changes to risk rating systems and ERRU)

⁸⁷ CY: € 10-100k for setting up and maintenance; DE: € 10-100k for setting up and maintenance; SE: >1 million for setting up; BG: €100k-1 million for setting up

⁸⁸ CY, HR, PL, two Romanian authorities, BE, DE, EL, FI

Policy measure	Expected regulatory costs
<i>Common training of officers + joint curriculum</i>	Upper bound costs: €32-54 million (period 2020-2035) in the case of 10% officers trained annually. Expect that MS will not aim to reduce costs by coordinating training and reducing number of officers trained. Thus actual costs should be lower.
<i>Joint cross-border controls</i>	€0.9 (1 joint cross border control) -2.7 million (3 joint border controls)
<i>mandatory increase of the amount of information available in ERRU + Extending the information in ERRU to roadside officers</i>	Maximum expected costs of Est. €11.2 million + € 7.7 million (exact level depends on the level of information to be included) Savings from faster controls expected to outweigh costs. Overall: savings or very limited costs
minimum number of checks of compliance with the cabotage provisions	Costs of €48.1-216.0 million for 3% target ; €0-25.1 million for 1% target
Changes to risk-rating systems	Upper bound cost estimate: € 5.2 million. Savings expected to reduce this.
maximum time period for replies to questions regarding establishment	Insignificant
mandatory use of GNSS digital tachograph for enforcement authorities	No additional costs expected from implementation by 2034
mandatory acceptance of electronic consignment notes (e-CMR) by enforcers	Estimated savings from faster checks of € 10.6-10.8 million assuming that 30% of savings can be associated with measure. Set- up costs expected to be limited given existing infrastructure
Overall impact of PP2	Costs in the range of €105.3-320.9million

8.1.4.3 Policy package 3 (extensive revision of the Regulations)

Measures considered under Policy package 3 introduce significant changes to the existing legal framework, by changing the cabotage regime and the rules on access to the profession. They also require accompanying changes to the requirements for enforcement and monitoring, in order to support the transition.

The measures considered are:

- Remove maximum number of cabotage operations (currently 3), while possibly reducing the maximum period for cabotage operations (currently 7 days).
- Review reference points for effective and stable establishments
- 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.
- Introduce cabotage in the classification of serious infringements leading to the loss of good repute

Another relevant set of measures under PP3 is the **review of reference points for effective and stable establishment**. Only two authorities (CY, EE) indicated that any such measure will increase costs, both of which are Member States with small number of

hauliers while 7⁸⁹ considered that there will be no impact on their costs. The Dutch authorities considered that small 5% increase in the costs may apply. For some of the measures (access of core business documents from the physical office; be subject to the fiscal system) most authorities commented that they already perform such controls and there did not really think there would be any change. The same applies to the requirements that the operator has a transport manager who can be contacted via telephone, e-mail or other electronic means. Overall, there is no reason to expect that any of the above will have any sizeable cost implications for authorities which will be largely limited to checking that the relevant information is available. As concluded in the Impact Assessment of the Posting of Workers Directive where a very similar set of measures were analysed "providing for more effective and adequate inspections does not imply necessarily an increase in the number of controls and visits. Therefore, resource costs may not increase compared to the status quo" (European Commission, 2012, p. 59).

While greater scepticism was expressed in relation to the measures intended to ensure that the operator holds assets and employs staff in the Member State, which are commensurate with the establishment's scope of activity and it has commercial contracts with clients established in the Member State, there are no evident costs from the side of the authorities which will need to verify the information provided by operators. Overall, we consider that the cost for authorities from this measure is, most probably, insignificant.

Concerning the change to the definition of cabotage, the **removal of the maximum number of cabotage operations** is generally considered as a positive measure by eliminating an aspect that can take significant time and resources to enforce and is seen by several stakeholders⁹⁰ as very difficult to enforce. Nonetheless, only one authority (SE) stated that this change will lead to a reduction of operating costs to authorities by 5-15% while three (CY, LU,DE) considered that it will bring cost increases and the weighted average of the responses received suggests a 5% increase in the costs. However, when asked for further details, the German authorities explained that they expect cabotage controls to become easier and, as a result, a higher number of checks will take place.

We did not get any estimate on the possible time savings from removing the need to check multiple consignment notes. However, a net reduction of the time needed for one cabotage check by 10% across the whole of the EU (on the basis of 1 hour check⁹¹ and 1.35 million checks across the EU in 2035⁹² under baseline scenario 1; 1.33 million checks under baseline scenario 2) suggests annual savings of €3.2 million⁹³. Assuming that the number of checks follow the evolution of cabotage activity according to the EU Reference scenario, the net present value for the period 2020-2035 is estimated in the range of €35.9 million under the Baseline 1 scenario and €35.3 under Baseline 2. If the measure leads to a 25% reduction in the time needed, net savings will be in the range of €7.9-8.1 million (€ 88.2-89.7 million over the period 2020-2035). However, these estimates should be treated with significant caution.

⁸⁹ HR, LV, PL, FI, DE, SE, UK

⁹⁰ UETR, CORTE, BG and CZ associations, 2 Danish associations, DE authorities PL associations, ES association, UK authorities

⁹¹ This is the average duration according to Ricardo et al. (2015)

⁹² This is the total for the EU for 2035 on the basis of the assumed level of cabotage from the EU 2016 Reference scenario (European Commission, 2016b) and the current level of cabotage checking intensity (checks/million t-kms) from the baseline (Ricardo et al, 2015)

⁹³ €3.22 million under baseline 1 and €3.17 million under Baseline 2.

Table 8-31: Estimate cabotage checks costs savings for national authorities from removal of the maximum number of cabotage operations

Scenario	No. of cabotage checks in 2035 (EU28) (millions)	Check duration (baseline)	Percentage of time saved per check -	Total annual cost savings from use of E-CMR – in 2035 (million EUR)	NPV (period 2020-2035) (million EUR)
BL1	1.35	1 hr	10%	3.22	35.9
BL2	1.33			3.17	35.3
BL1	1.35	1 hr	25%	8.1	89.7
BL2	1.33			7.9	88.2

Changing the maximum number of days from 7 to 4 is not expected to have any implication on the regulatory costs for authorities given that it will not change any of the aspects related to the enforcement of the cabotage provisions.

Similarly, there should not be any sizeable costs for authorities from any of the following measures:

- 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.
- Introduce cabotage in the classification of serious infringements leading to the loss of good repute. This may require registering cabotage offences in the national electronic registers. However the few respondents to the survey (UK, EL, CY) suggested that there should not be any costs.

This is also the view of the national authorities that responded to the online survey. Besides BE (which referred to possible costs for change of the relevant national legislation), no other authority indicated that there are costs associated with these measures.

Finally, the removal of maximum number of cabotage operations under PP3 will have a positive impact (savings) on the cost associated with the introduction of a minimum number of checks for cabotage under Policy Package 2 (similar to the analysis in 8.1.1.3). The reduction to the time needed should lead to a reduction to the estimated costs. **Table 8-28** summarises the costs savings in relation to the initial costs presented in section 8.1.4.2, Table 8-28. They are in the range from € 0 (in the case of 1% checked) to up to €43.1 million under the most demanding scenario.

Table 8-32 – Cost savings to measure of minimum number of cabotage checks (Policy package 2) as a result of the removal of the maximum number of cabotage operations

	BL1		BL2	
	Upper bound	Lower bound	Upper bound	Lower bound
Distance/trip	210 km/trip	450 km/trip	210 km/trip	450 km/trip
Assumed time saving per check	10%/25%			
3% of trips checked				

	BL1		BL2	
Annual Cost reduction at EU28 (million EUR)	1.5/3.9	0.5/1.1	1.4/3.5	0.4/0.9
NPV (million EUR)	17.2/ 43.1	5.0/12.6	15.4/38.5	4.2/10.4
1% of trips checked				
Annual Cost reduction at EU28 (million EUR)	0.2/0.5	0.01/0.01	0.1/0.3	0.0/0.0
NPV (million EUR)	2.0/5.1	0.1/0.1	1.5/3.7	0.0/0.0

Table 8-33: Summary of regulatory costs under measures of PP3

Policy measure	Expected regulatory costs
Measures of PP2	Costs from PP2 in the range of €128.8-301.9 million
Review reference points for effective and stable establishments to ensure that the establishment in a given Member State is indeed effective and stable	Insignificant. Most authorities already apply some of the measures and other aspects are not considered as posing any significant cost.
Remove maximum number of cabotage operations (currently 3), while reducing the maximum period for cabotage operations (from 7 to 4 days)	Costs savings from reduced time and resources for control of 3 operations estimated in the range of €40.1-112.2 million depending on the impact on the time needed for cabotage checks. Change from 7 to days is not expected to bring any change to cabotage enforcement. Additional cost savings in relation to PP2 of reduced by €0-43.1 million as a result of synergies of this measure with the measure on minimum number of cabotage checks
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.	No significant costs for authorities
Introduce cabotage in the classification of serious infringements leading to the loss of good repute.	No significant costs for authorities
Overall impact of PP3	Costs in the range of €65.2-165.6 million

8.1.4.4 Policy package 4 (extension of scope to include LCVs)

Policy package 4 focuses on the extension of the scope of the two Regulations to cover the use of LCVs.

In principle, such an extension will imply significant increase of the enforcement effort required given the increase in the vehicles and operators covered. The survey of national authorities suggests that a large number of authorities (more than half of respondents⁹⁴) expect an increase in the resources required (i.e. number of enforcement and back office staff) and most of them expect that this will be more than 25% (see Table 8-34). As indicated in section 4.3.6.2 specific provisions are already in place for a number of MS which fully or partly apply the two Regulations⁹⁵. As a result, for these Member States we can conclude that the additional costs will be very limited, if not zero. Authorities from some MS in which LCVs are already fully or partly covered (NL, SE, EL, LV) did not identify any costs or considered that they will be small. The weighted average of the responses below suggest an increase of staff and costs across the EU28 in the range of 25-35%, although we should note the differences in the views of EU13 in comparison to EU15 authorities. This is possibly affected by the fact that three of the EU15 authorities (EL, SE, FI) already have legislation in place. As can be seen, when excluding authorities where legislation is not applicable to LCVs, the expected costs are somehow higher. Among those, there were no estimates provided on the additional impact on the number of staff and resources.

Table 8-34: Expected impact on number of staff and costs of national authorities from a possible extension of the scope of Regulations 1071/2009 and 1072/2009 to cover light commercial (weighted average of responses to the survey)⁹⁶

	Staff required to enforce Regulation 1071/2009	Staff required to enforce Regulation 1072/2009	Back-office and support staff	Other costs of operation
EU 15 (8 responses)	17.5%	14.6%	18.8%	5.0%
EU 13 (7 responses)	46.4%	50.0%	32.0%	50.0%
EU28 (15 responses)	34.4%	33.7%	27.3%	25.0%
Excluding those MS where Regulations already apply	50.0%	47.2%	41.1%	37.5%

Source: National authorities' survey

In relation to **Regulation 1071/2009**, enforcement effort is expected to be linked with the number of operators within the scope of the Regulation. A full scale extension to cover LCVs will mean that all firms engaged in road freight transport operators will need to be checked for compliance. However, available data from Eurostat on the number of enterprises in the road freight transport sector (NACE H4941) does not seem to provide a full picture. In a number of cases, the total number of national licenses and/or international (Community) licenses in road freight as reported by national authorities in the monitoring report is greater than the number of firms in the sector. This is possibly due to the fact that firms outside the road freight transport sector may also apply for such licences but more specific information is not available.

⁹⁴ Small increase (<25%): HR, HU, LV, DE; Some increase (25-50%): CY; Significant increase (50-100%): EE, PL, UK; Very significant increase (>100%): BG; Not relevant: EL, FI, SE.

⁹⁵ In the case of 1071/2009 these are BE (for over 0.5t) EL, FI, IT, LV, NL (for over 0.5t), SE, CZ, FR. For 1072/2009 these are: BE, CZ, DK, EL, FI, FR, SE, SK

⁹⁶ The following weights were used: Not relevant: 0, Decrease: -0.5; Small increase: 0.125; Medium increase: 0.375; Significant increase: 0.75 ; Very significant increase : 1

The Table 8-35 below summarises the available data for different Member States and different sources.

Table 8-35: Share of hauliers using LCVs in total (selected Member States)

Member State	Share of hauliers using LCVs	Source
Germany	25% ⁹⁷	(Bundesamt für Güterverkehr , 2015)
France	6%	(European Commission, 2012a)
Denmark	5%	(Incentive, 2013) ⁹⁸
Poland	30%	Hauliers' survey responses (31 hauliers)
Bulgaria	0%	Hauliers' survey responses (21 hauliers)

Overall, the data suggest that the situation varies among Member States and it is difficult to provide a reliable estimate of the additional number of firms that will fall within the scope of the Regulation and will require additional controls. However, we can conclude that an extension of the Regulation will affect only a small share of the hauliers in each country, since the majority of them is already covered. For the purposes of further analysis of the cost implications for authorities, and in the absence of more specific data, we expect that between 5-25% of additional firms in the sector will be affected. This is translated to 19,000-97,000 at EU28 level, on the basis that there are around 540,000 enterprises in the sector (Eurostat, 2016b)).

In the case of the extension of Reg. 1071/2009, Article 12 of the Regulation requires that authorities target those that pose increased risks on the basis of a risk classification system or, for the initial period, checks should be carried every 5 years. We have used this provision to calculate additional costs although it should be expected that authorities may follow different approach (e.g. Finland checks all new operators at the time that they apply for authorisation).

The additional costs are estimated on the basis of the additional number of operators falling within the scope of the regulation (19,000-97,000 firms) and assuming that every firm will be checked at least once every 5 years, with time taken for each check on average to be 4 hours. The total additional costs on an annual basis are expected to be €0.3-1.7 million/year. For the estimation of the net present value over the period 2020-2035 we have assumed that that number of operators falling with the scope of the Regulation will evolve in line the overall evolution of transport activity as provided in the EU Reference Scenario (European Commission, 2016b). This leads to a NPV over the period 2020-2035 in the range of €4.4-21.6 million (see Table 8-36).

Table 8-36 – Estimated regulatory costs for extension of 1071/2009 to cover LCVs

	Lower bound	Upper bound	Source
Number of additional firms in scope	23,000	114,000	Eurostat and assumed 5-25% share of firms in the sector affected – only covering MS without Regulation
Number of checks/firm/year		0.2	
Average duration of checks (hrs)		4	(Ricardo et al, 2015)
Cost/hour (EUR)		18.7	Eurostat labour cost survey

⁹⁷ 33,683 out of 45,051.

⁹⁸ In Denmark, estimated that the number of LCV's primarily used in hire and reward transport services in 2012 represented around 5% of the total LCV fleet (12,445). The remaining 225,184 are considered to be used for own account operations.

	Lower bound	Upper bound	Source
Total annual costs for EU 28 (million EUR)	0.3	1.5	
NPV over period 2020-2035 (million EUR)	4.4	21.6	

The extension will also lead to the an increase in the number of authorisations for access to the occupation according to the procedure followed in each Member State and the procedures for withdrawal and suspension of the authorisations and declarations of unfitness of transport managers. Again, this should be expected to be proportionate to the increase in the number of firms within the scope, thus an average increase of 5-25% in the total costs – mainly for back office staff – should be expected.

In relation to the possible extension of Regulation 1072/2009, we can estimate the additional costs on the basis of increase in the number of vehicles to be checked (as provided in the baseline) and assuming that a similar amount of effort (i.e. time required) will be needed for the check of LCVs performing cabotage as is the case of HGVs. According to Ricardo et al. (2015), the typical duration of roadside checks for Regulation 1072/2009 is 1 hour /check. For 2015, the baseline analysis estimated a total of 11,800 LCVs involved in international transport in 2015 in Germany and France, (best estimate), reaching a total 16,200 by 2035 in the two countries. However, France – together with 6 other Member States – already have relevant provisions in place and the Regulation should not be expected to introduce additional costs. Given the level of uncertainty on overall activity in other Member States, we present the analysis of the costs only for Germany.

It should also be noted that this represents an optimistic scenario given the LCVs are not equipped with tachographs and there is no data exchange system (i.e. ERRU) in place. Both limitations suggest that, at least in the initial period, enforcement will be more demanding, lengthier in time and, eventually, more costly. In the absence of other relevant input, we also considered that alternative scenario where road side checks require 100% more time (1 hour). We have also assumed an average of 0.7 checks/vehicle/year⁹⁹ and an average labour cost in Germany of €20.0/hr¹⁰⁰. All estimates are presented in the Table 8-37 below suggesting that total costs for authorities. Assuming that the number of checks for LCVs will evolve in line with the overall evolution of cabotage activity, we estimate the net present value for the period 2020-2035 in the range 1.3-2.5 under the best estimate of number of LCVs in international transport and €6.0-11.9 in the case of a much wider adoption of LCVs.

Table 8-37 – Estimated regulatory costs for extension of 1072/2009 to cover LCVs for Germany

	Number of LCVs	Cost per check	Checks/vehicle	Time/check (hrs)	Total annual costs (millions EUR)
In 2020					
Minimum	1,241	€20.0/hr	0.7	0.5-1	0.02-0.03
Best estimate	7,819				0.10-0.20
Maximum	36,485				0.47-0.94
NPV over period 2020-2035 (million EUR)					
Minimum	0.2-0.4				
Best estimate	1.3-2.5				

⁹⁹ The ex-post evaluation estimated a total of 1.3 million roadside checks for a total of 1.8 million HGVs with certified copies of Community license. We assume that a similar frequency will apply in the case of LCVs.

¹⁰⁰ Total hourly labour costs in public administration, Eurostat, 2014 – Labour cost survey

Maximum

6.0-11.9

Sources: LCVs from baseline; Costs per check: Eurostat labour force survey; Checks/vehicle and time/check: Ex-post evaluation

While we cannot provide an estimate at the EU28 level (for the Member States) not already covered, we can reasonably argue that the relevant costs will not be more than 2-3 times the figures provided above, given the share of Germany in total cabotage activity (37% in 2012 according to Eurostat (Eurostat, 2016d).

The above figures refer to the case of a full extension of the two Regulations. A **partial extension** (under Policy option 4b) with reduced provisions could mean some reduced costs. However, these should not be expected in relation to **Regulation 1072/2009** where controls will still be needed to enforce the provisions of the Regulation. Only in the case that the partial adoption leads to the absence of any provisions concerning the number of operations and/or the maximum number of days will enforcement become less demanding. This is a suggestion that was rejected by all authorities (either suggesting a full extension or no extension). The option of extending the scope to cover only some vehicles within the LCV category - as in the case of NL where vehicles over 0.5 tonnes are covered - would most probably not change the volume of additional checks and the respective costs since vans of such small size are most often used in own account operations. Overall, a partial extension of 1072/2009 will probably have very similar cost implications for authorities as a full scope extension.

In the case of **Regulation 1071/2009**, a partial adoption of the Regulation covering only certain aspects (e.g. only requirements on stable and effective establishment and on financial standing) should also not change significantly the costs from the point of view of authorities. It is possible that inspection may require less time but will not change the number of operators that will need to be checked. Some savings may apply by removing obligations related to professional competence but, these are already limited. Overall, unless enforcement requirements do not apply to LCVs, regulatory costs should be largely the same with a full scope extension.

Policy measure	Expected regulatory costs
Extend scope of Regulation (EC) No 1071/2009 to cover vehicles below 3.5 t fully.	Additional costs for Member States without existing Regulation linked to increased number of inspection of licensed operators using only LCVs. Estimated additional costs in the range of €4.4-21.6 million
Extend scope of Regulation (EC) No 1071/2009 to cover vehicles below 3.5 t partially	Similar to cost of full extension - no sizeable savings expected
Extend scope of Regulation (EC) No 1072/2009 to cover vehicles below 3.5 t fully	Additional costs for Member States without existing Regulation linked to increased number of roadside checks for LCVs performing cabotage operations. Estimated additional costs in the range of €0.2-11.9 for Germany depending on the level of cabotage activity and the duration of the checks. Costs across the EU28, potentially 2-3 times higher
Extend scope of Regulation (EC) No 1072/2009 to cover vehicles below 3.5 t partially	Similar to cost of full extension - no sizeable savings expected

8.1.5 Impact on SMEs

The measures that are expected to have significant impacts (positive or negative) on SMEs were identified using input from stakeholders via the public consultation, interviews and surveys (see the SME test in Annex I for further details).

8.1.5.1 Policy package 1 (clarification of the legal framework)

The following measures are expected to have a potentially relevant impact on smaller firms (as compared to larger firms):

- a) Set precise requirements on how a newly established enterprise can prove its financial standing;
- b) Clarifying the conditions on good repute, including the relevant persons to be checked for good repute;
- c) Creation of an online platform where Member States can post comprehensive information relating to applicable national rules;
- d) Develop a practical guide for interpretation of EU rules, prepared for the road transport sector

Setting **more precise requirements on how a newly established enterprise can prove its financial standing** would clarify that there are several ways in which a new firm can prove its financial standing before it draws up its first annual account. This would have minor positive impacts on firms at the start of their existence, when they are perhaps more likely to be smaller, by allowing greater flexibility and reducing administrative costs. Although many Member States already allow proof of financial standing by means other than accounts¹⁰¹, this measure will only add to the flexibility of options available to SMEs.

Clarifying the relevant persons to be checked for good repute may have relatively more important impacts on SMEs as compared to larger firms according to several interviewees (industry associations in ES, UK, CZ and PL), due to the additional administrative costs that are harder for SMEs to absorb.

Creation of an **online platform where Member States can post comprehensive information relating to applicable national rules**, and the **practical guide for interpretation of EU rules, prepared for the road transport sector** would both be expected to have more positive impacts for smaller firms compared to larger firms, since they have fewer resources to dedicate to researching different national rules and/or obtaining professional advice.

Table 8-38 summarises the impacts on SMEs from PP1.

Table 8-38: Summary of impacts on SMEs from measures under PP1

Policy measure	Impact on SMEs
More precise requirements on how a newly established enterprise can prove financial standing	Small positive impact – increase in flexibility of options for SMEs in some MS
Clarifying relevant persons to be checked for good repute	Negative impact – due to increase in administrative burdens. Could be mitigated by proportional rules
Online platform where MS can information on national rules	Positive impact – particularly important for SMEs that may not have resources to spend researching rules or obtaining professional advice
Practical guide for interpretation of EU rules, prepared for the road transport sector	Positive impact – particularly important for SMEs that may not have resources to spend researching rules or obtaining professional advice
Overall impact of PP1	Positive due to increased flexibility and provision of information about the rules. Possible downsides due to checking of good repute.

¹⁰¹ For example, bank guarantee (allowed in 18 Member States) or an insurance (8 Member States) – see Ricardo et al (2015)

8.1.5.2 Policy package 2 (strengthening of enforcement)

The following measures are expected to have a potentially relevant impact on smaller firms:

- a) Mandatory acceptance of electronic consignment notes (e-CMR) by enforcers;
- b) Remove the possibility for Member States to add additional requirements for establishment.

The **mandatory acceptance of electronic consignment notes** is expected to lead to administrative cost savings (see Section 8.1.1.2) that would benefit all firms, but may be particularly valuable to SMEs who have lower capacity to absorb overhead costs. In cases where companies were not willing or able to make the upfront investment costs to move to electronic systems, there would be no requirement to do so. UETR, as a representative of SMEs, commented that most companies are ready to move to e-CMR and that the relevant ICT infrastructure is either already in place, or the investment required is not considered significant. This suggests that overall this measure will have a net positive impact on SMEs.

Removal of the **possibility for Member States to add additional requirements** for establishment was viewed as positive by several interviewees (UETR, DK association) – particularly if it removes the requirement to have a parking space, which was considered problematic by commentators.

Table 8-39 summarises the impacts on SMEs from PP2.

Table 8-39: Summary of impacts on SMEs from measures of PP2

Policy measure	Impact on SMEs	
	Self employed	<10 employees
Measures of PP1	Positive due to increased flexibility and provision of information about the rules. Possible downsides due to checking of good repute	
Mandatory acceptance of e-CMR	Net positive, due to administrative cost savings and no requirement to make (small) infrastructure investments if the SME is not willing	
Remove possibility to add additional requirements for establishment	Positive for SMEs, particular if the requirement for additional parking space is removed	
Overall impacts of PP2	Small positive impacts, mainly due to administrative cost savings.	

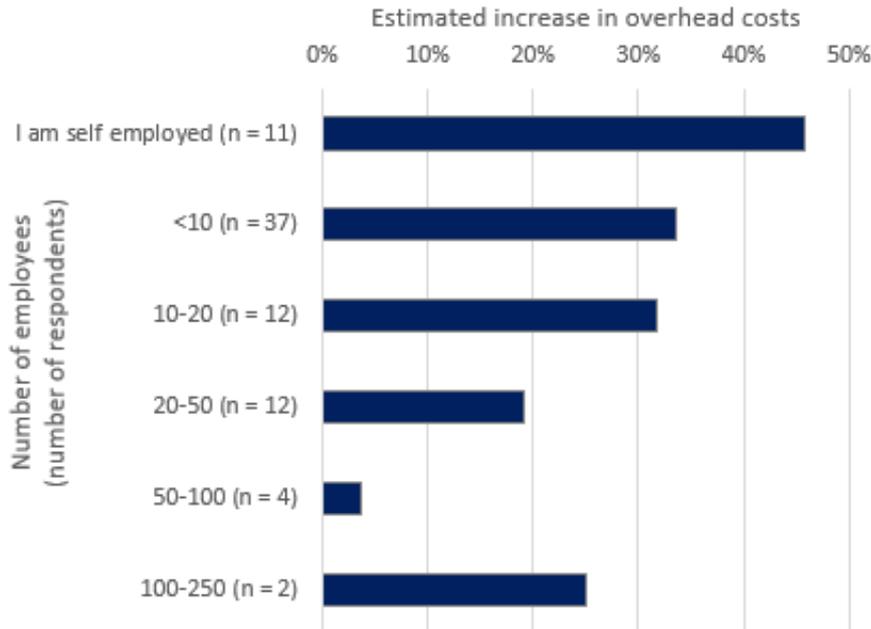
8.1.5.3 Policy package 3 (extensive revision of the Regulations)

The following measures were identified as potentially having relevant impacts on SMEs as compared to larger firms:

- a) Review reference points for effective and stable establishment;
- b) Remove maximum number of cabotage operations (currently 3), while reducing the maximum period for cabotage operations (from 7 to 4 days);
- c) Introduce penalties for shippers and freight forwarders (mandatory).

Regarding the **reference points for stable and effective establishment**, Figure 8-5 shows the estimated increase in overhead costs from implementation of the full list of measures (see Section 8.1.1.2). There is a clear indication from the responses to the survey of hauliers that the measures are expected to result in a higher percentage cost increase for smaller firms.

Figure 8-5: Estimated increase in overhead costs from changes to establishment criteria



Source: survey of hauliers, total of 80 respondents (no respondents with more than 250 employees provided answers to this question)

Comments from an interviewed SME suggested that the increase in costs was expected to come from increased spending on personnel and hardware (BG). The requirements for the operator to hold assets and employ staff in the Member State was viewed as particularly problematic by one SME, because such firms are often not set up as conventional offices (DK). Conversely, another SME (BG) felt that this measure alone would have more benefit than cost. More generally, several interviewees agreed that additional requirements might impose disproportionate costs for SMEs (DK, ES association), particularly requirements to have commercial contracts and to hold assets and employ staff in the Member State (UETR, associations from RO, ES, PL).

Regarding **removal of the maximum number of cabotage operations (currently 3), while reducing the maximum period for cabotage operations (from 7 to 4 days)**, the responses from the survey of hauliers indicate a more minor expected impact, although there are still relatively larger effects for smaller firms. The weighted average estimated increase in costs for self-employed hauliers was 4.4%, compared to 4.3% for firms with fewer than 10 employees, and 2.4% for firms with more than 10 employees. Comments from interviewed SMEs indicated that they felt the measure would be helpful for SMEs, with preference that the number of days should not be reduced (BG, DK).

The **introduction of penalties for shippers and freight forwarders** was considered positively by UETR, who commented that hauliers are often put under pressure by clients. SMEs may have lower bargaining power than larger firms, and so could be expected to benefit disproportionately from the measure.

Table 8-40 summarises the impacts of the individual measures included in PP3

Table 8-40: Summary of impacts on SMEs under measures of PP3

Policy measure	Impact on SMEs	
	Self employed	<10 employees
Measures of PP2	Small positive impacts, mainly due to administrative cost savings.	

Policy measure	Impact on SMEs	
	Self employed	<10 employees
Review reference points for effective and stable establishment	For all measures: Estimated increase in overhead costs of 46% (2.05 times the cost for firms with >10 employees).	For all measures: Estimated increase in overhead costs of 34% (1.5 times the cost for firms with >10 employees).
Removal of the maximum number of cabotage operations (currently 3), while reducing the maximum period for cabotage operations (from 7 to 4 days),	If period is reduced to 4 days: estimated increase in overhead costs of 4.4% (1.82 times the cost for firms with >10 employees).	If period is reduced to 4 days: estimated increase in overhead costs of 4.3% (1.77 times the cost for firms with >10 employees).
	If period is kept at 7 days: no negative impact expected, and potentially small positive impact due to lower compliance costs	
Introduce penalties for shippers and freight forwarders	SMEs may have lower bargaining power than larger firms, and so could be expected to benefit disproportionately from the measure.	
Overall impact of PP3	Negative impacts from increased costs due to new requirements on stable and effective establishment and cabotage period (depending strongly on implementation choices – impact could be substantially reduced). Offset to some extent by small positive impacts due to administrative cost savings.	

8.1.5.4 Policy package 4a/b - (extension of scope to include LCVs)

The extension of the scope of the two Regulations to cover LCVs is particularly relevant for SMEs. According to the hauliers survey, 17 out of 48 firms with less than 10 employees (35%) indicated that LCVs are used in more than 25% of the total v-km in their operations, in comparison to 4 out of 32 (11%) among larger firms (>10 employees). This is also supported by evidence in some Member States. In Denmark, a study by Incentive (2013) found that almost 50% of the total LCVs are used by Micro-SMEs (<10 employees). The French government has adopted less demanding provisions concerning professional competence and financial standing (according to Reg. 1071/2009) in relation to the use of LCVs based on the recognition that drivers of the national fleet of LCVs are vulnerable to short term economic fluctuations, as they are often self-employed (Incentive, 2013). In the UK, the hauliers’ representative indicated that users of LCVs are generally small firms.

Taking this into account, overall there seems to be significant level of support among SMEs and their representatives for the extension of the two Regulations to cover LCVs. 9 out of 11 SME hauliers that responded to the open public consultation were in favour of such an extension in the case of Regulation 1071/2009. Similarly, 9 out of 10 were in favour in relation to Regulation 1072/2009. Among the 17 respondents to the SME panel, more than half indicated that one or more of the four requirements under Regulation 1071/2009 should apply to SMEs. Only a small number (no more than one out of three in relation to any of the 4 criteria) indicated that no requirements should apply. Similar positive responses were received in terms of the extension of the scope of Regulation 1072/2009 where 12 out of 16 respondents indicated that there should be a requirement to hold a community license and 10 out of 16 that the limits concerning the cabotage should also apply. Furthermore, in relation to both Regulations, more than half of respondents indicated that the relevant requirements should be the same as in the case of HGVs. The only exception was the financial standing requirements where 5 out of 15 SME panel respondents considered that less demanding requirements should be in place. During the interviews with industry representatives, a similar positive view was indicated both at EU and national level. UETR (representing primarily small hauliers) was supporting of the proposed extension indicating that it can help in the professionalization of the sector and

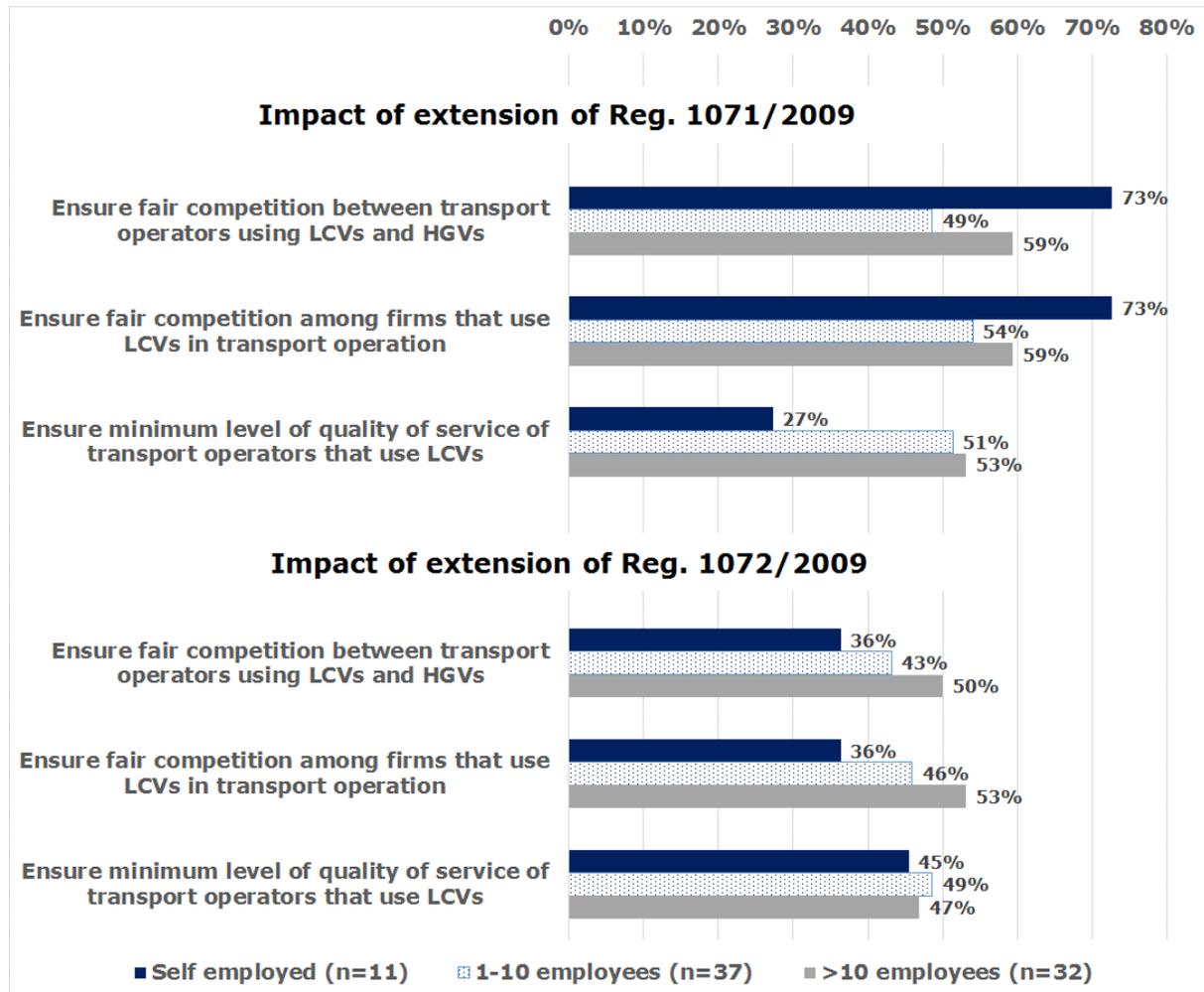
this was also the argument of the Danish association whose members are hauliers using LCVs. Other national associations (CZ, ES, IT) also expressed support although most of them were only representing HGV users.

Furthermore, most respondents seem to support the view that the extension should have certain positive impacts on SMEs. A positive economic impact on SMEs was indicated among all respondents to the public consultation with 69 out of 156 (44%) stating that they expect a positive or very positive economic impact (although no additional information on the nature of the benefits was provided) while on 27 considered that it would have a negative impacts. Further insight is provided by the responses to the SME panel and the hauliers' survey and from a few industry representatives. UETR and the Danish association representing hauliers using LCVs considered that the extension will contribute to the professionalisation of the sector, strengthen their profile and help them access a broader market.

In addition, among respondents to the SME panel, 9 out of 15 respondents to the specific question indicated that the extension of Regulation 1071/2009 will ensure fair competition among firms using LCVs and improve the quality of their service. In the case of Regulation 1072/2009, there is again significant support of the view that it will ensure fair competition and minimum quality (6 and 7 out of 15 respectively) although there is also sizeable opposition indicating that there are no benefits (5 and 4 out of 15 respectively) or that the extension of Regulation 1072/2009 is not relevant (2 and 1 out of 15 respectively). Among hauliers that responded to the survey, support of the expected impacts on competition and quality is less strong although still significant (see **Figure 8-7**). Self-employed hauliers appear more sceptical than firms of greater size concerning the contribution to the quality of service from Regulation 1071/2009 but strongly supportive of the contribution to fair competition. In general, they appear less supportive of the contribution of Regulation 1072/2009 to fair competition and quality of service. Still, more than one out of three made a positive assessment¹⁰².

¹⁰² In all cases, the number of respondents that disagreed was less than half of those that agreed.

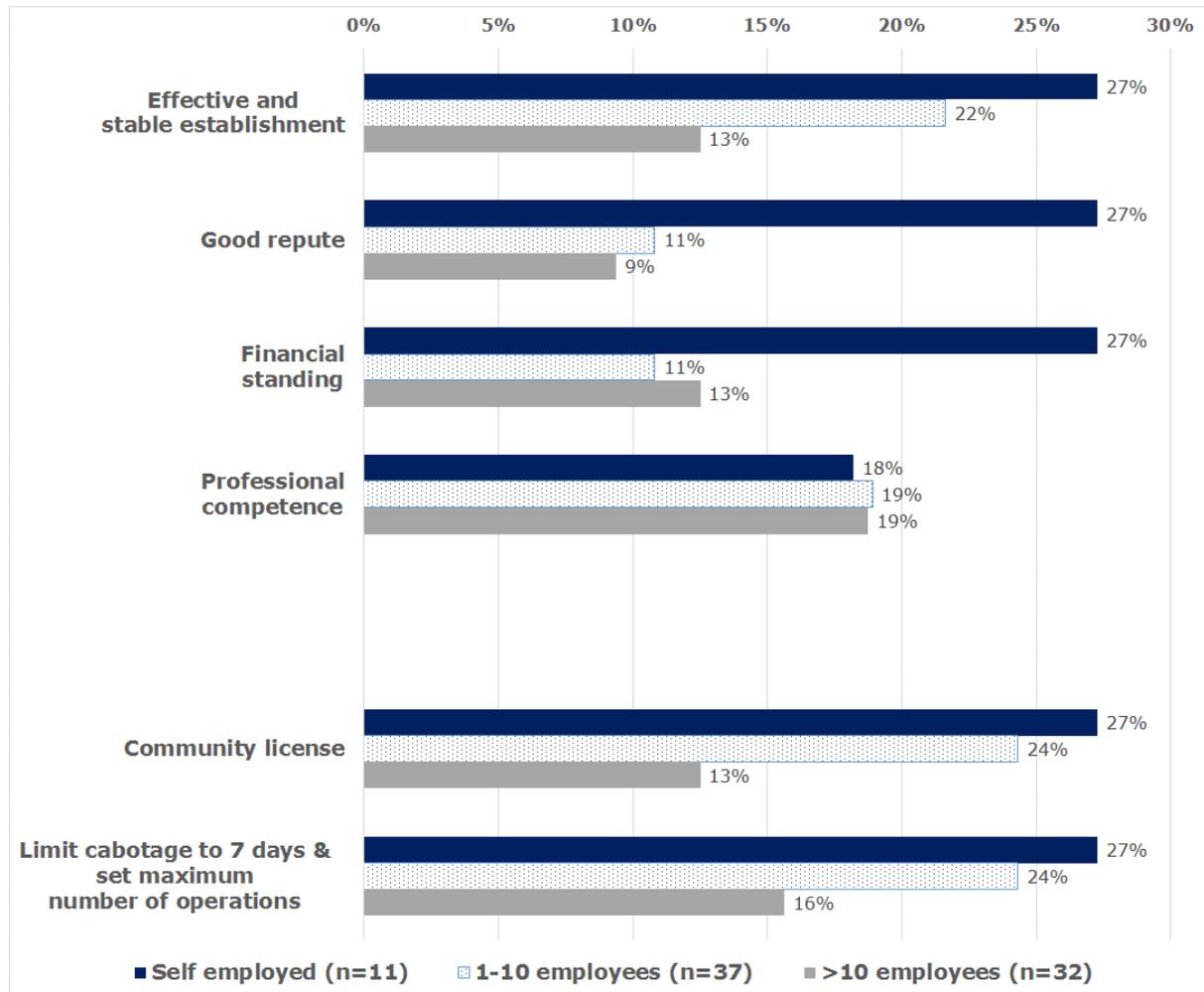
Figure 8-6: Contribution from the extension of the scope of Regulations 1071/2009 and 1072/2009 (percentage of firms that agree with the suggested impact according to firm size)



Source: Survey of hauliers : Self-employed respondents: 11; Employees with 1-10 employees:37; Respondents with more than 10 employees: 32

On the other hand, there are significant concerns raised by both hauliers and their representatives on the cost implications (including administrative and compliance costs) from the extension of the scope that can affect small hauliers that use LCVs. While a few industry representatives (e.g. UETR, DK association) considered that the relevant cost implications for their members (mostly SMEs) should be limited, this view was not broadly supported. Among the hauliers that responded to the survey, self-employed seem to be more concerned about the possible impacts on their costs than firms with more than firms with 1-10 or larger firms (>10 employees) (see Figure 8-7). While still less than one third of respondents, the share of self-employed that expect operating costs to increase is, in most cases, more than double that of firms with more than 10 employees. For firms with 1-10 employees, the share of firms than expected increase in the costs is similar to that of larger firms in the case of Regulation 1071/2009 but significantly greater in the case of Regulation 1072/2009 where both provisions (Community license and cabotage duration restrictions) are expected to lead to additional costs from a larger share of self-employed and very small firms that responded to the survey. On the basis of the analysis of the costs to business of the two requirements presented in Section 8.1.1.3, the expected increase in the costs for all business should be rather similar Stakeholders did not comment on the specific impacts. The only exception was the UK hauliers’ association which considered that in the case of LCVs a Community license requirement should apply but the maximum duration set in the Regulation is not necessary.

Figure 8-7: Expected impact of extension of Regulations 1071/2009 and 1072/2009 to the annual costs of operation for firms of different size (percentage of respondents from each group indicating that costs will increase)



Source: Survey of hauliers: Self-employed respondents: 11; Employees with 1-10 employees: 37 ; Respondents with more than 10 employees: 32

We should note that the responses to the survey are not fully in agreement with input from other sources. Among SME panel respondents, the introduction of requirement on financial standing under Regulation 1071/2009 and the requirement for a Community license under Regulation 1072/2009 are also considered as those that can lead to an increase of operating costs¹⁰³. This was also the view of some industry representatives (e.g. UK, NL, DK) which considered that the financial standing is probably the most problematic aspect of the extension for SMEs. As indicated, given that the current levels set under Regulation 1072/2009 would often require a significant level of turnover that can be too high for SMEs that use only a small number of LCVs. In contrast, provisions on good repute were not considered as particularly onerous for small firms by the EU hauliers’ representative (UETR) but, on the basis of the hauliers’ survey, appear more important for very small firms.

Overall, the extension of the scope of the two Regulations should be particularly relevant for SMEs given that they make greater use of LCVs. However, it is not clear whether the expected benefits – in terms of professionalization of the LCVs sector and more fair competition that can bring greater opportunities for market access – will outweigh the additional costs for complying with the provisions that are expected to be more significant

¹⁰³ 7 out of 13 respondents expect the financial standing requirement will lead to an increase in costs. Furthermore, 6 out of 12 respondents expect an increase in the costs as a result of the requirement to hold Community license.

for small and very small firms. To the extent that certain provisions are only partly applied – as in the case of good repute or financial standing under Regulation 1071/2009 – the higher impact on operating costs for SMEs can be reduced. The impact on costs from the extension of Regulation 1072/2009 are also expected to be higher, in relative terms, for very small firms but, the number of firms affected should be very small. As already established in section 8.1.2.3, the use of LCVs in such operations is already very limited.

Table 8-41 : Expected impact on SMEs from the extension of the scope of Regulations 1071/2009 and 1072/2009

Policy measure	Expected impact on levels of compliance
Extend scope of Regulation (EC) No 1071/2009 to cover vehicles below 3.5 t fully.	Positive contribution from supporting professionalization of firms and increased market access through the use of LCVs Disproportionate increase in administrative and compliance costs
Extend scope of Regulation (EC) No 1071/2009 to cover vehicles below 3.5 t partially	Fewer /less demanding requirements for the use of LCVs will probably benefit SMEs that make greater use of LCVs
Extend scope of Regulation (EC) No 1072/2009 to cover vehicles below 3.5 t fully	Small positive contribution from supporting professionalization of firms and increased market access through the use of LCVs Disproportionate increase in administrative and compliance costs However, number of firms affected will remain very small
Extend scope of Regulation (EC) No 1072/2009 to cover vehicles below 3.5 t partially	Reduced requirement in terms of Community license will probably benefit SMEs that make greater use of LCVs – However, number of firms affected will remain very small

8.1.6 Impacts on the functioning of the road haulage market and competition

A number of the measures under consideration are expected to have an impact on the functioning of the road haulage market, business relocation and levels of competition. They include all those that are expected to affect the access of hauliers to the markets of other Member States and the ability or willingness to perform cabotage operations through changes to the respective costs of operation.

The assessment of impacts on business costs (Section 8.1.1) and transport activity (Section 8.1.2) already identified a number of policy measures that are expected to have a significant impact on costs of operation and, subsequently on the levels of cabotage. Among all measures considered, only the removal of a maximum number of cabotage operations together with the reduction of maximum period to 4 days (under Policy Package 3) is expected to have sizeable impact on the total cabotage activity. Other measures (Requirement for hauliers to submit a pre-notification & mandatory acceptance of e-CMR (PP2), revise reference points for stable and effective establishment (PP3) and the extension of the scope of the two Regulations are expected to have rather smaller impacts.

On the basis of the above, the most relevant measure with the potential to impact on the functioning of the market is the **change to the definition of cabotage to a maximum of 4 days**. Our analysis showed that it could lead to a sizeable reduction (-31%) in the overall level of cabotage activity performed on an annual basis in relation to both baselines. Thus, the specific measure can also be expected to reduce the level of competition in the domestic freight transport market, given that cabotage operators are in direct competition with hauliers established in Member States for the same freight. In contrast, simply removing the number of operations while keeping the period at 7 days should have a much smaller (+3%), positive impact on overall cabotage.

A number of hauliers' representatives in EU-15 Member States (ES, DK, FR, DE) consider that cabotage – especially illegal - represents a particular challenge for their members. However, it is important to note that cabotage activity remains only a small part of overall transport activity. It was around 3.2% at EU-28 level in 2014 and did not exceed 9% of domestic transport in any national market (Eurostat, 2015a). Under both baseline scenarios, the share of cabotage activity in total freight transport is expected to decrease as a result of decreasing wage differentials. Aggregate cabotage penetration rate is expected to decrease by around 9% in the 2012-2035 timeframe in baseline scenario 1 and 18% under baseline scenario 2 which includes the implementation of the PWD. In that respect, the overall impact on the functioning of the road haulage market and level of competition for domestic operations in any single Member State should be limited.

Having said that, for hauliers from specific Member States with high shares in performing cabotage operations (e.g. PL, NL, ES, BG, RO), the proposed restrictions will clearly have an impact on their current capacity to be involved in such operations. This was reflected in the modelling results (showing 35% reduction in activity), and backed up qualitatively by comments from industry representatives (BG, PL, RO) and also comments from individual hauliers from Poland and Bulgaria that responded to the survey. 13 Polish and 2 Bulgarian hauliers that commented on the specific aspects suggested that any measure that limits cabotage or increases costs will have a negative impact on their capacity to compete in international market. Conversely, in the responses to public consultation (see Annex F, section F.4.2), , removal of restrictions on the number of cabotage operations was seen by industry representatives in Austria, Sweden and Denmark as facilitating unfair competition and would allow cost-cutting international suppliers to compete on domestic markets across the EU.

Other measures that may have a smaller impact are the mandatory acceptance of e-CMR or setting more demanding criteria for stable and effective establishment. In both cases, the expected impact on cabotage is expected to be very small. As a result, the overall impact on the market should also be very small.

In terms of **business relocation**, any measures leading to changes in cost differentials via impacts on the costs of establishment should also be expected to affect the incentive for business relocation, either in the form of legal outflagging or illegal letterbox companies. Our analysis on impacts on businesses' costs concluded that measures related to stable and effective establishment should lead to an increase in overhead costs, which, as analysed in Section 8.1.1.2, in relative terms are, may be more significant among operators in EU-13 Member States in comparison to operators in EU15. Thus, while it is not possible to quantify the level of impact given that there are no precise data on the current levels of outflagging and letterbox business, the revision of reference points for stable establishment will contribute to a reduction of cost differentials. This will also reduce the possible benefits for hauliers from establishing in other Member States to serve their national markets (outflagging). Thus, while cost differences will still exist, the measure should reduce the incentive for business relocation. In that respect, to the extent that the specific measures do help reduce letterbox companies – as discussed in Section 8.1.3.2 it is expected to lead to a 10 to 11% reduction in "incentives" for formation of letterbox companies – they should also be expected to promote fairer competition within domestic markets.

In relation to the **extension of Regulation 1071/2009** our quantitative assessment of the level of impact on business and transport activity was that firms using LCVs will experience additional costs which may lead to certain hauliers – particularly small size - leaving national markets. This will depend on whether less demanding requirements apply (particularly in relation to financial standing and professional competence). On the other hand, both hauliers that responded to the survey (45 out of 67 respondents) and industry representatives (e.g. DK, BE, IT, ES, NL) consider that any requirements will both contribute to the professionalisation and quality of the LCV sector and also contribute to fair competition between HGVs and LCVs This is also the position of a number of industry representatives (UETR, DK, BG, ES, CZ, UK). To the extent that LCVs do compete with HGVs – a point where there are diverging views expressed within industry (see also

8.1.2.3) – the extension of the scope is expected to contribute to fair competition. This divergence in views was also evident in the public consultation (see Annex F, Section F.4.2.2). Brought together, a certain reduction to the level of use of LCVs should be expected but it is not clear whether this will lead to an increase in the role of LCVs, above and beyond, what is dictated by current market trends.

In the case of the **extension of Regulation 1072/2009**, our earlier analysis suggests that probably it will lead to a reduction in the use of LCVs in cabotage operations but this is a very small share of the market. Overall, the impact on market structure, competition and business relocation will be marginal. However, according to some industry associations (e.g. FR, DK, DE), the use of LCVs in cabotage operations is considered as gradually increasing in share. While the evidence available is very limited, any extension will contribute to a more fair competition between LCVs and HGVs.

Among other measures under consideration within the different policy packages, any impacts on market structure, competition and business relocation should be expected to be marginal. This is because they do not introduce any significant changes to the market access or the costs of operation.

Table 8-42: Expected impacts on competition and function of the market

Policy measure/package	Expected impact
PP1	No impact expected
PP2 (relevant measures: mandatory acceptance of e-CMR)	Very small impact on competition and business relocation.
PP3 (relevant measures: Revise reference points stable and effective establishment; Changes to definition of cabotage)	<p>Expected small decrease in level of competition in the domestic freight transport market from reducing the maximum number of days</p> <p>Minimum change if number of days remains the same</p> <p>Relative reduction in incentive for business relocation and outflagging expected from increase in costs</p>
PP4	<p>Positive contribution to fair competition and small reduction on the level of use of LCVs from extension of Reg. 1071/2009. However, impact on level of competition will be marginal.</p> <p>Marginal, if any, impact on market structure and domestic market from Reg 1072/2009 given the very small share of cabotage</p>

8.1.7 Impact on prices to users of hauliers services and to consumers

Overall, we expect that any impact of the measures under consideration will be passed through to users of hauliers’ services. This is because profit margins in the sector are generally very small (Ricardo et al, 2015), - meaning that hauliers have limited opportunities to absorb additional costs - while at the same time, demand for road haulage services is largely inelastic (Significance and CE-Delft, 2010) – meaning that costs are more likely to be passed through since demand will not drop significantly in response to price increases.

Policy package 1 has no measurable impacts on haulier costs and so there are no expected impact on prices.

The proposed changes to stable and effective establishment (under Policy Package 3) are expected to have the greatest impact on costs, leading to an increase of 15-18% of the overhead costs for hauliers in EU-15 and 33%-36% for hauliers in EU-13. However, given that overhead costs only represent between 8-15% of the total operating costs (see section 4.2), the total impact of this measure on operating costs will be in the range of 1-4%¹⁰⁴. To the extent that such increases in costs are not reduced by an increase in efficiency of operations, the relative increase in operating costs should be expected to pass through to their users in the form of increased prices. This is particularly the case for small distance operations and for those categories of products (e.g. perishable) where road freight is the only option and alternative transport modes are not available.

Under Policy Package 2, the adoption of e-CMR is expected to lead to cost savings per trip and estimated up to €1 billion/year for the whole sector. While not sizeable (on the basis of the estimates provided above, not greater than 5% of the total operating costs) such cost savings may either be translated to increased profit for the firms in the sector or, given the intense level of competition, pass through to users of services in the form of reduced prices.

The analysis of Policy Package 3 also identified a possible increase of the costs of cabotage operations as a result of changes to the definition of cabotage. However, any such impact will not affect prices of users of hauliers' services. As indicated in section 1.2.2 cabotage operations represent a very small share of domestic freight transport markets. Thus, any increase in the costs of cabotage should be expected to be absorbed by hauliers that want to maintain their presence in the market – by reducing their profit margins.

Finally, in the case of Policy Package 4, the estimated 20% increase in operating costs in the case of the extension of Regulation 1071/2009 for hauliers that use LCVs (as analysed in Section 8.1.1.2) may lead to a similar increase in the prices for the users of such road freight services. Taking also into account that LCVs are mainly used in short distance urban freight transport (e.g. courier services, deliveries) (see also section 8.1.2.3) where there is limited scope for the use of alternative modes, the extension of the scope should be expected to lead to an increase in the prices for users of such services. In the case of Regulation 1072/2009, the extension of the scope of the Regulation is also expected to lead to increased operating costs of up to 15%. However, given the very small share of LCVs in the cabotage market, there should not be any impact on the prices which should be absorbed by hauliers.

Finally, in terms of impacts on prices to final consumers, any impacts will be extremely limited since transportation represent only a small proportion (typically no more than 5-10%) of the overall cost of a product (Rodrigue, et al., 2017). Thus, even in the case of 100% cost pass-through from hauliers to users of their services, the impact on final prices should be very limited.

Table 8-43: Expected impacts on prices

Policy measure/package	Expected impact
PP1	No impact expected
PP2 (relevant measure: mandatory acceptance of e-CMR)	Small price decrease: Possible pass through of small savings from proposed measures to users of hauliers services No impact on consumer prices

¹⁰⁴ We should note that according to Eurostat, total operating costs for the road freight transport sector (roughly approximated as equal to Gross turnover minus Gross operating surplus) was €273 billion in 2014 (Eurostat, 2016b). Such a figure would suggest that the estimated costs from Policy Package 2 represent less than 0.3% of the total operating costs. However, given that this is only a rough approximation, in our analysis we have used the estimates on the share of overhead costs presented in the baseline.

Policy measure/package	Expected impact
PP3 (relevant measures: Revise reference points stable and effective establishment; Changes to definition of cabotage)	Small price increase from small cost increases linked to stable and effective establishment provisions No expected impact from possible increase in cabotage costs – expected to be absorbed by hauliers No impact on consumer prices
PP4	Expected increase in prices of users of freight transport services based on LCVs reflecting relevant increase in operating costs from extension of Reg. 1071/2009 No impact on prices from extension of Regulation 1072/2009

8.2 Analysis of social impacts

The following analysis of social impacts of the different policy options will cover the following impacts:

- **Impacts on working conditions:** including impacts on job quality, infringement of social rules, attractiveness of the profession and on wages/price competition.
- **Impacts on EU integration / free movement**

8.2.1 Impacts on working conditions / job quality / infringement of social rules

There is an indirect link between the policy measures and the impacts on working conditions, job quality and infringement of social rules – these are second-order effects that follow on from changes in the presence of letterbox companies and the level of illegal cabotage, as explained below.

The linkages between **letterbox companies** and working conditions is because such companies have a higher risk of infringing social legislation and other rules, as well as being involved in criminal activities (ETF, 2012); (Sørensen, 2015). Illegal employment schemes through letterbox companies have been linked to practices of social dumping (TRT, 2013). Hence, a reduction in letterbox companies is therefore expected to improve the working conditions and job quality of professional drivers. This would especially affect drivers that would have previously been employed by such companies, but would now be employed by legitimate companies. Drivers in the wider economy would also be positively impacted, since there would be a reduction in unfair competition that puts pressure on drivers and firms to compete aggressively.

Although there are difficulties in quantifying any impacts of **illegal cabotage**, studies have recognised that illegality is a problem, and that enforcement practices across the European Union remains a challenge (SDG, 2013a); (TRT, 2013); (ETF, 2012a).

Impacts on working conditions cannot be measured directly; however, due to the logic explained above it can be expected that reductions in illegal activity should be correlated with improvements in working conditions. Thus, the analysis of impacts in this section follows from Section 8.1.2 and from stakeholder input through the public consultation, which covers impacts on working conditions.

A second relevant linkage is between changes in cabotage activity levels and social conditions in the sector. There are strong suggestions in the literature that the added competitive pressure within the international road haulage market due to cabotage penetration, combined with the differentials in labour costs and employment conditions between Member States, is creating incentives for unfair competitive practices (including social dumping) (ETF, 2012a); (SDG, 2013a); (Broughton, 2015). A number of reports

have also highlighted the difficult conditions in the sector in light of decreasing profit margins and growing competition from EU-13 Member States (TRT, 2013); (ITF, 2009); (SDG, 2013a), which may contribute to downward pressure on wages and job quality for drivers. It should be noted that this potential impact is mostly relevant under baseline scenario 1, where there are no changes in the posting of workers rules for transport and hence divergences between social/labour conditions in Member States are expected to persist. In baseline scenario 2, the posting rules essentially force a convergence between wages by ensuring that non-domestic drivers are paid comparable wages after 7 days (wage differentials are the main driver of price differentials – Ricardo et al, 2015). Moreover, it is important to note that the linkages are indirect and that increases in cabotage activity do not automatically lead to negative social impacts, but rather, it could present a higher risk of such practices. To date, it is unlikely that cabotage deregulation has contributed to the ruinous price competition that the sector has experienced in recent years – especially given that its volume is small compared to total freight activity - but it is likely that it has contributed to the intensified struggle for cargo, especially in specific markets (KombiConsult, 2015).

Finally, a possible co-benefit resulting from an improvement of the working conditions is an increase in the attractiveness of the sector. It is well documented that the haulage sector suffers from a bad image of the driver profession linked to perceived low qualifications and low wages combined with a poor work environment. The low attractiveness of the profession, particularly among younger generation has already led to driver shortages that expected to become a severe handicap in the future (Bayliss, 2012). Broughton et al. highlight that the majority of truck and lorry drivers who are looking for a new job are looking to improve their working conditions (Broughton, 2015)

8.2.1.1 Policy package 1

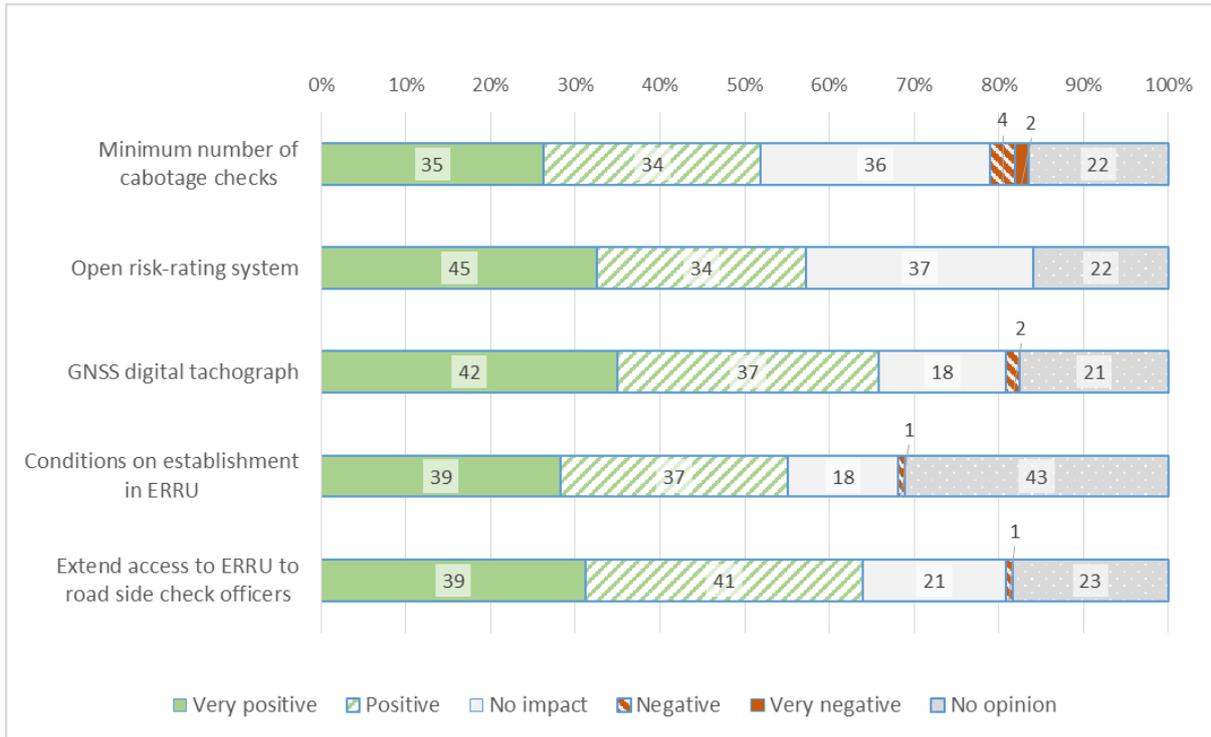
The measures of policy package 1 are only expected to have small impacts on reducing illegal activity and no impact on cabotage activity (see Section 8.1.3.1) and therefore policy package 1 is not expected to materially affect working conditions.

8.2.1.2 Policy package 2

The measures of policy package 2 are expected to lead to very small (~3%) increases in cabotage activity, so there are not expected to be any impacts on social conditions from this aspect. As regards reductions in illegal activity, the measures are expected to have strong positive impacts – potentially around 50-70% reductions in illegal cabotage activity, and smaller (unquantifiable) reductions in letterbox companies (see Section 8.1.3.1). Overall, the measures could have a strong positive impact on social conditions.

The arguments made above are further supported by views received from the public consultation (see Figure 8-8), which show that all analysed measures are expected to have a positive impact on working conditions by at least half of the respondents, ranging from 52% (69 out of 133) for the minimum number of cabotage checks to 66% (76 out of 138) for including the conditions on establishment in ERU.

Figure 8-8: Impact of policy package 2 measures on working conditions in the road haulage sector

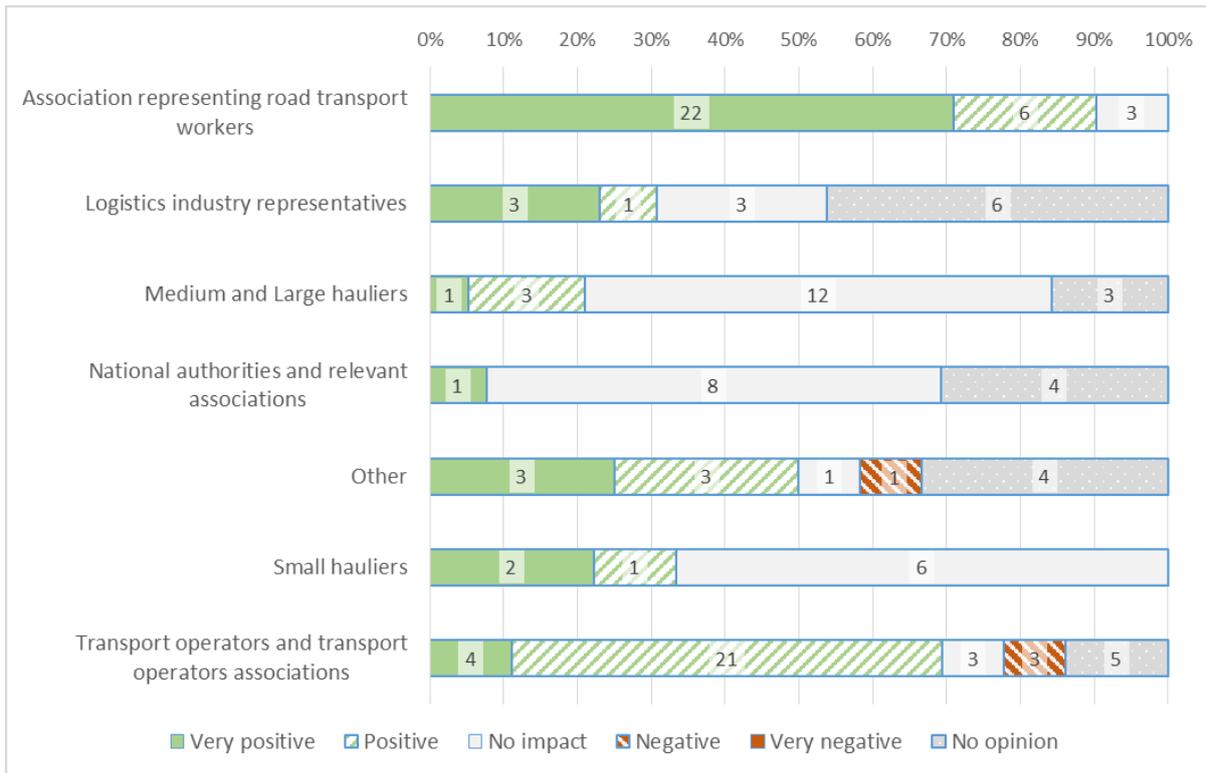


Source: Public consultation

A breakdown by stakeholder type shows that the distribution of responses are very similar for all measures.

Figure 8-9 shows that most of the support for introducing a minimum number of checks of cabotage comes from associations representing road transport workers (28 out of 71 positive responses) and transport operators and transport operators associations (25 out of 71 positive responses). Negative responses are only received from transport operators and transport operators associations (3 negative responses) and other stakeholders (1 negative response). The breakdown of responses for all of the other individual policy measures under PP2 was practically the same as shown below.

Figure 8-9: Impact of introducing a minimum number of check of compliance with the cabotage provisions on working conditions



Source: Public consultation

8.2.1.3 Policy package 3

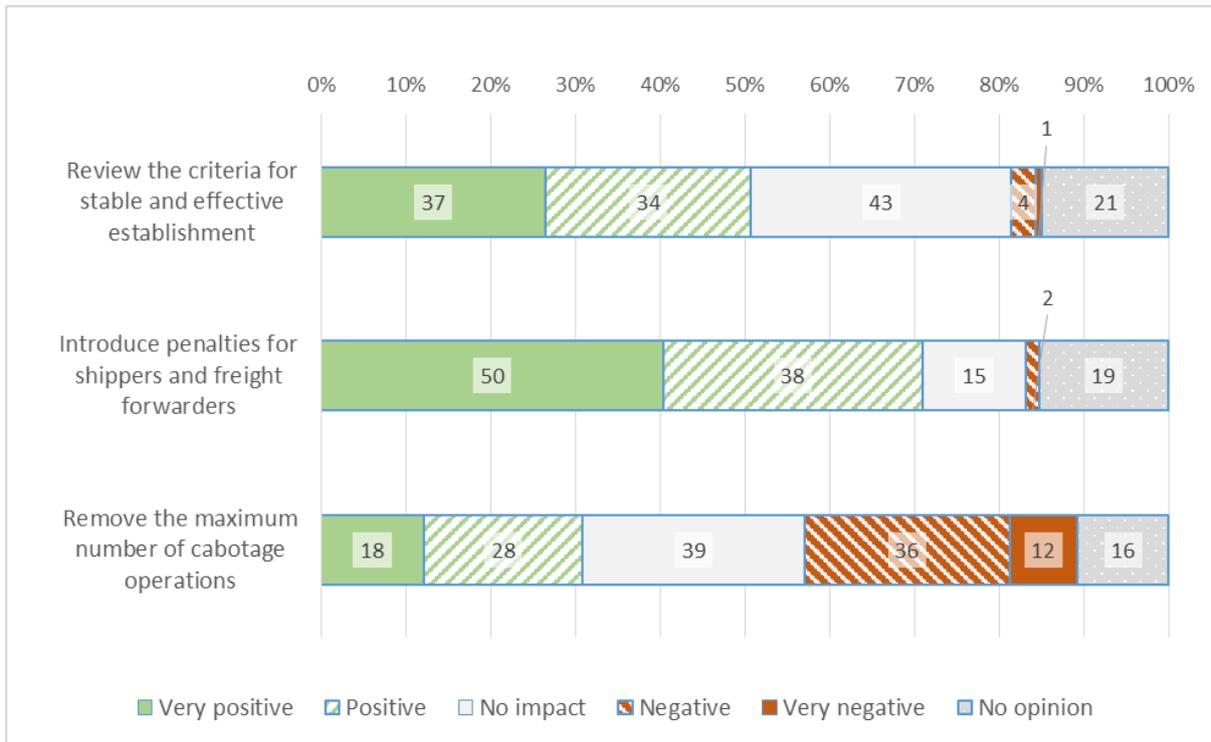
The measures of policy package 3 are expected to substantially reduce cabotage activity (by around one-third compared to the baseline in 2035, see Section 8.1.2.2). This could be seen as reducing the risks that price competition in the sector would lead to greater pressure to break social rules (see above), and hence there could be a positive impact on social conditions. The measures are expected to have an even more profound effect on illegal activity compared to PP2, especially regarding reductions in letterbox companies. Overall, PP3 should be expected to have the most positive effect on social conditions out of all of the packages.

The reductions in cabotage activity under policy package 3 are not expected to have material impacts on overall employment levels in the sector. This is because cabotage represents only a small fraction of total transport activity, as well as the fact that reductions in cabotage would be compensated by increases in domestic/international activity (since transport is a derived demand, driven by changes in GDP).

The open public consultation show that respondents generally feel that the introduction of penalties for forwarding agents will have a positive effect on working conditions. The most controversial measure is the revision of the cabotage rules, where the opinion is almost evenly divided between positive and negative effects – highlighting potential concerns over increases in cabotage activity, although in practice the detailed analysis of transport activity does not predict any increase even if the period for cabotage is kept at 7 days (see Section 8.1.2.2). The biggest share of respondents consider the measure to have no impact. However, there is almost an equal amount of respondents that consider the measure to have a very positive and positive impact (18 out of 149 and 28 out of 149 respectively) as there is respondents that chose negative to very negative (36 and 12 out of 149). A revision of the reference points for effective and stable establishment is viewed by half of the respondents to the public consultation as a measure with (very) positive effect on working conditions (37 out of 140 stated “very positive” and 34 out of 140

“positive”). The largest share of respondents (31%, 43 out of 140) though considered the measure to have no impact at all. .

Figure 8-10: Impact of policy package 3 measures on working conditions in the road haulage sector



Source: Public consultation

The breakdown of responses by stakeholder only showed significant differences in opinion between the various groups for the measure around removing the maximum number of cabotage operations while reducing the maximum period. Most of the responses highlighting the positive impacts of such a measure on working conditions came from transport operators, transport operator associations and logistics industry representatives (29 out of 46 positive responses) as shown in Figure 8-11. Half (24 out of 48 negative responses) of the negative responses come from associations representing road transport workers and individual workers alone.

Figure 8-11: Impact of removing the maximum number of cabotage operations while reducing the maximum period for cabotage operations on working conditions



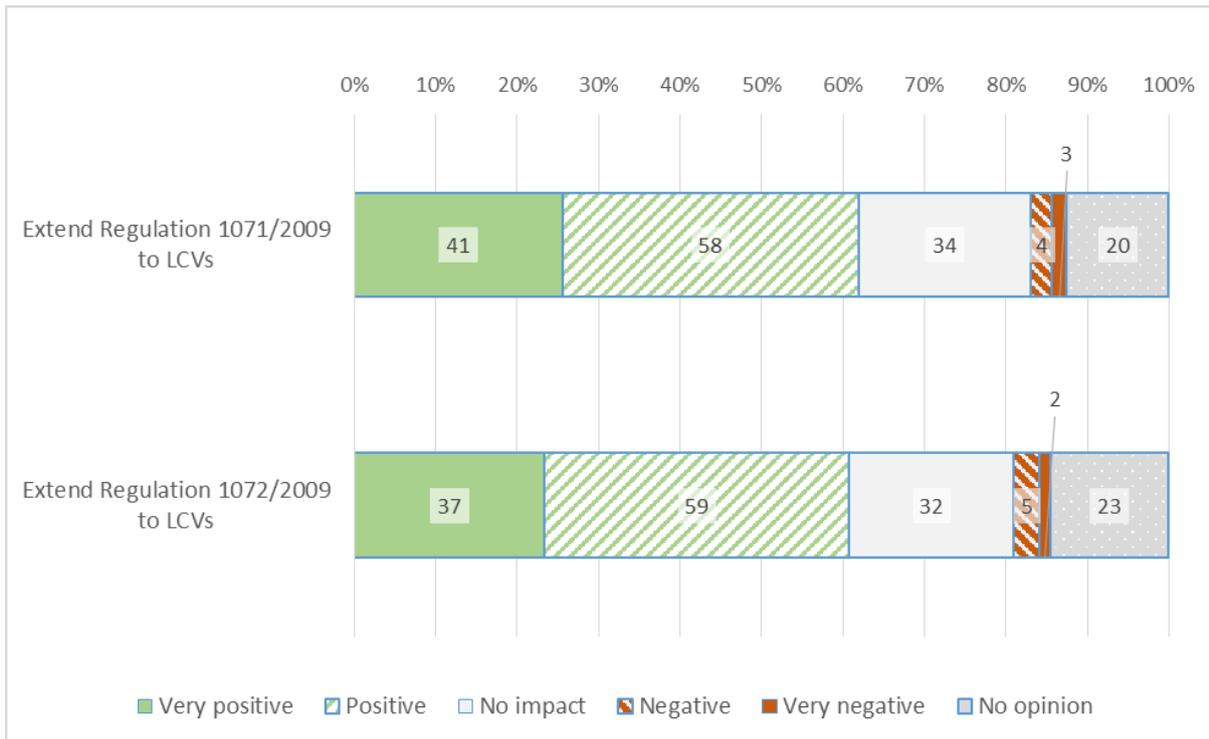
Source: Public consultation

In the interviews, the introduction of penalties for forwarding agents was highlighted as one of the measures that could significantly improve the situation for the drivers and hauliers. Comments from interviews with industry associations from Denmark and Germany suggest that shippers and freight forwarders in some cases knowingly accept prices that can only be delivered with illegal activity and often push for such low prices. The pressure put on hauliers and drivers by the customers has a very detrimental effect on the working conditions. Comments to the survey of authorities (Latvia, Romania) also indicated that the respondents expected positive impacts on working conditions.

8.2.1.4 Policy package 4

Policy package 4 extends the scope of the Regulations to cover light commercial vehicles (<3.5t). The results from the public consultation show that the majority of respondents expect the measure to have a positive effect on working conditions (see Figure 8-12). When it comes to the extension of the scope of Regulation 1071/2009 to light commercial vehicles, 62% of respondents felt it would have a very positive or positive impact (41 out of 160 and 58 out of 160 respectively). In terms of an extension of the scope of 1072/2009 to light commercial vehicles, the picture is similar: 61% of respondents expect a very positive or positive impact (37 out of 158 and 59 out of 158 respectively). For both measures the share of respondents that consider the measure to have a negative impact is low (for both measures only 4%, i.e. 7 respondents each state either “negative” or “very negative”). No information could be obtained as to why the extension was expected to have the expressed positive or negative effect.

Figure 8-12: Impact of policy package 4 measures on working conditions in the road haulage sector



Source: Public consultation

The analysis of the responses by stakeholder type show a very similar picture for both the extension of Regulation 1071/2009 and Regulation 1072/2009. The results for the extension of Regulation 1071/2009 is shown in Figure 8-13. The stakeholder groups that show highest shares of positive responses to this measure are associations representing road transport workers (27 out of 99 positive responses) and transport operators and transport operators associations (39 out of 99 positive responses). Furthermore a difference between the responses from small and medium to large size hauliers can be observed. While small hauliers have a high share of “positive” responses (10 out of 17 responses), the majority of larger hauliers consider the measure not to have “no impact” (15 out of 23 responses).

Figure 8-13: Impact of including vehicles with less than 3.5 tonnes within the scope of Regulation 1071/2009 on working conditions



Source: Public consultation

Input provided from the German authorities through the interviews and an Irish transport company in the hauliers’ survey, highlighted concerns that an increase of LCV use by non-resident drivers often goes together with detrimental working conditions for the drivers. However, it is difficult to establish the extent of this link based on data.

Other benefits that were highlighted by the interviewees and have positive impact on the working conditions for drivers are:

- Professionalisation of the sector¹⁰⁵ (in the case of Regulation 1071/2009) which could mean for the drivers better qualification and job satisfaction
- Fairer competition¹⁰⁶ (for both Regulations), which could decrease the performance pressure on drivers

One potential negative implication of the extension of the scope to light commercial vehicles, which was highlighted in the interviews by a German haulage association is the inclusion of small companies that do transport only a side activity (e.g. transport done by craftsmen’s workshops). If such companies were to be fully included under both regulations they will not be able to afford to comply with these rules and might go out of business and in consequence will lead to job losses.

¹⁰⁵ Mentioned by UETR, CZ haulage association

¹⁰⁶ Mentioned by two BG haulage associations, CZ haulage association, DK haulage association, DE haulage operator, DE authority, DE haulage association, ES haulage association, LV authority

The point on fairer competition was also made by a range of national authorities¹⁰⁷ in the survey. Also 58% of hauliers (36 out of 62) stated that an extension of the Regulations would lead to fairer competition, in contrast to 21% that disagreed.

8.2.1.5 Conclusions on impacts on working condition

Table 8-44 provides a summary of the impacts on working conditions arising from each of the packages.

Table 8-44: Summary of impacts on working conditions

Policy package	Measures	Impact on working conditions
PP1	Overall impact of PP1	Minor impact. Measures are considered to only have a small effect on reducing illegal activity and are not expected to affect cabotage penetration.
PP2	Measures that affect enforcement effectiveness and/or rates of illegal activity	The measures are expected to have strong positive impacts – potentially around 50-70% reductions in illegal cabotage activity, and smaller (unquantifiable) reductions in letterbox companies. Overall, the measures could have a strong positive impact on social conditions.
	Measures that impact transport activity	Very small (~3%) increases in cabotage activity, so there are not expected to be any impacts on social conditions from this aspect.
	Overall impact of PP2	Strong positive impact on working conditions due to the reduction of illegal activity. Potential co-benefits in terms of improving attractiveness of the sector.
PP3	Measures that affect enforcement effectiveness and/or rates of illegal activity	The measures are expected to have an even more profound effect on illegal activity compared to PP2, especially regarding reductions in letterbox companies. Overall, PP3 should be expected to have the most positive effect on social conditions out of all of the packages
	Measures that impact transport activity	The measures are expected to substantially reduce cabotage activity (by around one-third compared to the baseline in 2035). This could be seen as reducing the risks that price competition in the sector would lead to greater pressure to break social rules (under BL1 – no impact under BL2), and hence there could be a positive impact on social conditions.
	Overall impact of PP3	Strong positive impact, mainly due to reduction of illegal activity. Small positive impact due to potentially lower risk of price competition following from reduced cabotage penetration Potential co-benefits in terms of improving attractiveness of the sector.
PP4	Extend scope of Regulation (EC) No 1071/2009 to LCVs	Small positive effect due to professionalization of drivers, which could lead to higher work satisfaction, as well as fairer competition which might reduce the pressure on drivers.

Policy package	Measures	Impact on working conditions
	Extend scope of Regulation (EC) No 1072/2009 to LCVs	Small positive effect due to fairer competition which might reduce the pressure on drivers.
	Overall impact of PP4	Small positive impact.

8.2.2 Impacts on EU integration / free movement

Completion of the single market is a relevant issue when considering the measures that impact on the cabotage rules. The Single Market Act presents the Commission's vision of a Single Market for transport and energy where operators are free to offer their services anywhere on an equal basis (European Commission, 2012c). The Commission's 2011 Transport White Paper notes that "*a Single European Transport Area should ease the movements of citizens and freight*" and highlights that "*a further integration of the road freight market will render road transport more efficient and competitive*" (European Commission, 2011).

To assess the impacts on EU integration and free movement we will thus focus on policy package 3 which covers the rules around the simplification of the cabotage provisions and policy package 4 which puts restrictions on vans. Policy package 1 and 2 are not expected to significantly impact EU integration or the completion of the single market.

8.2.2.1 Policy package 2

The main measure in package 2 that could reduce free movement is the requirement for pre-notification of cabotage operations. This will create an additional barrier to free movement of trucks, since the current legislation does not require pre-notification of cabotage.

Policy package 2 also includes the requirement that enforcers accept electronic documentation after a certain date. This will contribute to improved freedom of movement, by simplifying the documentation needed for international transport.

8.2.2.2 Policy package 3

Policy package 3 covers the changes to the cabotage rules. The removal of maximum number of cabotage operations (currently 3), will contribute to increased freedom of movement for hauliers conducting cabotage. Hence, if the period for cabotage is kept at 7 days, freedom of movement will be increased.

The improved freedom of movement may be counterbalanced by reducing the maximum period for cabotage operations (from 7 to 4 days). Although responses to the survey of hauliers indicated that they did not expect substantial changes to their cabotage behaviour, reducing the time period available will have some repercussions in terms of their flexibility to organise operations and consequently it can be expected to result in a significant reduction in cabotage activity. The overall decrease in cabotage activity was modelled and is expected to be around one-third for a reduction of the maximum period to 4 days. A reduction to only 5 or 6 days is expected to have a less severe impact. A 5-day limit will result in a 20% reduction, a 6-day limit in an 8% reduction (see Section 8.1.2.2).

Stakeholder views on this matter differed – for instance, comments raised in the survey of authorities noted concerns about restrictions to the single market and difficulties for hauliers due to the reduction of the time period (EE, LV, RO). The same point was also raised in the public consultation by a Hungarian authority and in the interviews by Bulgarian industry associations, a Polish authority and a Romanian industry association. Other interviewed organisations did not see an issue with lowering the maximum period, as they considered that legal cabotage by nature would not require more than four days (since it is only used to fill up return journeys¹⁰⁸) and no limitations of the cabotage market are expected. Industry associations interviewed from Denmark, Spain and the UK suggested that the maximum limit could be lowered even further to up to 1 day. This divide in opinions was also highlighted by UETR in the interview, who stated that it was not easy to find a compromise among their members.

¹⁰⁸ As explained by a German transport operator

8.2.2.3 Policy package 4

Policy package 4 puts restrictions on LCVs that before were outside the scope Regulation 1071/2009 and 1072/2009 provisions. While a number of Member States extends some of the provisions to LCVs, the extension of the provisions to LCVs in all countries under the proposed measure will have a small negative impact on EU integration and free movement. In terms of Regulation 1071/2009, this is due to additional criteria on establishment and access to the occupation, which may constitute barriers for some operators. Under Regulation 1072/2009, the main impact on freedom of movement will be due to the new restrictions on cabotage operations.

Table 8-45 summarises the evidence on the impacts on free movement and integration.

Table 8-45: Summary of impacts on EU integration / free movement

Policy package	Measures	Impact on EU integration / free movement
PP2	Mandatory acceptance of electronic consignment notes by enforcers after a certain date	Small positive impact due to easier and more harmonised use of electronic documentation in cabotage/international transport
	Overall impact of PP3	Small positive impact.
PP3	Remove maximum number of cabotage operations while (optionally) reducing the maximum period for cabotage operations to 4 days	The proposed measure will have some negative impact on EU integration and free movement linked to the reduction of the maximum period for cabotage operations to 4 days. Conversely, in the sensitivity option where the time period is kept at 7 days, freedom of movement will be slightly improved
	Overall impact of PP3	Small negative impact.
PP4	Extend scope of Regulation (EC) No 1071/2009 to LCVs	Extending the scope will have a small negative impact on freedom to establish for companies only using LCVs. The extent depends on whether the scope is fully extended to LCVs and whether the provisions on financial standing will be adapted for LCV operators.
	Extend scope of Regulation (EC) No 1072/2009 to LCVs	Extending the scope will have a small negative impact on EU integration and free movement for LCV operators as their cabotage operations will be regulated whereas previously they were liberalised.
	Overall impact of PP4	Small negative impact.

9 COMPARISON OF THE OPTIONS

In this section we compare the policy options in relation to a number of key criteria:

- Effectiveness: The extent to which the examined options would achieve the identified policy objectives
- Efficiency: The costs associated with the implementation of the policy options – in total and for specific subgroups
- Coherence: The coherence of each option with the overarching objectives of EU policies

9.1 Effectiveness and efficiency

In this section we consider the effectiveness of the options examined against the policy objectives identified in Section 5. The criteria presented in Table 9-1 have been used to help assess effectiveness. Given that regulatory costs are also part of the policy objectives, the efficiency of the policy packages is also considered in parallel.

Table 9-1 – Objectives and assessment criteria related to the effectiveness of policy options

General objectives	Specific objectives	Assessment criteria
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;	<ul style="list-style-type: none"> • Changes to effectiveness of monitoring and enforcement of Regulations • Changes to levels of non-compliance (illegal cabotage operations and letterbox companies)
	Ensure coherent interpretation and application of the existing rules in Member States.	Contribution to coherent application of rules across the EU-28
Ensure proportionate regulatory costs.	Reduce burdens for national authorities and transport undertakings	<ul style="list-style-type: none"> • Changes to compliance and administrative costs for businesses • Changes to costs for authorities for implementation and enforcement

Table 9-2 summarises the findings of the analysis for each of the criteria.

Table 9-2: Comparison of impacts of policy packages in terms of achieving the objectives (in comparison to baseline) (Figures provided represent Net Present Values for the period 2020-2035 in million Euros; negative values indicate cost savings)

	Strongly negative	Weakly negative	No or limited impact	Weakly positive	Strongly positive	
	PP1	PP2	PP3 (4 days)	PP3 (7 days)	PP4a (full extension)	PP4b (partial extension)
Effectiveness						
Coherent and consistent monitoring and enforcement of the existing rules in Member States						
Effectiveness of monitoring and enforcement of Regulations	Small positive effect	Significant positive effect by improved access and exchange of information More and more targeted checks	PP2 & Significant positive effect on letterbox from more demanding standards on establishment	Positive effect by limiting intentional non-compliance attempting to circumvent existing rules		
Levels of non-compliance	Small positive effect on reducing intentional and unintentional	Strong reduction in cabotage infringements by 62%	Strong reduction in cabotage infringements by 62% &	Possible increase in unintentional non-	Reduced non-compliance as a result of less	

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	PP1	PP2	PP3 (4 days)	PP3 (7 days)	PP4a (full extension)	PP4b (partial extension)
	non-compliance		~10% decrease in risk of letterbox companies		compliance (short term) Gradually similar to HGVs	demanding provisions
Coherent interpretation and application of the existing rules in Member States.						
Coherent application of rules across the EU-28	Small positive effect on the basis of voluntary cooperation, joint controls, common procedures for good repute and clarification of rules	Significant positive effect based on EU-wide cooperation, joint action and common rules for cabotage checks and clarification of rules		PP2+ small positive effect on the basis of common infringement classification		Significant positive effect by ensuring common approach in regulating the use of LCVs
Efficiency (total costs in € millions) ¹⁰⁹						
Reduce administrative burdens for national authorities and transport undertakings						
Compliance and administrative costs for businesses	No expected impacts to hauliers	-5,969 to -8,849 - (BL1) -5,421 to -8,020 (BL2)	4,740 to 7,766 (BL1) 5,320 to 8,156 (BL2)	1,690 to 5,616 (BL1) 2,550 to 6,206 (BL2)	8%-20% increase in operating costs for 23-114k operators (1071) 7-15% increase in operating costs for <3k operators (1072)	Reduced impacts in comparison to PP4a (level depends on specific measures)
Costs for authorities for implementation and enforcement	Very limited/insignificant costs due to voluntary nature of measures	105.3-320.9	65.2-165.6		4.4-21.6 (1071) 0.2-11.9 in DE (1072)	Similar to PP4a ¹¹⁰

In the case of **Policy Package 1**, a positive contribution should be expected in relation to level of compliance with the Regulations on the basis of better cross-border cooperation, more harmonised enforcement practices/interpretation of the rules, sharing of best practices, and providing more consistent dissuasive signals to hauliers regarding the enforcement of loss of good repute. However, the **overall effects are expected to be small** due to the voluntary nature of measures for training/joint controls and changes to risk-rating/ERRU systems, which will limit their uptake.

At the same time, there are only very limited costs for authorities and businesses. The voluntary nature of most of the measures means that it is possible for authorities to select which of the measures they adopt and hence to minimise any costs. This means that, in terms of cost-effectiveness, Policy Package 1 is rated highly.

In the case of **Policy Package 2**, stronger positive impact on levels of compliance is expected due to the mandatory upgrade of risk-rating systems and the ERRU, combined with adoption of a minimum checks of 3% of cabotage. These combined measures may

¹⁰⁹ Costs are shown as positive figures and savings are shown as negative figures

¹¹⁰ Cost figures provided are based on estimates for cost impacts of measures under each policy package that could be quantified

reduce infringements related to Regulation 1072/2009 by up to 62% (37% in the case of a 1% checking threshold). Additional smaller contributions to improvements in compliance are expected due to other measures including the mandatory common training and joint cross-border controls, extended information in ERRU and increased access for roadside officers. Overall, this suggests that Policy Package 2 can be quite effective in terms of improving compliance levels with Regulation 1072/2009. At the same time, most of the proposed measures are expected to contribute to a more consistent and coherent implementation of the Regulation. The expected contribution in relation to compliance with Regulation 1071/2009 (letterbox companies) is less significant, although there should still be positive contribution on the basis of improved cooperation in cross-border controls.

PP2 also appears to be quite cost-effective. The mandatory acceptance of electronic consignment notes by enforcers can lead to significant cost savings. However, the extent that the adoption of e-CMR by businesses can be directly attributed to the adoption of the policy measures is not clear. In our analysis we assumed that around 30% of the costs savings associated can be linked to the PP2 (the basis on which the above cost-effectiveness assessment was carried out).

In the case of **Policy Package 3**, the positive contribution of measures under Policy Package 2 is further supported with additional strengthening of enforcement of Regulation 1071/2009, which is expected to lead to a reduced risk of formation of letterbox companies (10% reduction in incentives for formation) due to adjustments to the establishment criteria. Further improvements, on top of those under Policy Package 2 are also expected due to all other measures, including positive effects due to co-liability principles, more harmonised definitions of infringements and easier enforcement of cabotage.

However, **Policy Package 3 also has important additional costs** to businesses related to the provisions on stable and effective establishment. The costs of the specific measure are estimated in the range of €12.2 -13.5 billion (see Section 8.1.1.2). Other measures, such as changes to the maximum period of cabotage operations from 7 to 4 days are expected to have small cost implications for business, (cost increase of €42 million over the 2020-2035 period). Conversely, costs for authorities under Policy package 3 are 50-60% less than those estimated for Policy Package 2, mainly due to the savings associated from changes to the cabotage rules.

Overall, in the case of Policy Package 3, the additional benefits from strengthening the enforcement of Regulation 1071/2009 and reducing the presence of letterbox achieved by the provisions on stable and effective establishment come with significant additional cost for businesses. There is also uncertainty concerning the extent that letterbox companies represent a significant problem which may have implications for the cost-effectiveness of the specific measure as part of Package 3. Furthermore, these significant additional costs from the stable and effective establishment may have a significant impact on self-employed and very small hauliers if they are not proportionately applied.

In the case of effectiveness against most of the objectives, there is very little difference between the reduction of the cabotage period to 4 days versus keeping it at 7 days in PP3. The main difference emerges in the objective to reduce administrative costs, where it is clear that the 7 day option is preferable. Concerning the full extension of the scope of Regulations 1071/2009 (**Policy Package 4a**), the introduction of the four provisions that currently apply to the use of HGVs in the case of Regulation 1071/2009 will remove the option of hauliers to use LCVs to circumvent the Regulations, an issue that is raised by stakeholders in a number of Member States, but for which the existing evidence is very limited. Thus, there will positive contribution by reducing intentional non-compliance. Similarly, hauliers that use LCVs to perform cabotage operation will not be able to perform cabotage without any time limitations. However, the evidence that this is indeed happening in a significant scale is limited.

At the same time sizeable additional compliance and administrative costs are expected (8-20% in the case of Regulation 1071/2009 and 7-15% for Regulation 1072/2009) for those hauliers that have limited familiarity with the Regulations (generally very small firms). There is limited information as the exact number of firms affected but, in relation to

Regulation 1071/2009 they are estimated in the range of 23,000-114,000. The exact number of hauliers affected in the case of Regulation 1072/2009 is not known but it is expected to be much smaller (no more than 3,000 at EU level) given that all evidence suggests that the use of LCVs for cabotage operations remains very limited.

The extension will also introduce additional costs (very roughly estimated at a NPV of €30 million for both Regulations for the period 2020-2035) for those authorities that will need to extend existing monitoring and enforcement practices and procedures to control the use of LCVs. Overall, there is no clear conclusion on the cost-effectiveness of the specific measure in the absence of relevant data. Nonetheless, given that the certain measures are already in place in some Member States it will clearly contribute to a more consistent and coherent legal framework across the EU.

A partial extension of the scope of Regulations 1071/2009 and 1072/2009 (**Policy Package 4b**) is expected to have similar impact in terms of professionalisation and fair competition while reducing some of the additional compliance costs and, to a lesser extent, the respective costs for authorities. In most other respects, the impacts should be largely similar to Policy Package 4a.

9.2 Coherence

In terms of the coherence with EU policy, the following aspects were examined:

- Internal coherence among the policy measures under consideration
- Coherence with key EU policy objectives
- Coherence with other relevant EU legislation including Social legislation in road transport, Combined Transport Directive, Tachograph Regulation and the Posting of Workers Directive

9.2.1 Internal coherence

In general, there are no specific problems regarding internal coherence, inconsistencies or gaps among the Policy Packages which were designed in a way to ensure that all root causes and drivers are addressed. This is particularly in the case of Packages 2 and 3 which include mandatory measures that are expected to work in a complementary manner to strengthen effectiveness of enforcement by increasing consistency, improving communication, cooperation and increasing clarity. This is probably less the case for Policy Package 1 that includes voluntary measures that may not be adopted by all Member States and thus, in practice, only partly address some of the problems identified. Nonetheless there are no evident issues of internal coherence among the measures under Package 1.

In terms Policy Package 4, a full extension of the scope to cover LCVs, is clearly coherent with the other measures aiming to address the existing problems identified in the problem definition. As analysed in section 8.1.3.4, LCVs can be used to circumvent compliance with the two Regulations. An extension of the scope, whether fully or partially, should help close this loophole. Thus, it is strongly coherent with all other policy packages. At the same time though, the extension of the scope (especially a full extension) is expected to pose certain challenges to authorities requiring additional resources – although possibly not significant (see Section 8.1.4.4). On this basis, authorities and hauliers affected may find that implementation of the additional measures under the other Policy Packages (mainly 2 and 3) can be more challenging and demanding if the extension takes place in parallel. In that respect, a longer transition period may help mitigate any negative impacts.

9.2.2 Coherence with EU policy objectives

The assessment of coherence with EU policy objectives focused on the following:

- Impact on the operation of the transport markets, including impact on transport activity, competition in the transport market and prices and EU integration. This reflects the fact that Regulations 1071/2009 and 1072/2009 are intended to contribute to the development of a well functioning internal market for transport as

indicated in the Road Transport Strategy for Europe (European Commission, 2017) and in the 2011 White paper Roadmap to a Single European Transport Area (European Commission, 2011c)

- The impact on SMEs in line with the EU Small Business Act (European Commission, 2008)
- Social impacts, focusing on impact on working conditions, an important aspect of the EU policy as identified in the 2011 White paper (European Commission, 2011c),

In the case of **Policy Package 1**, the proposed measures will only have a marginal impact on cabotage activity, driven by clarifications of the rules. At the same time, the focus on the provision of information about the rules fit with the needs and characteristics of SMEs that are resource-constrained.

In terms of its social impacts, Policy Package 1 will only have a minor impact on working conditions and job quality given the expected limited impact on illegal activity and absence of any effect on cabotage penetration.

In the case of **Policy Package 2**, the measures are not expected to have any sizeable impact on the level of transport activity, nor– are they expected to have disproportionate impacts on SMEs. In addition, the expected reduction in the level of illegal activity will probably have an important positive impact on working conditions and, indirectly, improve the attractiveness of the sector.

The adoption of **Policy package 3** (and particularly the provisions related to the maximum period of cabotage) can lead to a sizeable reduction in cabotage activity (-35%) if the period available for cabotage is reduced to 4 days. The adoption of the more demanding criteria for stable and effective establishment has a very small impact on cabotage activity by reducing the cost differentials and thus the incentive of some operators to engage in cabotage. While the impacts on the overall EU market and competition will probably be limited – given the small share of cabotage in total transport – hauliers from Member States that are the ones primarily engaged in cabotage will be affected. In addition, in terms of EU integration and free movement, the adoption of a 4 day cabotage period will have a small negative impact although Member States have very different views concerning the extent that increasing cabotage is positive or negative in terms of the operation of the market. At the same time, the adoption of PP3 measures should in principle lead to a reduction of the incentives for business relocation and outflagging, promoting fair competition.

However, maintaining the maximum number of days for a cabotage period at 7 days eliminates the reduction in cabotage activity (while the impact of other measures remains the same). This version of the measure will probably also have a small positive impact in terms of operation of the market by reducing barriers to trade.

SMEs are also expected to be negatively affected by increased compliance costs under Policy Package 3 due to new requirements on stable and effective establishment and the cabotage period, although this impact can be mitigated through judicious implementation choices. Furthermore, they may benefit from small positive impacts due to administrative cost savings and the introduction of penalties for shippers and freight forwarders, given that this will strengthen their limited bargaining power and be able to withstand any pressures for performing illegal cabotage.

From the point of view of working conditions, Policy package 3 may have an additional positive impact in comparison to Policy package 2 due to potentially lower risk of price competition following from reduced cabotage penetration.

In the case of **Policy Package 4**, the overall impact on the level of transport activity (domestic and international) would most probably be limited – on the basis of current evidence of the low use of LCVs in international transport operations. However, the extension is expected to strengthen the professionalisation of the sector – which can also have positive impact on working conditions - while ensuring fair competition among hauliers using LCVs and in relation to those that use HGVs.

A partial extension of the scope of Regulations 1071/2009 and 1072/2009 (**Policy Package 4b**) is expected to have largely similar effects with Policy Package 4a in relation to transport activity and working conditions. In terms SMEs it will have a reduced impact in terms of costs of operation.

9.2.3 Coherence with other relevant EU legislation

The analysis presented so far pointed also to certain areas of possible interaction of the policy packages and individual measures with other EU legislation. This includes:

- Social legislation in road transport which includes (Regulation (EC) No 561/2006 on driving times, breaks and rest periods of drivers); Directive 2006/22/EC on minimum requirements for checking compliance with Regulation No 561/2006; Directive 2002/15/EC (setting out rules on the organisation of the working time of road transport mobile workers).
- Combined Transport Directive 92/106/EC
- Tachograph Regulation No 165/2014
- Posting of Workers Directive (96/71/EC) (and the Enforcement Directive 2014/67/EU)

In relation to **Social legislation**, the Regulations have general objectives to improve the level of road safety and to improve social conditions by improving compliance with EU road transport social legislation. On this basis, to the extent that all policy packages are expected to contribute to enhancing the enforcement of the two Regulations, they should also improve compliance with EU road transport social legislation.

At a more specific level, a number of measures under consideration should also have synergies in terms of helping to strengthen the enforcement of social legislation, an area where further improvements are needed (Ricardo et al, 2015b). There are interactions with existing provisions and enforcement mechanisms of the social legislation (or with measures under consideration in the parallel review process of the social legislation).

The analysis of the interactions (presented in more detail in Annex J) identified possible synergies from opening and extending of national risk-rating systems and adopting common classification of undertakings are very similar to measures already in place or under consideration in the case of social legislation (Policy Packages 2 and 3). Their adoption in the case of Regulations 1071/2009 and 1072/2009 should take into account the relevant design parameters under social legislation in order to bring cost and effectiveness synergies. The same applies to extension of information and access to the ERRU or the use of GNSS tachographs (Policy package 2 and 3) that also relevant for enforcing social legislation and improving their effectiveness during roadside or premises checks. The adoption of the co-liability principle in the case of infringements (under Policy Package 3) is also expected to bring Regulation 1071/2009 and 1072/2009 in line with existing provisions in Regulation 561/2006. Measures related to common training and joint cross border controls (under Packages 1, 2 and 3) should also benefit from similar provisions. The adoption of the stable and effective establishment provisions (policy package 3) is also coherent with social legislation objectives. To the extent that it is expected to help reduce letterbox companies (as analysed in Section 8.1.3.2) it will also contribute to the enforcement of social legislation due to the difficulty of monitoring the activities of such companies, which increases the risk that they can infringe the rules.

There are also similar possible enforcement effectiveness and cost synergies in relation to Policy Package 4, to the extent that a similar extension of social legislation provisions applies to LCVs. All above measures are in line with conclusions in (Ricardo et al, 2015) that strengthening monitoring provisions in Regulations 1071/2009 and 1072/2009 is necessary to ensure coherence with the social legislation.

Overall, by strengthening enforcement and improving cooperation in the context of Regulation 1071/2009 and 1072/2009 the proposed packages should contribute to strengthening the effectiveness of social legislation while in parallel benefiting from

synergies that can lead to cost savings. Policy Packages 2 and 3 are the most relevant in that respect.

In the case of the **Combined Transport Directive**, some stakeholders representing hauliers (IRU) have pointed out that there is a need to clarify whether the road transport leg of combined transport operators falls within the scope of Regulation 1072/2009 concerning cabotage and this was also a conclusion of Ricardo (2015). It is argued by representatives of drivers (e.g. ETF) and hauliers (DK) that the combined transport is used by some hauliers as a mechanism to avoid compliance with Regulation 1072/2009 since Article 4 of the Combined Transport Directive allows non-resident hauliers to carry out an unlimited number of road legs as part of a CT operations in other Member States even if these road legs do not cross the border although this is based on anecdotal evidence.

The proposed policy packages do not introduce any change to the current situation. Relevant measures for extending scope of cabotage to cover combined transport or provide a more clear definition of combined transport within the context of Regulation 1072/2009 have been discarded on the basis that any changes should take place in the context of Directive 92/106/EC.

However, the measures related to the promotion of electronic documents under Policy Package 2 are relevant to the Combined Transport Directive since, as concluded in the REFIT evaluation (European Commission, 2016d) the provisions related to transport documents are outdated making it difficult and costly for industry to prove eligibility. Improvement in transport documents to allow for more effective control of eligibility and reduce administrative problems are considered in the ongoing Impact Assessment (European Commission, 2017b). In that respect, Policy Packages 2 and 3 – which include a measure promoting the use of e-CMR and more generally of electronic documentation – are coherent with existing initiatives in relation to the Combined Transport Directive.

In the case of **Tachograph Regulation No 165/2014**, which provides for a gradual introduction of smart tachograph from 2019 – with eventual complete adoption by 2034 – certain interactions can be identified. The proposed measure for mandatory use of GNSS digital tachographs for enforcement (Policy Package 2 and 3) before 2034 may have a positive impact in terms of facilitating the broader adoption of GNSS tachographs. However, the level of contribution is possibly limited if the assessment made by the German authorities that almost all vehicles will be equipped with smart tachographs by 2019 is correct. Conversely, the interviewed representatives of the Bulgarian and Polish hauliers considered that a much longer time is needed. Thus, the proposed measure is, in principle, coherent with the Tachograph Regulation but should not be expected to have any significant contribution in terms of facilitating the broader adoption of GNSS tachographs. At the same time, it is the broader adoption of the smart tachograph that can play a positive role in enhancing the enforcement of Regulation 1072/2009.

In terms of the **Posting of Workers Directive (96/71/EC)**, possible revision of the Posting of Workers Directive has been considered as part of the baseline scenario 2 in the context of this study. While there are some interactions due to the impact of PWD on cabotage activity, overall the adoption of the PWD made very limited difference to the assessment of impacts of all of the packages and did not change the preference ordering at all.

Finally, the **Posting of Workers Directive (96/71/EC)** and the Enforcement Directive 2014/67/EU set mandatory rules regarding the terms and conditions of employment to be applied to posted workers, including drivers. This is particularly relevant in relation to cabotage operations since, in principle, drivers should be granted the minimum conditions in the country where they perform cabotage and for the part of their trip where they are performing such cabotage. However, there is inherent difficulty in checking whether such conditions are granted (Ricardo et al, 2015). In that respect, the proposed Policy Packages 2 and 3 do not make any significant contribution.

In relation to the Enforcement Directive of the Posting of Workers Directive (2014/67/EU) the proposed measure on stable and effective establishment (Policy Package 3) under Regulation 1071/2009 is in line with Article 4 of Directive 2014/67/EU which states that Member States are under the obligation to check that the employer is not a letterbox

company. Member States are required to check that an undertaking “genuinely performs substantial activities, other than purely internal management and/or administrative activities”. The proposed measure – which includes very similar criteria - is clearly in line. Similarly, the measures – mainly under Package 2 and 3 – that improve information exchange and cooperation among Member State authorities are also in line with the Enforcement Directive of the Posting of Workers Directive (2014/67/EU) which provides for improved cooperation (Article 7(5)).

The main conclusions of the analysis on coherence are summarised in the Table 9-3 below.

Table 9-3: Comparison of impacts of policy packages in terms of coherence with other policy areas (in comparison to baseline) (Figures provided represent Net Present Values for the period 2020-2035 in million Euros; negative values indicate cost savings)

	Strongly negative	Weakly negative	No or limited impact	Weakly positive	Strongly positive	
	PP1	PP2	PP3a (4 days)	PP3a (7 days)	PP4a	PP4b
Internal coherence						
Internal coherence	No coherence issues but more difficult to ensure all measures are implemented	No coherence issues	No coherence issues	No coherence issues	Strongly coherent by closing existing loopholes Possible conflict with implementation of other packages	Strongly coherent by closing existing loopholes Reduced conflicts in comparison to PP4a
Coherence with EU policies						
Impact on transport market						
Level of cabotage	Marginal increase in cabotage activity in some MS	Small increase in cabotage activity (~3%)	4-day: Significant reduction in cabotage activity (~35%)	7-day: Small reduction in cabotage activity (~3%)	Limited impacts expected (1071) Small negative impact (1072)	
Competition in transport markets	No impact expected	Very small impact on competition, business relocation from small increase of costs and cabotage activity	Small decrease in level of competition in the domestic freight transport market from reduced cabotage	No impact since no change to cabotage activity	Positive but small contribution to fair competition and possible small reduction on the level of use of LCVs. Marginal, if any, impact on market structure and domestic market from Reg 1072/2009 given the very small share of cabotage	
Prices	No impact expected	Small price decrease for to users of hauliers services through possible pass through of small savings No impact on consumer prices	Small price increase for to users of hauliers services through from small cost increases linked to stable and effective establishment provisions No impact on consumer prices		Expected increase in prices for users of freight transport services based on LCVs as a result of increased costs	Limited/no impact on prices given reduced costs impacts
EU integration/	No impact expected	No impact expected since	Small negative	Small positive	No impact expected	

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	PP1	PP2	PP3a (4 days)	PP3a (7 days)	PP4a	PP4b
free movement		no changes to market access	impact from the reduction of the maximum period for cabotage operations to 4 days.	impact since freedom of movement will be slightly improved		
Impact on SMEs						
Specific impact on SMEs in comparison to large firms	Small positive increase in flexibility/provisions of information about rules	Possible administrative cost savings, but increase in costs due to cabotage register (mitigated through standardised e-forms)	Increased costs due to on stable and effective establishment and cabotage requirement		Positive impact from professionalisation and increased market access, Increased costs	Same benefits but reduced costs in relation to PP4a with same benefits
Social impacts						
Impact on working conditions	Minor impact from reduced non-improved compliance	Strong positive impact on working conditions due to the reduction of illegal activity. Potential co-benefits in terms of improving attractiveness of the sector.	Strong positive impact, mainly due to reduction of illegal activity. Small positive impact due to potentially lower risk of price competition following from reduced cabotage penetration Potential co-benefits in terms of improving attractiveness of the sector.		Small positive impact from professionalisation, higher work satisfaction, and fair competition which might reduce the pressure on drivers	
Coherence with other relevant EU legislation						
Social legislation	Positive but limited contribution through voluntary actions	Strong coherence through synergies for enforcement and cooperation among MS	Strong coherence through synergies for enforcement and cooperation among MS and expected reduction of letterbox companies		Potential synergies in the case of adoption of similar measures under social legislation	
Combined Transport	No relevant contribution	Possible Positive contribution through adoption of electronic documentation	Possible Positive contribution through e-CMR adoption		No relevant contribution	
Tachograph Regulation	No relevant contribution	Positive role through promotion of GNSS tachograph	Positive role through promotion of GNSS tachograph		No relevant contribution	
Posting of Workers	No relevant contribution	No relevant contribution	Better control of establishment and reduction of letterbox companies		No relevant contribution	

9.3 Conclusions – preferred policy option

Overall, we consider that, the preferred policy package should be a hybrid that combines the best elements of **Policy Packages 2 and 3b**.

Policy Package 2 has the best balance between effectiveness towards improved enforcement and compliance levels and increased coherence of implementation on the one hand, versus the increased costs on the other hand. At the same time, it appears to have lowest negative impacts in terms of current levels of transport activity (assuming that reducing cabotage is not considered as a policy objective) and competition, while still contributing to the improvement of working conditions.

Policy Package 3 is overall more effective – particularly in terms of reducing letterbox companies – but it is also significantly more costly. Policy Package 3a (the scenario of maximum 4 days of cabotage) is expected to have a significant negative impact on cabotage activity. However, maintaining the current number of maximum days (7) while removing the maximum number of operations (Policy Package 3b) has a small positive impact in terms of cabotage activity and improves enforceability while reducing some costs for businesses. As a result, PP3b is preferable to PP3a.

While it has some possible benefits in terms of effectiveness and very limited costs, Policy Package 1 is not expected to provide the answer to the problems identified in the problem definition.

Finally, in relation to **horizontal Policy Package 4**, a partial extension (with reduced requirements for financial standing in relation to Regulation 1071/2009) appears preferable to a full extension of the scope. It is less costly for business while still providing largely similar benefits in terms of the addressing the issue of unfair competition and potential to circumvent the provisions of Regulations 1071/2009 and 1072/2009. However, it should be stated that the available evidence for the extension of the scope is very limited and the nature and extent of the problems posed is still not clearly defined.

10 IDENTIFICATION OF OPERATIONAL OBJECTIVES AND MONITORING PLAN

A monitoring and evaluation framework has been developed on the basis that **Package 3b**, in combination with Partial extension to cover LCVs (**Policy Package 4b**) is the preferred policy option

10.1 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 10-1** 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. A certain date by which such changes are introduced should be set (or most probably different dates depending on the specific measures). The Commission services will be responsible for ensuring that all EU Member States have introduced the relevant provisions which properly transpose the Directive.

Table 10-1 – 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;	<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
	Ensure coherent interpretation and application of the existing rules in Member States.	<ul style="list-style-type: none"> 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 document for road transport sector
Ensure proportionate regulatory costs.	Reduce burdens for national authorities and transport undertakings	<ul style="list-style-type: none"> Reduce/Minimise associated compliance and administrative costs for businesses from adopted measures Increase efficiency of enforcement activities

10.2 Monitoring and evaluation framework – Relevant indicators and data sources

Following the Better Regulation Guidelines Toolbox, 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 10-2 below presents the indicators and data sources proposed for the four different aspects.

Table 10-2 – 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 Regulations 1071/2009 and 1072/2009 have 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)
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)

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Monitoring - evaluation aspect and relevant objectives	Indicator	Source(s)
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
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

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