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COMMISSION STAFF WORKING DOCUMENT

SUMMARY OF THE IMPACT ASSESSMENT

Accompanying document to the

Proposal for a Regulation (EU) of the European Parliament and of the Council No xx/yy on the professional cross-border transportation of euro cash by road between euro-area Member States

and the

Proposal for a Council Regulation (EU) No zz/yy concerning the extension of the scope of Regulation (EU) of the European Parliament and of the Council No xx/yy on the professional cross-border transportation of euro cash by road between euro-area Member States

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1. PROBLEM DEFINITION

The 16 Member States that have so far adopted the euro use the same banknotes and coins. However, due to strong differences between national legislations it is in practice very difficult to transport euro cash by road on a professional basis between euro-area Member States and very little cross-border land transportation therefore takes place. It is a contradiction in terms that there are border barriers to the professional transport of the single currency within the euro area.

Due to the nature of the goods transported, the cash-in-transit (CIT) sector is moreover exposed to serious security risks. It is therefore of paramount importance that cross-border cash transports take place under conditions that provide a high level of security for the CIT-staff and for the general public. Due to different national traditions and risk environments, security requirements are however interpreted very differently across euro-area Member States, leading to large differences between national rules in a large number of areas, such as authorised transport types, armouring and equipment of the CIT-vehicles, the use of intelligent banknote neutralisation systems (IBNS), number of staff in the CIT-vehicles, the possession and carrying of firearms by the CIT-staff, training requirements, information towards the police, licence rules and penalties.

Due to these differences between national regulations, commercial banks, big retailers and other professional cash handlers are in practice in most cases prevented from contracting with a CIT-company in another Member State, even though it might be able to provide for the most efficient (and shortest) cash pick-up and delivery circuits. They are likewise prevented from taking advantage of the cash services of the nearest NCB branch or CIT cash center, if it happens to be located across the border in another Member State. Finally, CIT-companies carrying out transportation in border regions are not able to plan their transport routes and other cash logistics in the most efficient manner, if potential customers are located on both sides of the border. This situation implies a sub-optimal organisation of the cash cycle in such regions and thus also at euro-area level. This, in turn, means a higher cost of cash and/or a lower service level for the customers compared to a situation without national regulatory barriers to cross-border cash transports.

In order to allow stakeholders to take full advantage of the single currency, obstacles to the free circulation of euro cash within the euro area should be lifted, while ensuring a high level of security for the CIT-staff and the general public.

At the same time, the CIT-market has a local character and the potential cross-border market primarily concerns border regions. The potential geographical market can roughly speaking be estimated to some 100 km on each side of the border for the majority of the transports. Measures to lift the barriers to cross-border transport of cash should therefore be proportionate.

2. ANALYSIS OF SUBSIDIARITY

The alternative to action at EU level would be voluntary bilateral agreements between Member States or even multilateral agreements. However, action at EU level brings important economies of scale as compared to bilateral or multilateral action. Only action at EU level allows taking into account the future enlargement of the euro area as the EU rules for cross-border transport can be used by any new participating Member State, which is not the case for bilateral/multilateral agreements.

Furthermore, even though a demand exists as expressed notably by the banking sector, more than eight years after the introduction of euro cash Member States have not concluded any agreements to facilitate professional cross-border transport of cash. This suggests that EU action is in practice the only possible way of reconciling diverging regulatory regimes (currently 16 in number), covering a wide range of complex issues where security issues (e.g. the carrying of weapons) and labour market considerations interact.

3. OBJECTIVES

The general objective of the present Commission initiative is to facilitate the free circulation of euro cash within the euro area by removing obstacles to the professional transport of euro cash by road between euro-area Member States, while ensuring that the transports take place under conditions that provide a high level of security for the CIT-staff and for the general public.

To facilitate professional cross-border transport of euro cash is, moreover, a natural and necessary complement to the European Central Bank's Roadmap for more convergence of National Central Bank (NCB) cash services and the creation of a single euro cash area for professional cash handlers. It is moreover complementary to the payment services directive[1] and SEPA – the single euro payments area, which aims at making electronic cross-border payments in euro as easy as domestic payments.

As regards the free circulation of the euro, and due to the local character of the CIT-market, the specific objective should therefore be to facilitate transport in such border areas between euro-area Member States.

As regards the security for the CIT-staff and for the general public, attacks should as far as possible be deterred and if an attack nevertheless takes place, it should result in a minimum of human damage. The specific objective should be that cross-border transports are at least as secure as domestic transports.

An increase in cross-border cash transports could, however, at the same time lead to a possible negative effect on wage levels and/or employment in the CIT-sector in a given host country, if there are significant wage differences compared to neighbouring countries. While Member States should in general not be prevented from using their comparative advantages, a social minimum protection to be observed in the host country should at the same time be ensured for the staff in the CIT-sector in line with the existing principles in EU legislation.

[1] Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market, 5.12.2007.

4. POLICY OPTIONS AND APPRAISAL OF BROAD POLICY OPTIONS

The appraisal has been organised in two rounds starting with a general appraisal of the broad policy options and thereafter a more detailed assessment of the policy options that were considered to have the potential of reaching the objectives.

The impact assessment (IA) has considered five broad options to achieve the objective: (1) a baseline no-change scenario; (2) Bilateral or multilateral agreement between those Member States potentially most concerned by cross-border transports; (3) A set of common rules for cross-border transports only; (4) Full mutual recognition; and (5) Full harmonisation of the regulation of all CIT-transport.

Three sub-options were furthermore considered: a) extending the scope of the rules to EU Member States that have not adopted the euro; b) extending the scope to other cash and possibly valuables; and c) restricting the scope to point-to-point transports only.

The IA finds that options 1 (no-change) and 2 (bilateral/multilateral agreements) would not be effective in meeting the objective of facilitating the free circulation of euro cash, since it seems highly unlikely that such agreements would materialise spontaneously on a larger scale. This is confirmed by the fact that no agreement has so far been concluded during the more than eight years that have passed since euro banknotes and coins were introduced. Furthermore, even in the case of such an agreement, it would still only cover part of the euro area and it would not allow taking into account future enlargements of the euro area. An agreement at EU level therefore seems to be a more efficient and in practice the only possible approach to facilitate cross-border cash transport between all the concerned countries.

Option 3 (a common set of rules applicable to cross-border CIT-transports only) would meet the objective of facilitating the free circulation of euro cash. Since it is limited to cross-border transports it would furthermore not go beyond what is necessary to achieve the objectives.

Option 4 (full mutual recognition) would meet the overarching objective of facilitating the free circulation of euro cash, but it would mean that CIT-companies would be allowed to operate across borders under several different national sets of rules. This would be very confusing for the competent national supervisory and enforcement authorities. Such a situation would be unacceptable in a sector that is by the nature of its business exposed to serious security threats and would not meet the objective of ensuring that the transports take place under conditions that provide a high level of security for the CIT-staff and for the general public. This option could also be seen as disproportionate since it could affect the whole territory of the host Member States, unless the scope of the option is specifically restricted to cross-border operations.

Option 5 (full harmonisation) would meet the objective of facilitating the free circulation of euro cash and would be consistent with a single euro cash area and the single market. However, since cross-border euro cash transport only concerns a limited part of all euro cash transport, it would not be proportionate relative to the stated objective to harmonise the rules for all CIT-transports, whether cross-border or not. A full harmonisation would furthermore be very difficult in view of the many sensitive and security-related issues involved in the area of CIT, not the least concerning the possession and carrying of weapons.

The three sub-options are considered as relevant. However, including such diverse items as valuables in general under the scope of common rules is rejected since it risks complicating the legislative effort and deflect it from the core objective of the initiative.

The detailed analysis of impacts therefore concerns a set of common rules for cross-border transport together with sub-option a), part of sub-option b) and sub-option c).

5. DETAILED ASSESSMENT OF IMPACTS

The second-round assessment includes a detailed assessment of the economic, social and environmental impacts of the broad option 3 - common cross-border rules – and the three sub-options. It also assesses the possible impact on the security of the transports.

The different impacts depend to a large degree on the size of the potential market and the extent to which it can be realised. In order to collect information on the current CIT-market and to estimate the size of the potential market for cross-border cash transport by road, if current regulatory obstacles to such transports are lifted, DG ECFIN launched an external study that was carried out by Ramböll Management[2]. According to this study, it is estimated that the potential long-term market, assuming that all obstacles to professional cross-border euro cash transports by road are lifted, would amount to around 2.6 % of the total market (expressed in terms of the value of all euro cash ordered to CIT-companies), which would correspond to some 77 000 cross-border transports[3] potentially being carried out each year in the 11 euro-area countries that have land borders to other euro-area countries. This is a large increase compared to the current situation and indicates that there is a potential for a significant increase in cross-border euro cash transports if regulatory obstacles are lifted.

The above estimation is based on current traffic flows. It is, however, difficult to predict what the effects of opening the cross-border market may be. Cross-border cash transports means not only potentially cheaper service, but also potentially better service for which customers may be willing to pay more. As an example, a big retailer may be better served from a cash center across the border that could more easily deliver/pick-up cash on a daily instead of on a weekly basis. Lifting obstacles to cross-border transport could in this example have a positive impact on the costs/risks of the retailer (less storage/security costs and risks involved) which could have a positive impact on the CIT-business as more frequent deliveries and additional turnover would be created.

The facilitation of cross-border cash transports is also likely to produce some environmental benefits, due to shorter transports overall.

A significant increase in cross-border transports may, however, also have negative social effects in the host countries. This concerns notably a possible effect on wage levels and/or employment in the CIT-sector in a given host country, if there are significant differences in salaries compared to neighbouring countries. The impact assessment shows

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2 Available at the website of the European Commission at: http://ec.europa.eu/economy_finance/articles/euro/2010-02-26-cross-border-cash_en.htm

3 A transport meaning a CIT-vehicle that crosses the border twice; once on its outbound journey and once on its homebound journey.

that significant differences in salaries seem to exist between some neighbouring euro-area countries. Salary differences are furthermore very substantial between some of the countries that have not yet adopted the euro and their neighbours in the euro area. It therefore seems justified to mitigate the potential social impact in the host country by ensuring a minimum protection of the workers in line with the principles of existing EU legislation.

Directive 96/71/EC on the posting of workers is intended to provide for a minimum protection to be observed in the host country in the case of workers who are posted to perform temporary work there. However, considering the specific nature of CIT transport services, notably the frequent and short-term nature of the potential work periods abroad and the different contractual situations, there is a need to provide for the analogous application of Directive 96/71/EC to all cross-border cash transport services in order to provide legal certainty for operators and ensure the practical applicability of the Directive in this sector. The proposal therefore includes some specific provisions in order to create legal certainty for the concerned operators, notably by ensuring that cross-border CIT workers are guaranteed the relevant minimum rates of pay of the host country according to the Directive.

The broad option 3 is furthermore developed into four specific options in order to take into account security-related or other sensitive issues:

Option A. National rules on the carrying of weapons by CIT-staff remain fully in force.

Option B. A number of CIT-transport types are established, with opt-out possibilities for the individual Member States.

Option C. Restriction of the scope of cross-border transport to one day and daytime, meaning that the CIT-vehicle shall depart from and return to its Member State of origin in the same day and the transport shall be carried out during daytime.

Option D. The majority of the number of cash deliveries/pick-ups made by a CIT-vehicle during the day must be carried out on the territory of the host Member State(s).

The consultations with Member States' administrations and other stakeholders have shown that these exceptions are seen as necessary in order to ensure a high level of security and that they are a necessary precondition for achieving a sufficient consensus on common cross-border rules for cash transports.

The analysis has shown that although these options may imply a reduction of the potential cross-border market, they are not expected to create major obstacles for cross-border transports and the proposal foresees in all cases solutions that enable cross-border transports (strong-box for weapons in the vehicle that can only be opened by remote control by the control room, standardised transport options, recognition of equivalent weapons training etc.).

As regards the security of the transports, the proposal foresees high standards in the relevant security-related fields, the preservation of national rules in sensitive areas such as weapons legislation and possibilities for Member States to opt out from specific transport types if they do not consider them compatible with the national environment. It is therefore concluded that the envisaged common rules provide a high level of security for cross-border transports.

The administrative burden, finally, is considered to be relatively limited and would in the case of CIT-companies only concern those companies that choose to apply for a cross-border licence.

6. COMPARISON OF OPTIONS

The impact assessment concludes that the preferred option is a set of common rules that would be valid in all euro-area Member States but limited to cross-border transports (option 3), together with the specific derogations and restrictions to the scope foreseen under the specific options A-D. This policy option would fulfil the objective of facilitating the free circulation of euro cash within the euro area, and would do so in the most efficient way relative to the other broad policy options, while ensuring that the transports take place under conditions that provide a high level of security for the CIT-staff and for the general public. It is furthermore recommended that Option 3 is extended to the territory of a Member State that is about to introduce the euro, since there will normally be an increased need for cross-border euro cash transportation in the run-up to the changeover. The extension should apply as from the date of the decision of the Council to abrogate its derogation from participating in the euro.

7. MONITORING AND EVALUATION

A Committee on the cross-border transport of euro cash, with representatives from the Commission, the Member States covered by the common rules and representatives of the European Central Bank, should be set up in order to monitor the implementation of the new rules and possibly propose measures to improve their functioning. The Committee should also consult the relevant stakeholders, including the social partners, and take their views into account as appropriate.

A formal review should furthermore be foreseen with a Commission report to the European Parliament and the Council at the latest two years after the entry into force of the common rules. The review should also include consultations of the stakeholders in the sector, including the social partners. Based on the result of the review, the Commission could make a proposal to revise the Regulation. The review should thereafter be repeated every five years.