

Summary of the results of the public consultation on the revision of Regulation (EC) No 1071/2009 and Regulation (EC) No 1072/2009

A.1 Introduction

The public stakeholder consultation for this project was launched on 15/6/2016 and was open for responses until 15/9/2016 (12 weeks). Respondents were also given the opportunity to provide any further comments at the end of the questionnaire. This analysis of the public stakeholder consultation is intended to provide an overall view of the responses to the questionnaire.

Please note that the views presented can only be associated to respondents to this specific consultation and may not be representative of the views of all or specific groups of stakeholders.

Please also note that the contributions received cannot be regarded as the official position of the Commission and its services and thus does not bind the Commission.

A.2 Methodology

The questionnaire of the consultation was made available online through the Commission's EU Survey facility. The survey was open to all categories of respondents (individual citizens, representatives of business (individual firms or associations), public authorities, civil society organisations).

A.3 Analysis of respondents' profile

total of 175 responses to the questionnaire were received, covering a variety of stakeholder groups, as shown in Table 2. These stakeholder groups have been created during the analysis of the results after the survey and are defined as:

- Medium and large hauliers – road transport and shipping enterprises with 50 or more employees
- Small hauliers – road transport and freight forwarding enterprises with 49 or fewer employees
- Logistics industry representatives – associations representing shipping, freight forwarding and combined transport mode enterprises
- Associations representing road transport workers and individual workers
- National authorities and relevant associations – including regulatory, enforcement authorities

Table 2: Classification of stakeholders responding to the questionnaire

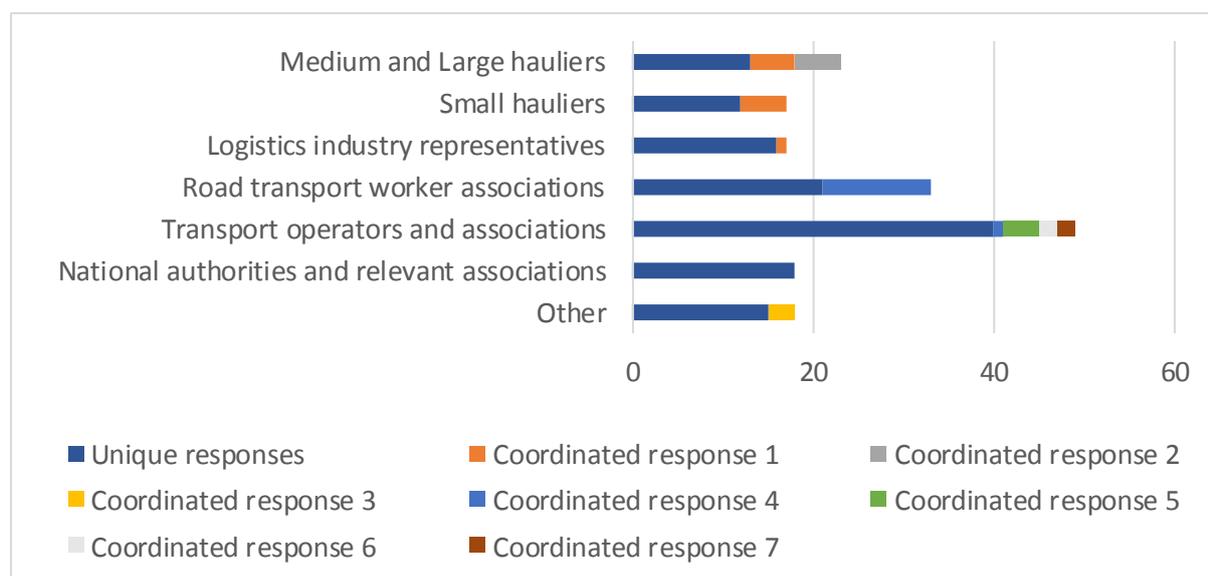
Stakeholder category	Number of responses	% of responses
Medium and large hauliers	23	13%
Small hauliers	17	10%
Logistics industry representatives	17	10%
Associations representing road transport workers and individual workers	33	19%
Transport operators and transport operators' associations	49	28%

National authorities and relevant associations	18	10%
Other	18	10%
Grand Total	175	100%

Notes: Other is based on the respondents' choice and includes: Individual citizens and consumers, regional government representatives, trade association representatives, a tachograph analysis provider, a motoring organisation, non-governmental transport organisations and national business organisations

A number of coordinated responses were received, indicating that respondents followed a template for answers. Seven different templates were identified from the analysis of the sample, as shown in Figure 4. However, since respondents were free to adapt the answers to each question in order correspond with their own views (and several have taken this opportunity to deviate from the main template), all responses have been analysed individually in the following sections.

Figure 4: Distribution of the responses by stakeholder group - showing coordinated responses



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), while responses were also received from Serbia, Switzerland and Norway. The distribution of responses by country of residence or establishment is shown in Figure 5. The most responses were from Lithuania, receiving 25 responses (14% of the total)

When survey response is split by EU-15 and EU-13 membership, as in Figure 5, it is apparent that the majority of responses are from EU-15 Member States, with 65% of responses are from these States. Therefore, conclusions drawn from this analysis may be biased. However, since the population of relevant haulage enterprises and associated organisations and its distribution across Member States is unknown, it is impossible to comment on the representativeness of this sample. Additionally, the share of coordinated responses from EU-13 Member States (40%) is much larger than for EU-15 (15%). This may cause the skew of the results, but as mentioned before, these respondents were free to adapt their responses and so have not been removed from the following analysis.

Figure 5: Distribution of the responses by country of residence/establishment

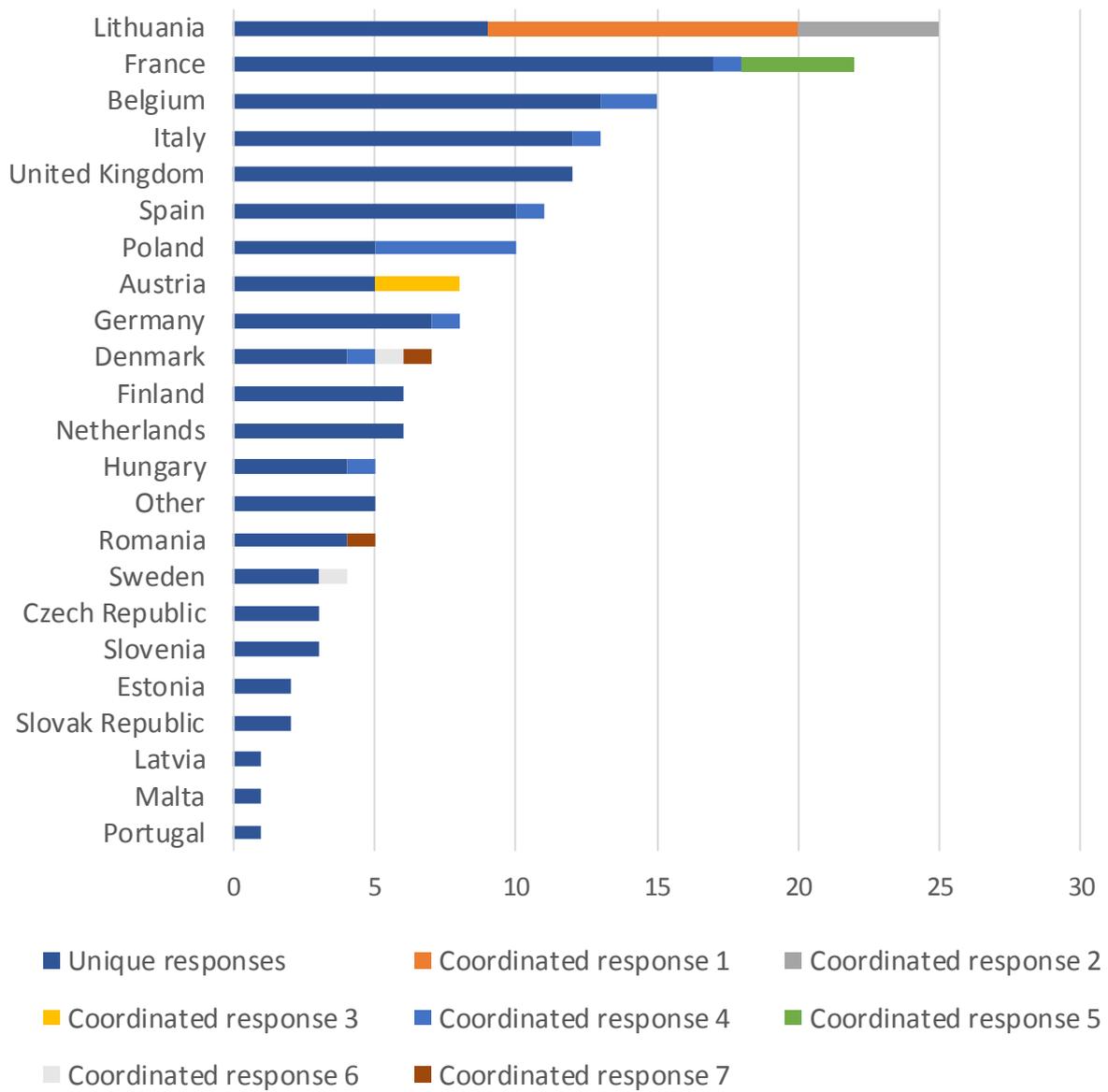
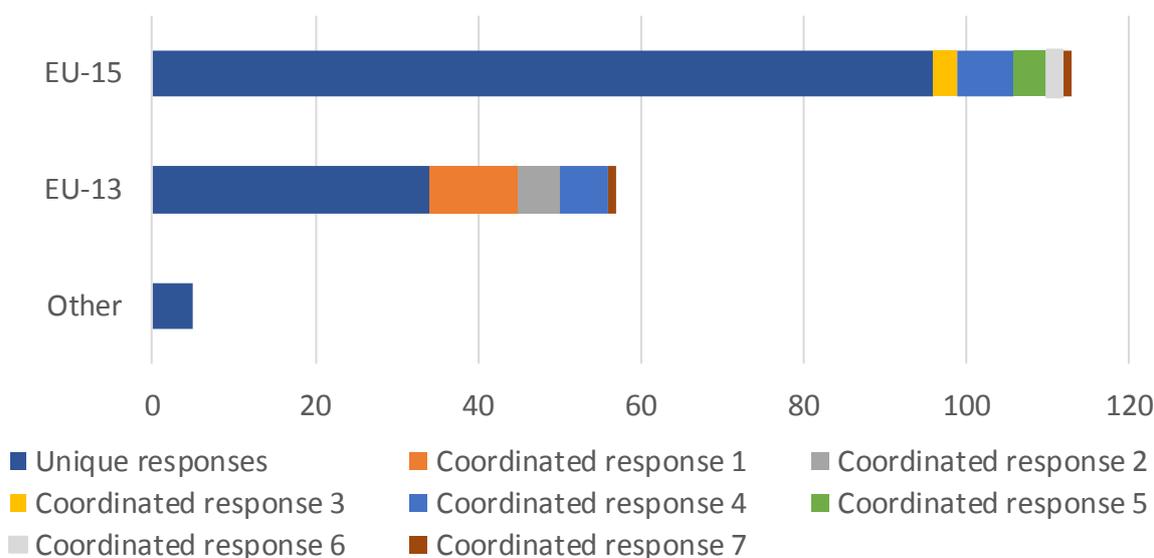


Figure 6: Distribution of responses (including coordinated responses) by EU-15 and EU-13 membership.



Notes: Other includes Serbia, Switzerland, and Norway

A.4 Analysis of responses

A.4.1 Assessing the severity and importance of the identified issues with the Regulations

The first part of the survey was concerned with assessing the views of the respondents on the importance of the problems with the current Regulations.

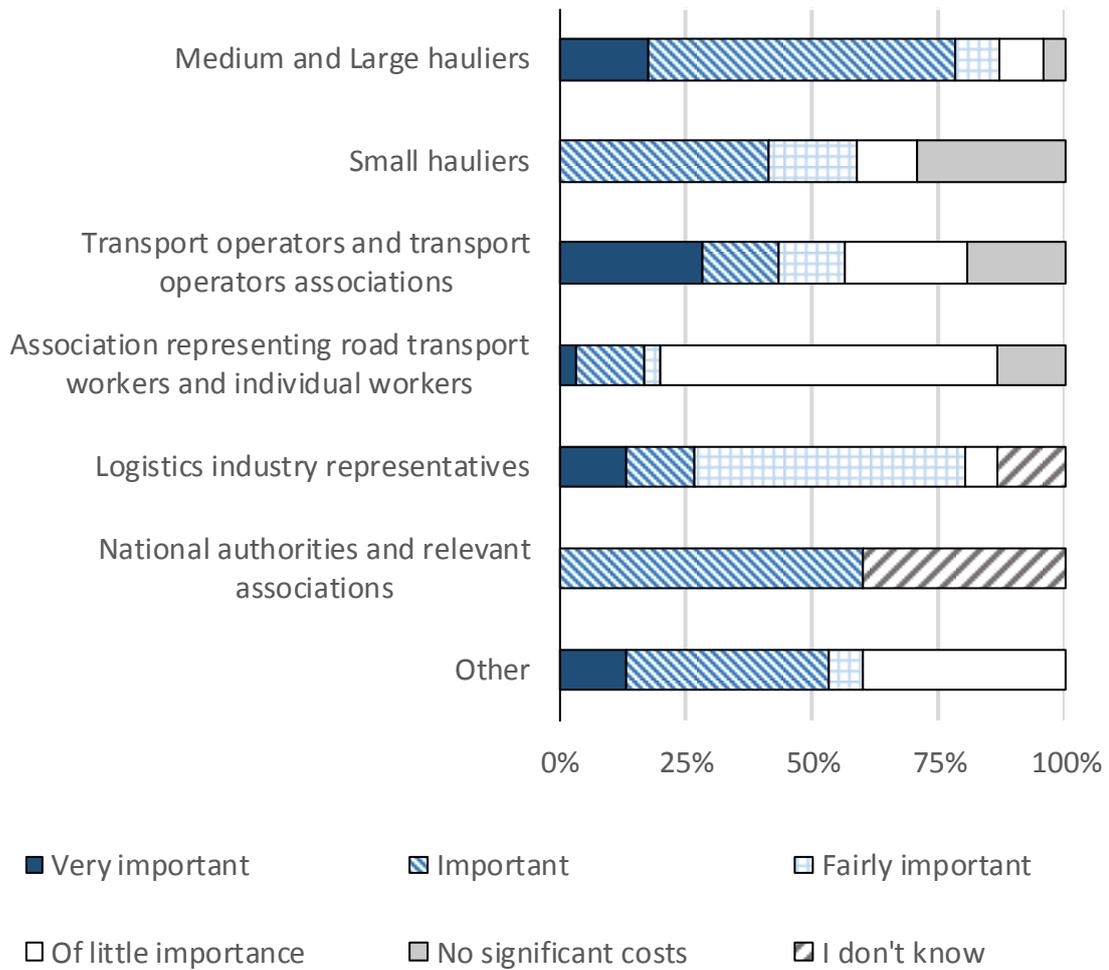
A.4.1.1 Costs associated with compliance for transport operators and enforcement by appropriate authorities

“Q6.1. Some stakeholders opine that compliance costs for transport operators (i.e. costs to comply with the requirements of the Regulations, such as those incurred to pass a certificate of professional competence) are significant. How do you rate the significance of the compliance costs on your business? (for companies and associations only)”

Whether the costs required to comply with the Regulations are important to road transport operators generated a mixed response from the survey respondents. 43% consider the costs of compliance for transport operators to be at least important, whereas 40% consider the costs to be of little importance or not significant at all. This fairly even split is somewhat reflected in the views of the transport operators and transport operators’ associations: 43% considered the costs to be at least important, whilst by contrast, 43% considered the costs to be of little importance or not significant.

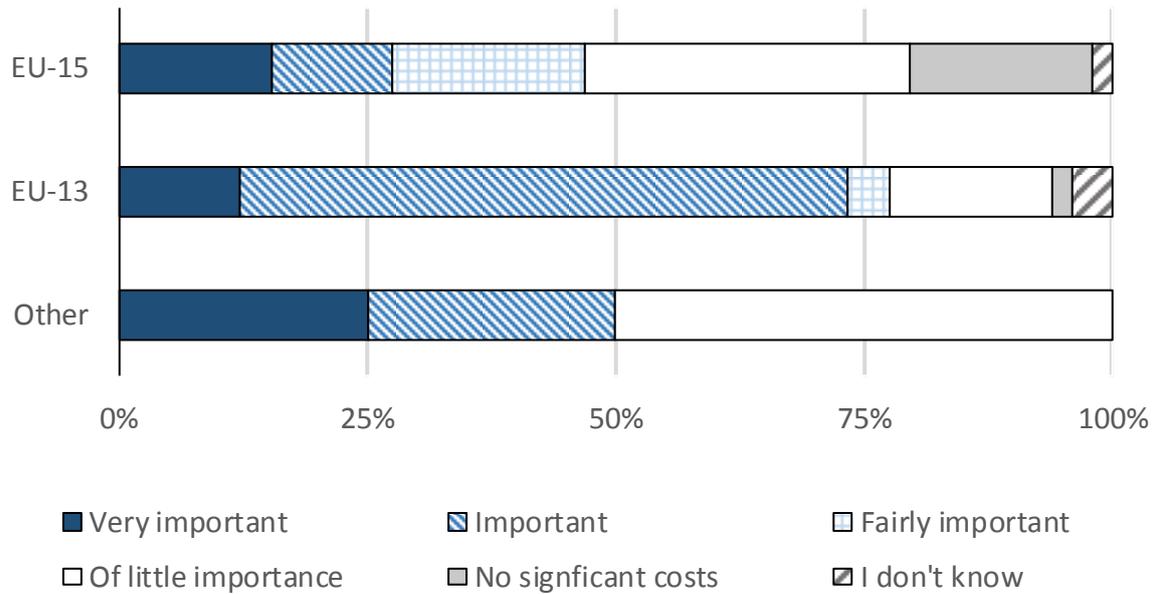
When disaggregated by the category of respondents, hauliers, national authorities, and consumers consider the compliance costs for transport operators are important. Medium and large hauliers display the greatest agreement, with 78% considering these costs as at least important to road transport operators (17% consider them to be very important). By contrast, associations representing road transport workers and individual workers consider the costs to be of little importance, with 80% of respondents indicating as such. Interestingly, small hauliers, whom you might expect to consider the burden of compliance to be more important as they tend to have smaller revenues than larger companies, actually consider the costs of compliance to be less important than larger hauliers. 0% of these respondents considered the costs very important, whereas 29% feel there are no significant costs, the most of any category.

Figure 7: Responses to compliance costs by respondent category



Respondents from EU-13 Member States feel that the costs of compliance are more important to road transport operators. 73% of respondents from EU-13 States felt the costs to be at least important, whereas, by contrast, only 28% from EU-15 States felt the same way, as shown in Figure 8.

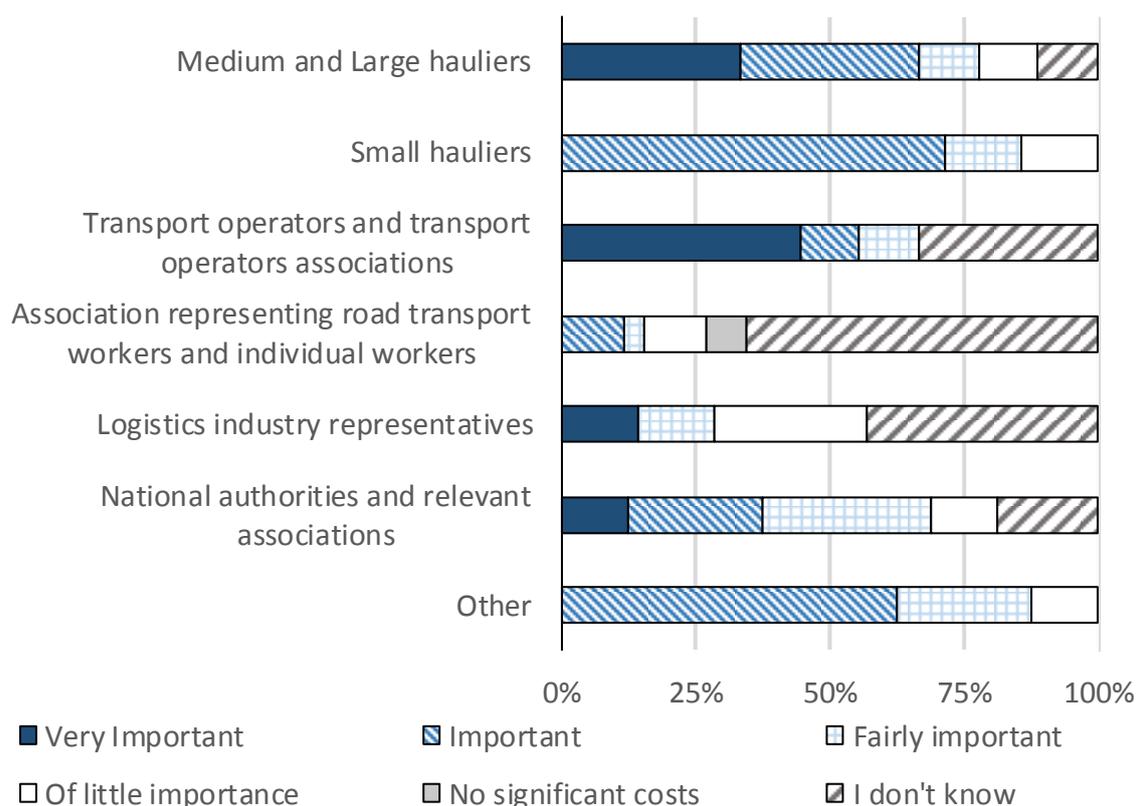
Figure 8: Responses to compliance costs by EU-15/EU-13 membership



“Q6.2. Some stakeholders opine that the costs borne by enforcement authorities (i.e. those necessary to enforce the requirements of the Regulations, for example costs incurred for road side inspections regarding compliance with cabotage rules) are significant. How do you rate the significance of these costs? (for public authorities only)”

In addition, 37% felt that the costs necessary to enforce the Regulations, borne by the relevant authorities, is at least important. The most populous response to the related question in the survey was “I don’t know”, indicating that this addresses an area of which many of the respondents are unfamiliar. In addition, the total number of responses to this question (82) is much lower than the question regarding costs of compliance on road transport operators (152). Therefore, it is sensible to consider the responses of the related categories in isolation. For example, it would be expected that national authorities would be more familiar with the costs needed to enforce the Regulations. In this case, 38% of respondents felt that the costs are at least important, whilst only 13% consider them to be of little importance, a similar distribution to the response of the population.

Figure 9: Costs of enforcement by authorities, by respondent category.



A.4.1.2 Clarity, enforceability and level of control practiced of cabotage Regulations

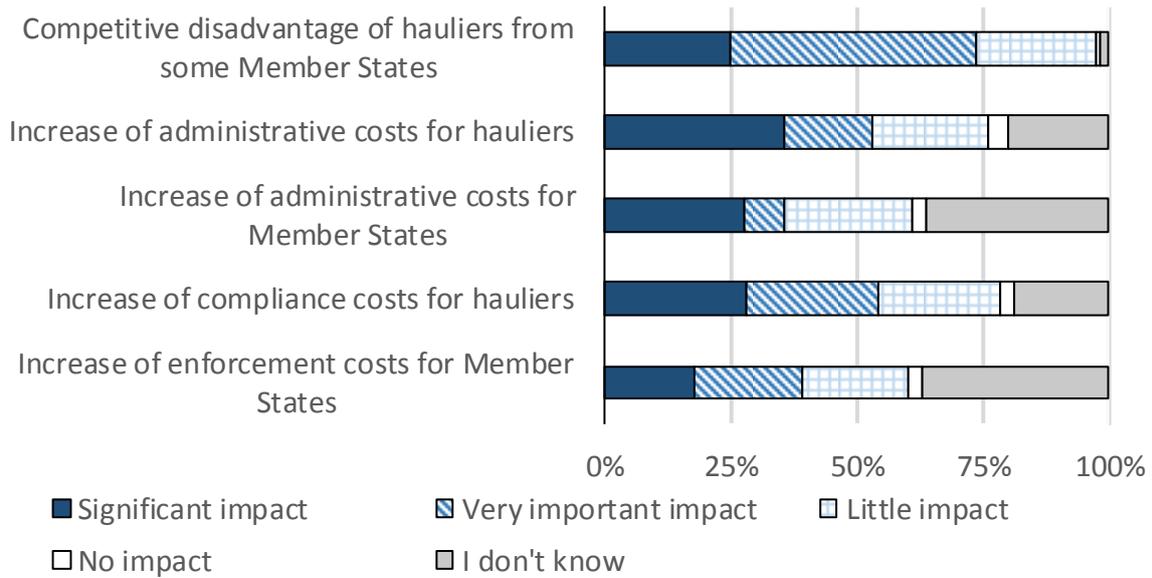
“Q7.1. As regards the level of control exercised in practice by Member States with regard to cabotage operations, do you believe that there is: a) Very significant variance between Member States, b) Significant variance between Member States, c) Modest variance between Member States, d) Not much variance between Member States, e) I don't know”

In general, it is agreed that there is significant variation in the level of control exercised by Member States (72% of respondents are in agreement on this, with 41% indicating there is very significant variation). Only 2% of respondents do not consider there to be any variation in the level of control exercised by Member States.

When disaggregated by respondent category, whilst there is some variance between categories, generally, the outcome is representative of the above conclusion. The group that opposes this conclusion the greatest are the associations representing road transport workers and individual workers. Even in this group, however, 39% felt there was significant variation in the level of control exerted by Member States on the cabotage Regulations.

Respondents felt that this issue would have a number of impacts. The majority of respondents felt strongly that this would lead to a competitive disadvantage to hauliers from some Member States, where enforcement levels may be perhaps more stringent. In addition, the costs of meeting satisfying more stringent authorities may contribute the strong feeling that this inconsistency can lead to increased costs of compliance for hauliers. In addition, it is thought to have at least a very important impact on the administration costs for hauliers. National authorities and relevant associations, whom you might expect to hold a differing opinion on the costs for administration and enforcement, tend to agree with the population of responses, and consider that costs to Member States to be of less importance than for hauliers.

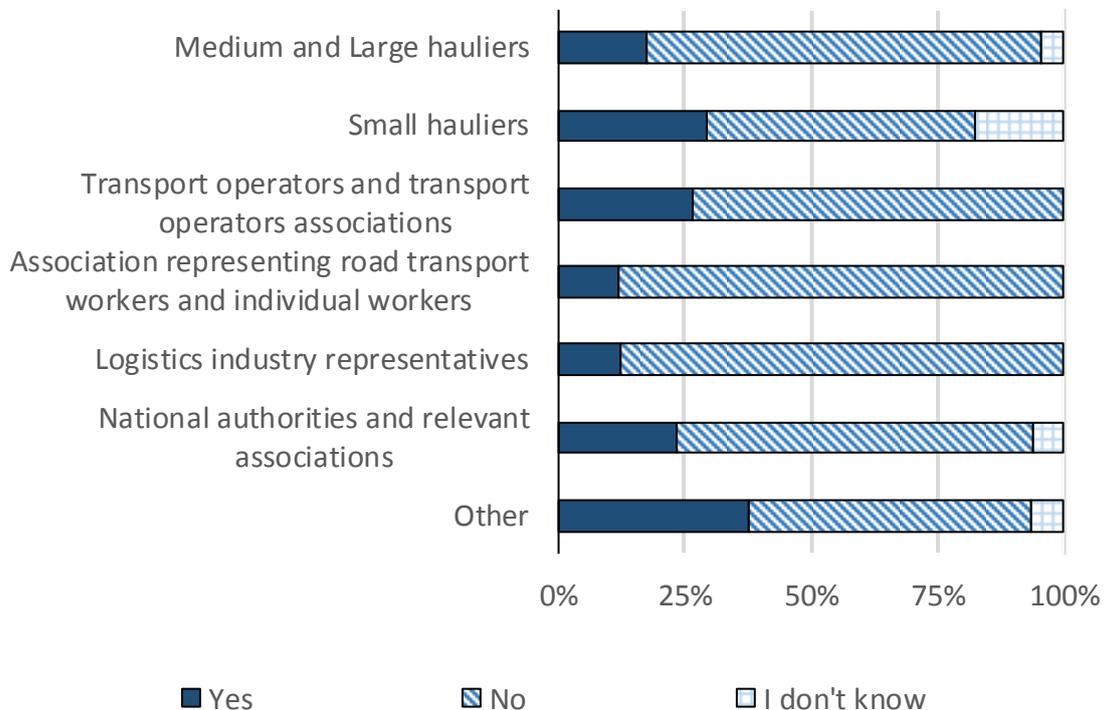
Figure 10: : Response to importance of impacts that cabotage enforcement inconsistency between Member States has for a number of issues.



“Q8.1. Do you think that the cabotage rules of Regulation (EC) No 1072/2009 are sufficiently clear in all relevant aspects?”

In terms of the clarity of the cabotage Regulations, 75% of respondents feel that the cabotage rules are not sufficiently clear. There is little variance of opinion between respondent category, as Figure 11 illustrates.

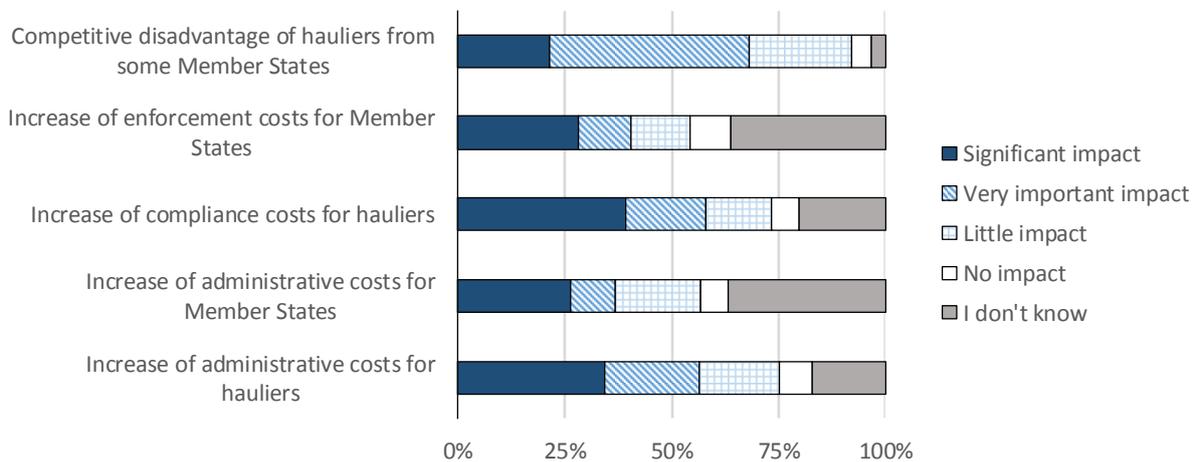
Figure 11: Clarity of the cabotage Regulations, with responses disaggregated by the category of respondent.



As with the inconsistency of enforcement of the cabotage Regulations, it is felt that the lack of clarity leads to a number of problems that the haulage sector and enforcement authorities are required to accommodate. In this case, it was felt that this inspires at least a very important increase in costs for compliance and administration for hauliers (57% and 58% respectively). Also, 68% of respondents felt

that this would have at least a very important impact on producing a competitive disadvantage for hauliers from some Member States. Finally, it is felt that this will impact the costs for enforcement and administration for Member States (with 41% and 37% responding that it has at least a very important impact). Therefore, it is apparent that the lack of clarity in the regulations has strongly influenced a number of the issues identified as a part of the ex-post evaluation.

Figure 12: Response to importance of impacts that the lack of clarity within the cabotage Regulations has for a number of issues.

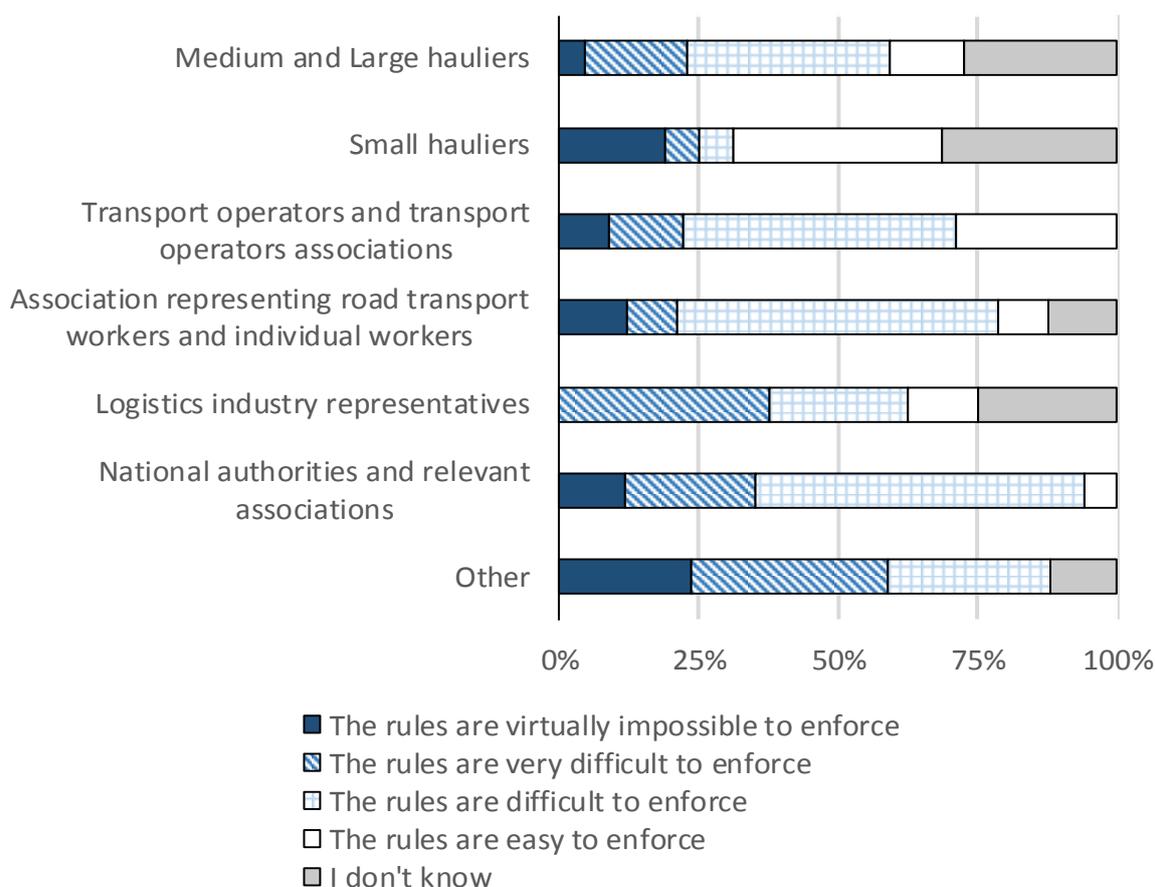


“Q9.1. Do you think that the cabotage rules of Regulation (EC) No 1072/2009 are enforceable?”

As they stand, it is thought that the regulations are difficult to enforce. 71% of respondents indicated that these rules are at least difficult to enforce, whilst only 17% felt that the rules were easy to enforce. This view is shared by most respondent categories, as shown in Figure 13. Primarily, when disaggregated in this manner, the main source of variation arises from the proportion of respondents who feel the rules are easy to enforce. Small hauliers felt most that the rules were easy to enforce with 35% of respondents indicating as such, and 29% of transport operators and related associations agreed. By contrast, a number of groups felt the rules were difficult to enforce. In particular, national authorities and the relevant associations, whom you might expect to have more experience with implementing the regulations, overwhelmingly felt that the regulations were difficult to enforce. 94% felt that the rules were at least difficult to enforce (35% went further to suggest they were at least very difficult to enforce).

When disaggregated by Member State, it is apparent that of respondents based in France 77% felt that these rules were easy to enforce (in comparison to 17% when all MS are considered). The reason for this disparity remains unclear. In fact, it is this that skews the variation in results between EU-15 and EU-13 Member States. When results from France are removed, the view of the respondents follows the same distribution for both EU-15 and EU-13.

Figure 13: Enforceability of the cabotage Regulations, with responses disaggregated by the category of respondent.



Respondents felt that the difficulty in enforcing these rules leads to a competitive disadvantage for some hauliers from other MS, with 82% of respondents indicating that this has a very important impact at least (this increases to 85% when responses from hauliers themselves are isolated). As with the earlier question regarding the clarity of the regulations, respondents felt the difficulty in enforcement will have at least a very important impact on the enforcement costs for Member States (45% of responses), compliance costs for hauliers (55%), and administrative costs in general (53% and 40% for hauliers and Member States respectively).

It is clear from the survey responses collected regarding the cabotage regulations, that the respondents felt they are currently unclear and difficult to understand, which has a number of follow-on effects on the costs burdened by both Member States and haulier companies. The inconsistency of application of these Member States, presumably a result of the lack of clarity, strongly influences a competitive disadvantage to hauliers from some Member States.

A.4.1.3 'Good repute' criterion

“Q10.1. How far do you think that the different application of the "good repute" criterion of Regulation (EC) No 1071/2009 by Member States constitutes a problem for the road haulage sector?”

The survey respondents felt that the different application of the "good repute" criteria by Member State constitutes a major problem. 70% of respondents responded in this way, whilst only 4% indicated that the variation of application was not a problem. This view is fairly consistent across all respondent categories. Responses from small hauliers, association representing road transport workers and individual workers felt most strongly that the variation in application of the criterion is a major problem (88% and 94% responded in this manner respectively). In no respondent category did the share of respondents who felt that the variation in application of the "good repute" criterion wasn't a problem exceed 12%.

This view is fairly consistent across all Member States. When split by EU-15 and EU-13 membership, this view is also shared. The most noticeable difference between the two groups is the proportion of respondents who felt that the variation of application of this criterion is a major problem is reduced in respondents based in EU-13 States, coupled with an increase in the share of respondents that feel this is not a problem. Overall, however, the conclusion drawn from this analysis is consistent across all groups and Member States.

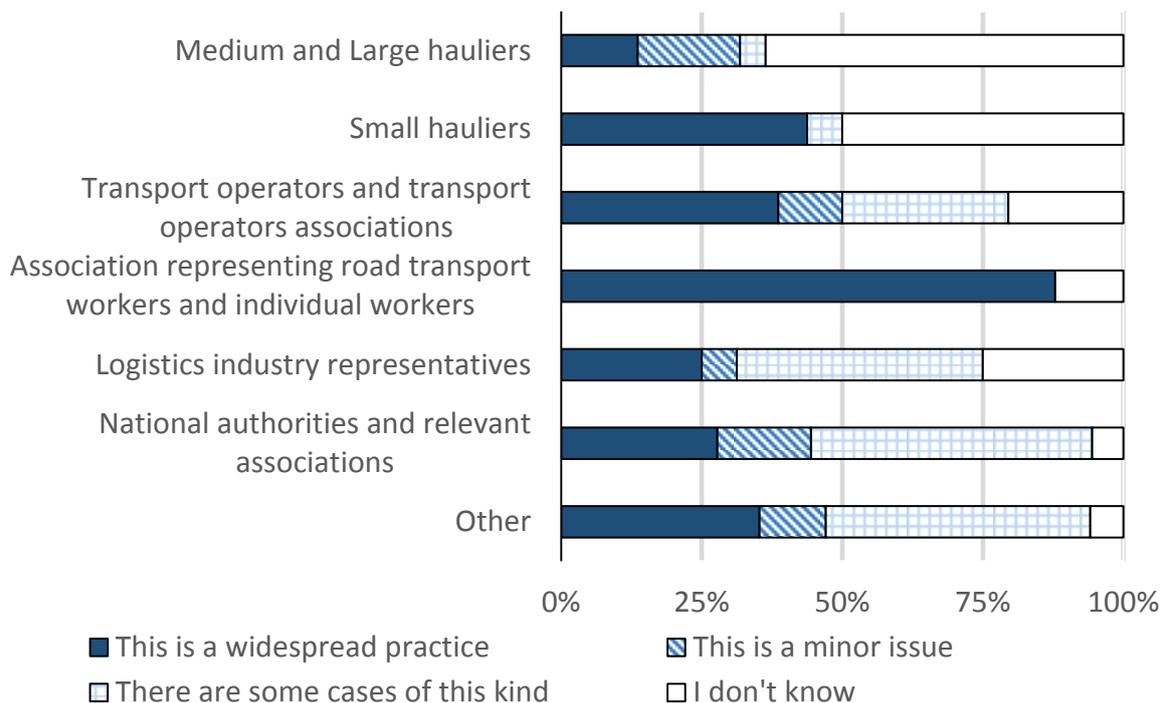
The respondents felt that the inconsistency of the application of this criterion has led to a very important impact on the equality of competitiveness of hauliers across MS, and important compliance cost considerations (60% and 49% of responses respectively).

A.4.1.4 “Letterbox” companies

“Q11.1. How far do you consider that operators are setting up subsidiaries (or indeed alleged secondary establishments in other forms) that do not actually conduct own operations?”

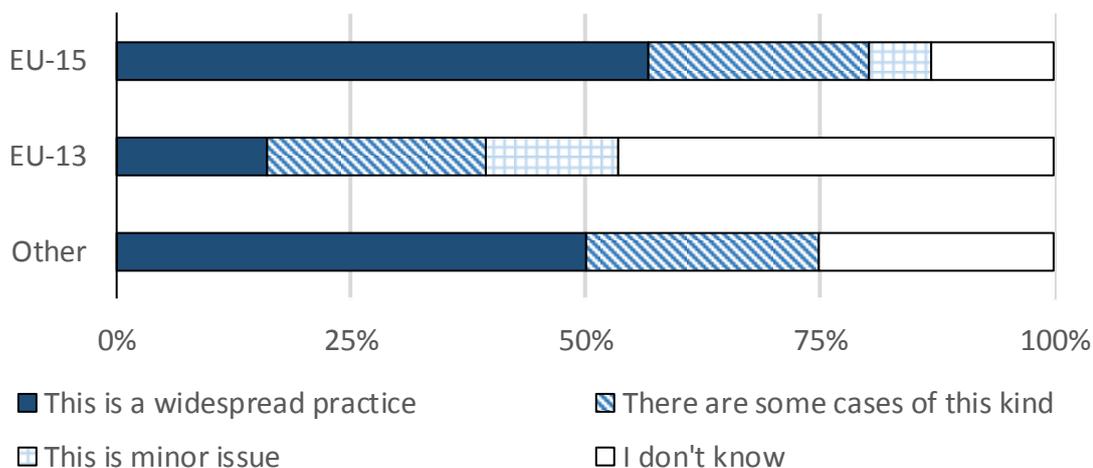
Concern has previously been expressed as to prevalence of operators setting up subsidiaries (or alleged second establishments in other forms) that do not conduct their own operations in order to seek a competitive advantage against other operators across the EU. When asked about whether this is a problem for the haulage sector, the respondents felt that this is a widespread practice. 43% responded in this manner, whilst only 9% felt this is only a minor issue. The most concerned group were the associations representing road transport workers and individual workers. 88% of this group felt this is a widespread practice, a much greater percentage than from any other respondent category (mostly between 25-44%). In fact, every respondent from associations representing road transport workers who did not respond “I don't know”, felt that this is a widespread practice.

Figure 14: The setting up of subsidiaries (or alleged secondary establishments in some form) that do not conduct their own operations, with responses disaggregated by the category of respondent.



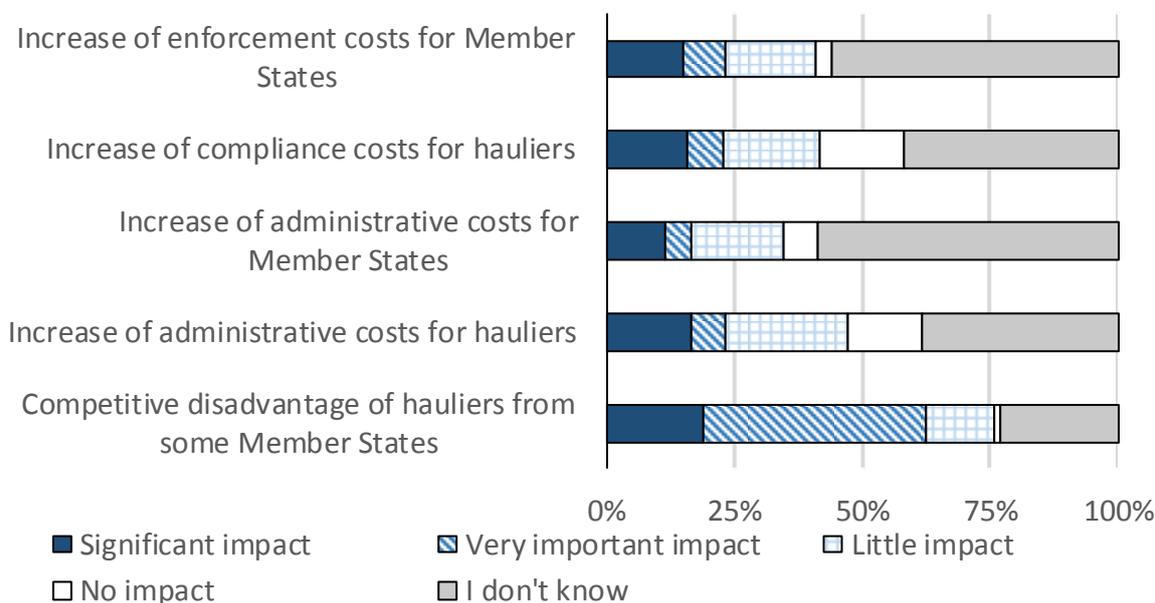
When EU-15 MS are considered in isolation, 57% of respondents felt that this is a widespread practice. This same distribution is not reflected in EU-13 MS, however, where answers are dominated by a 46% “I don't know” response rate. Instead, only 16% felt this is widespread. The reason for this disparity remains unclear.

Figure 15: The setting up of subsidiaries (or alleged secondary establishments in some form) that do not conduct their own operations, with responses disaggregated by whether the respondent is based in an EU-15 or an EU-13 Member State.



It was largely felt that this leads to a competitive disadvantage of hauliers from some Member States, with 63% indicating it has at least a very important impact. Respondents were more wary of the effects that this on the costs borne by both enforcement authorities and hauliers, with fewer responses indicating an important impact of some kind.

Figure 16: Response to importance of impacts that the setting up of “letterbox” companies has for a number of issues.



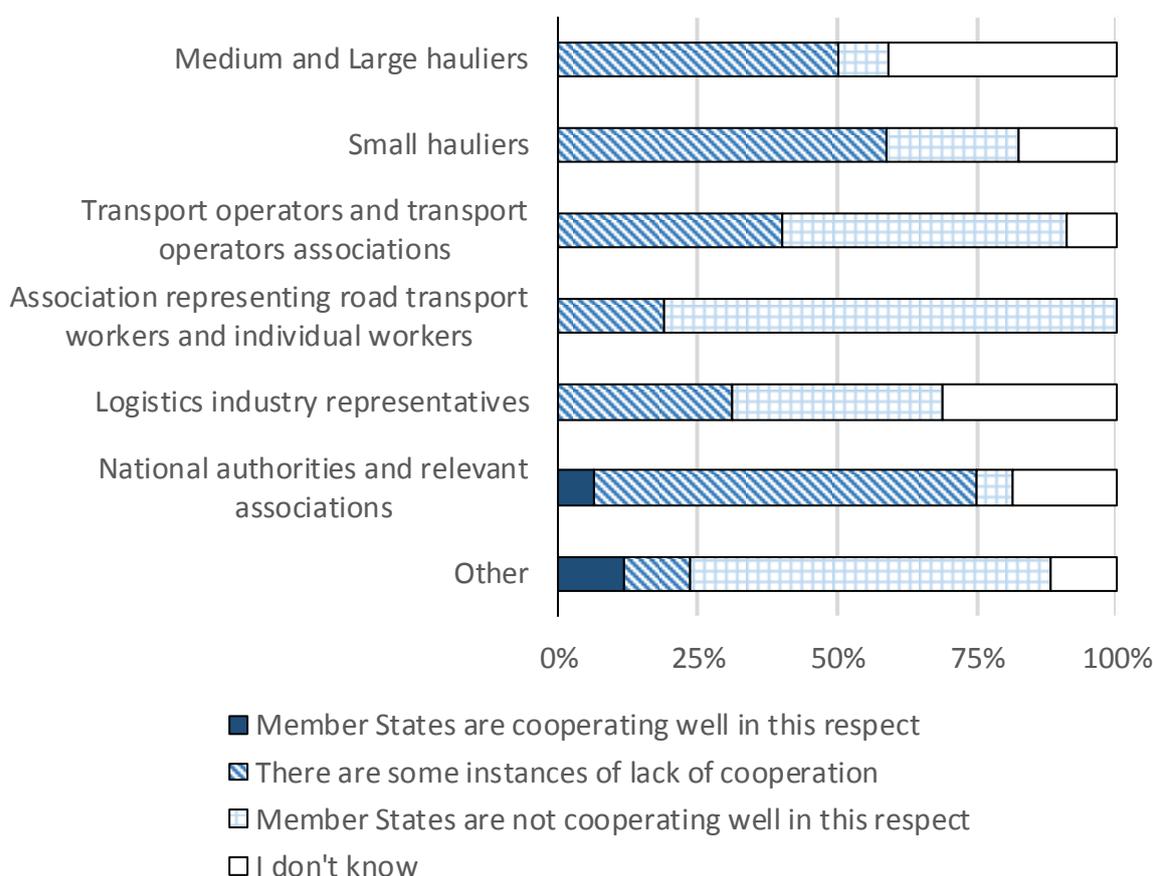
A.4.1.5 Monitoring compliance with, and the clarity of, the “stable and effective establishment criterion” of Regulation No 1071/2009.

“Q12.1. How well do you consider that Member States are cooperating in monitoring compliance with the stable and effective establishment criterion?”

When asked whether they felt that Member States were cooperating by monitoring compliance with the “stable and effective establishment” criterion, 82% of respondents suggested there were at least some cases of Member States not cooperating in this respect (45% felt this problem is not isolated to

a few Member States, but is more widespread). Only 2% of respondents felt that Member States were cooperating well. This is a view that is consistent across all respondent categories, although the share of those who believe that Member States in general are not cooperating well does vary. For example, respondents from associations representing road transport workers and individual workers felt strongly that Member States are not generally cooperating (81% of respondents), whilst only 19% of respondents from national authorities and relevant associations agreed.

Figure 17: Member State cooperation through monitoring compliance with the “stable and effective” criterion, with responses disaggregated by the category of respondent.



When split by EU-15/EU-13 membership, the trends are broadly similar. A greater share of respondents based in EU-15 Member States felt that in general, Member States are not cooperating, whilst respondents from EU-13 States felt that there were only some instances of a lack of cooperation.

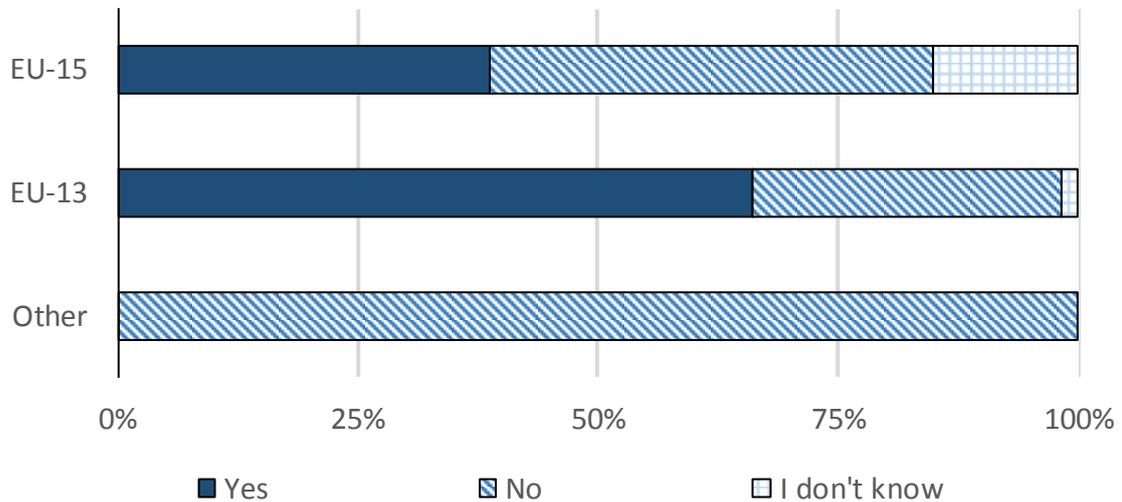
This leads to at least a very important impact on a competitive disadvantage of hauliers from some Member States, according to the respondents (64% of responses). The impact that this has on the costs for both Member States and hauliers is more uncertain (25-32% of responses felt that this has an important impact, whilst 42-63% of responses were “I don’t know”).

“Q13.1. Do you think that the definition of stable and effective establishment of Regulation (EC) No 1071/2009 is sufficiently clear in all relevant aspects?”

When asked about whether the definition is sufficiently clear, the response was mixed. When disaggregated by category of respondent, however, there are a number of contrasting groups. Associations representing road transport workers and individual workers feel strongly that the definition is not sufficiently clear (76%), whilst 65% of small hauliers and 82% of medium-to-large sized hauliers feel that these definitions are in fact clear enough. The reason for this discrepancy remains unclear.

When disaggregated by EU-15 and EU-13 country of origin, respondents from EU-13 Member States appear to be more positive about the clarity of the definition with 65% responding "Yes", whilst for EU-15 responses, this figure drops to 36%. Again, the reason for this discrepancy remains unclear.

Figure 18: Responses to whether the “stable and effective” criterion is sufficiently clear, with responses disaggregated by whether the respondent is based in an EU-15 or an EU-13 Member State.



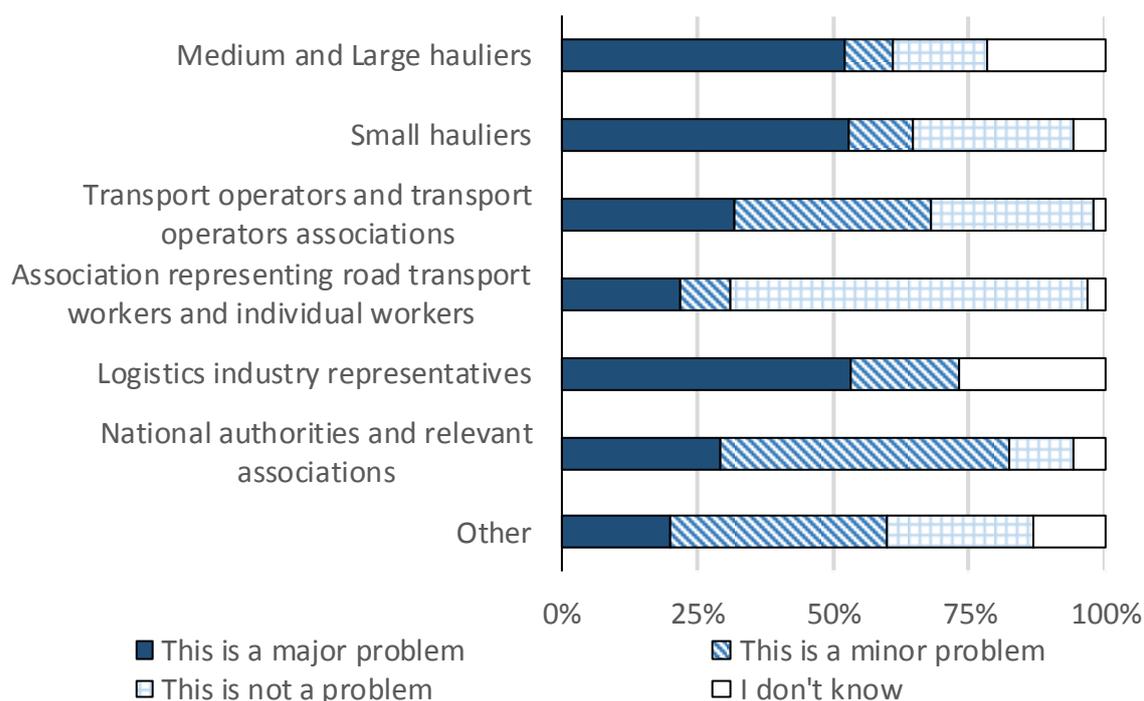
Responses suggest that this lack of clarity can lead to significant impacts on the costs to hauliers, both for compliance and administration (39% and 38% indicated a significant impact respectively). It is also suggested that this may somewhat lead to a competitive disadvantage to hauliers from some Member States. Once again, EU-15-based respondents felt this more strongly than EU-13-based respondents (51% of EU-15 respondents feel this has at least an important impact, in contrast to 25% of EU-13 respondents).

A.4.1.6 Application of the provision of Regulation No 1071/2009 to vehicles below 3.5t by some Member States

“Q14.1. How far do you consider that the application of (some of) the provisions of Regulation (EC) No 1071/2009 to vehicles below 3.5 tonnes by some Member States constitutes a problem for the road haulage sector?”

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. 36% feel this is a problem, whilst 30% do not. When split by the respondent category, however, it is evident that the overall even distribution is influenced by certain groups having strong and differing opinions. 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. The reason for this discrepancy is unclear.

Figure 19: Responses to whether the application of (some of) the provisions of Regulation 1071/2009 to vehicles below 3.5t constitutes a problem, with responses disaggregated by the category of respondent.



When disaggregated by EU-15 and EU-13 Member States, there is also some disagreement. Respondents from EU-13 Member States tended to express that the application of some of the regulations to light HDVs is a major problem (46% of respondents), in contrast to 29% from EU-15 Member States. In addition, the share of respondents who feel that the application to light duty vehicles is not a problem is much larger for respondents based in EU-15 States (38%) than EU-13 States (16%).

63% of respondents felt that this would lead to a competitive disadvantage to hauliers from some Member States. There was less strong agreement for the effect that this would have on the costs borne by Member States and hauliers, with a mixed response to these impacts.

A.4.1.7 Imposition of additional conditions on access to the occupation of road haulier by some Member States

“Q15.1. How far do you consider that the imposition of additional conditions on access to the occupation of road haulier by some Member States constitutes a problem for the road haulage sector?”

52% of respondents 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 (81% felt it is a least a minor problem). This is a view broadly shared by all the respondent categories to differing extents). Respondents from logistics industry representatives and national authorities were felt that this was a problem least. Even in these cases, however, it was felt that this constitutes at least a minor problem for the haulage sector, reflective of the conclusion drawn from the overall distribution.

This is the same as when the results are disaggregated to EU-15 and EU-13 Member States. Although respondents from EU-15 MS appeared to view the severity of this problem less strongly (63% and 44% of respondents considered it a major problem from EU-13 and EU-15 MS respectively), the conclusions drawn from the data are that overall, this is a problem for the road haulage sector.

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 (36% and 43% felt this would have significant impact respectively).

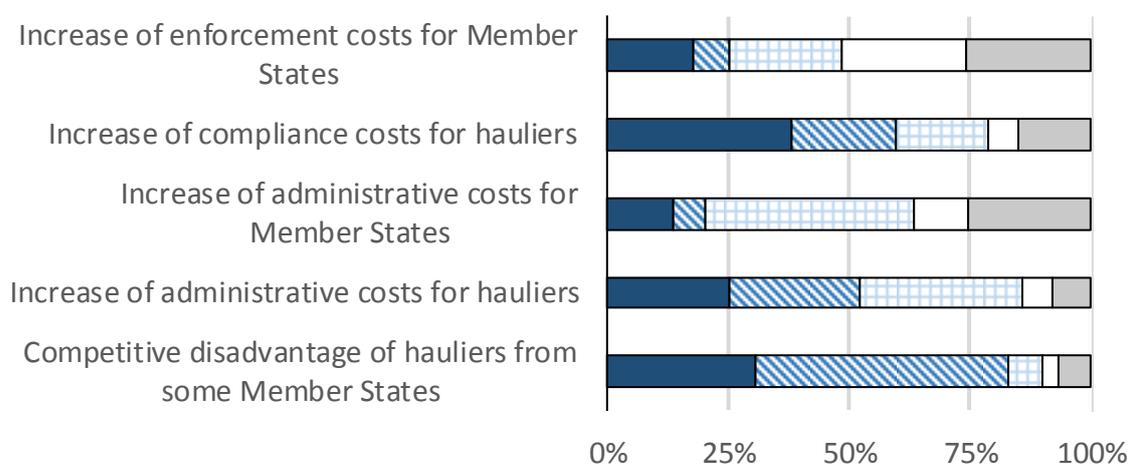
A.4.1.8 Variation of the sanctions for infringements of the Regulations between Member States

“Q16.1. How far do you consider that the variation of the sanctions for infringements of the Regulations between Member States constitutes a problem for the road haulage sector?”

In general, it was felt that the variation of the sanctions for infringements of the Regulations between Member States is a major problem for the road haulage sector. Only 16% of respondents didn't consider this a problem. Whilst 74% considered it a major problem. Most of respondent categories tend to agree with this general view. However, associations representing road transport workers and individual workers strongly oppose this conclusion. 64% of these respondents feel that this is not a problem. There is also strong agreement 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.

When disaggregated by whether the respondent is based in an EU-15 or and EU-13 Member State, it is apparent that the general trends are the same. There is a consensus that this is a major problem for the road haulage sector, with very few responses indicating that it is not a problem. It is strongly agreed that this creates a competitive disadvantage to hauliers from some Member States, whilst it is generally agreed that it would have important impacts on administrative and compliance costs for hauliers, as shown in Figure 20. Clearly, it is widely believed that this is a clear problem with the regulation as it stands, as there is extremely strong agreement between Member States and between responding categories that the variation in the sanctions are causing these problems, and perhaps contributing to further problems discussed above, such as the incentivising the creation of “letterbox” companies.

Figure 20: Response to importance of variation of the sanctions of infringement between Member States has for a number of issues.



■ Significant impact ■ Very important impact ■ Little impact ■ No impact ■ I don't know

A.4.2 Proposed measures of intervention

“Q19. Do you agree with the following tentative objectives of the intervention?”

Overall, the tentative objectives of the intervention have been well received by the respondents, which are;

- To reduce the number of illegal cabotage operations
- To reduce the number of letterbox companies
- To promote more cooperation between Member States in order to allow more effective cross-border enforcement
- To ensure coherent application of the rules in Member States

- To ensure coherent and consistent enforcement of the existing rules in Member States

For all five objectives, there are very few respondents who do not agree. However, the number of "I don't know" responses varies by objective, perhaps a reflection of the uncertain importance of a reflective objective. In particular, cross-border cooperation (16%) and the reduction of "letterbox" companies (17%) were greeted with large proportions of "I don't know" responses. These views are still apparent when results are disaggregated by EU-15/EU-13 membership of Member State, and by respondent category.

The next part of the survey went on to propose a number of measures that may be introduced into the regulations, in an effort to meet the objectives, and the remainder of the report on the stakeholder consultation will seek to assess the opinions of the responding participants to each proposal.

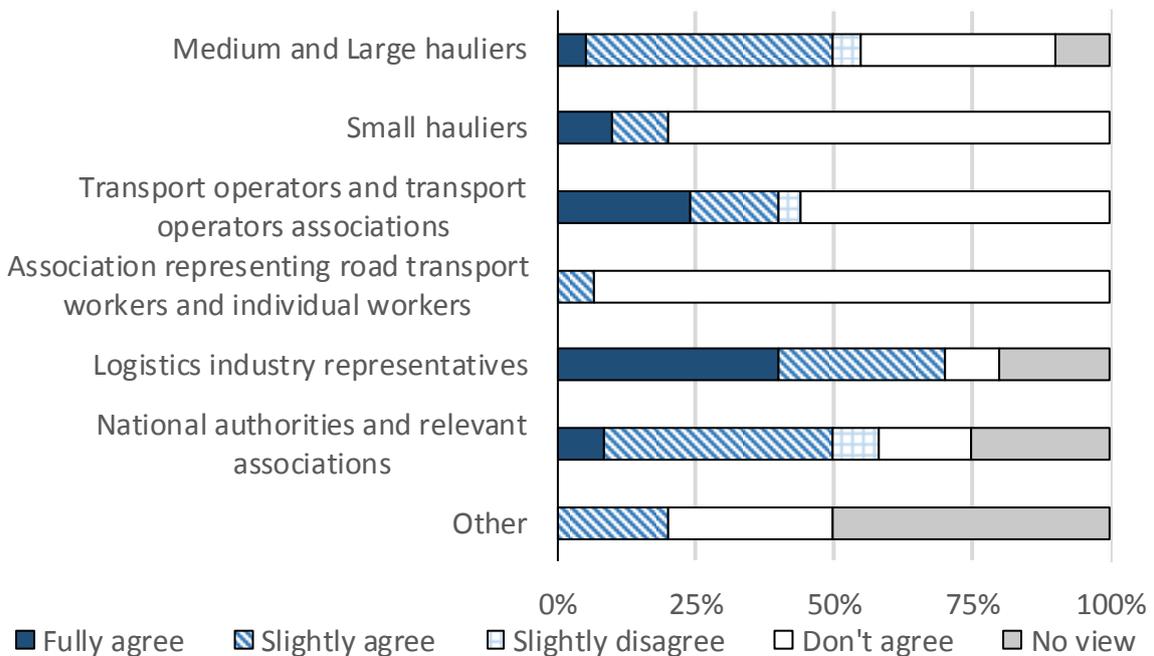
A.4.2.1 Remove maximum number of cabotage operations (currently 3), while reducing the maximum period for cabotage operations (currently 7)

“Q21.1. Remove the maximum number of cabotage operations (currently 3), while reducing the maximum period for cabotage operations (currently 7 days). Do you agree with this measure?”

Respondents didn't agree with this proposed solution in general. 39% of respondents disagreed with the proposed measure to some extent, although when responses which proposed alternative measures are removed, this increases to 56%. However, this view is skewed by the strong alignment of responses from associations representing road workers and individual workers. In this group, when proposed alternative responses are removed, 93% of respondents didn't agree with the proposal. By contrast, some groups were more favourable to the proposal. For example, of respondents from logistics industry representatives, 70% agreed to some extent. The reason for this discrepancy between groups remains unclear.

It was felt that this proposed measure would have at least a positive impact on the reduction of costs of compliance when compared to current rules (49% of responses), and would positively benefit SMEs (39% of responses).

Figure 21: Response to the proposed measure of removing the maximum number of cabotage operations, while reducing the maximum period for cabotage operations, disaggregated by respondent category.

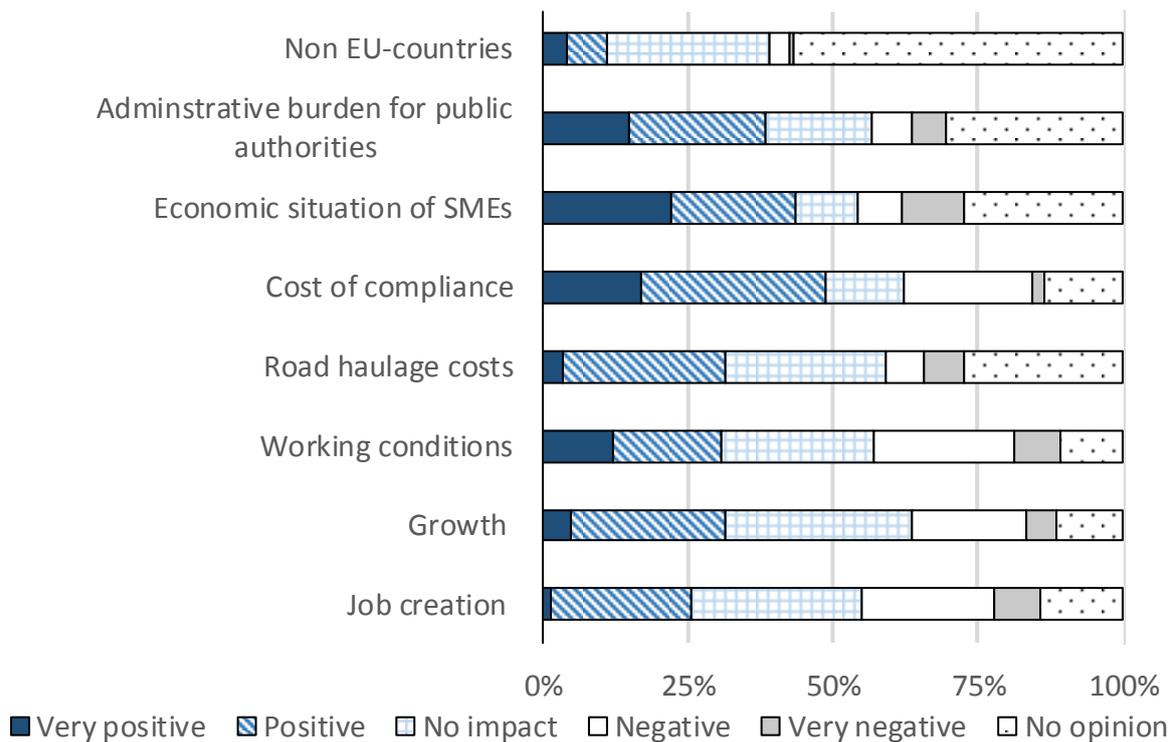


When split by whether the respondent is based in an EU-15 or an EU-13 Member State, the general view remains the same: respondents tended to disagree with the proposal. However, respondents from EU-15 Member States tended to view the proposal more positively, with a greater share of

respondents indicating that they agreed to some extent. Despite this, the conclusions drawn from this analysis are the same.

Despite this negativity towards the proposal, it was felt that the measure would have a positive impact on the costs required to comply with the regulations (48% of responses), whilst also improving the economic situation of SMEs (44%) and reducing the administrative burden for public authorities (39%). However, it was felt that this proposal may have little or even a negative impact on a number of factors including working conditions, and growth and job creation within the haulage sector.

Figure 22: Survey response the effects of removing the maximum number of cabotage operations, while reducing the maximum period for cabotage operations on a number of factors within the road haulage sector



A.4.2.2 Include vehicles of <3.5t within the scope of application of Regulation 1071/2009

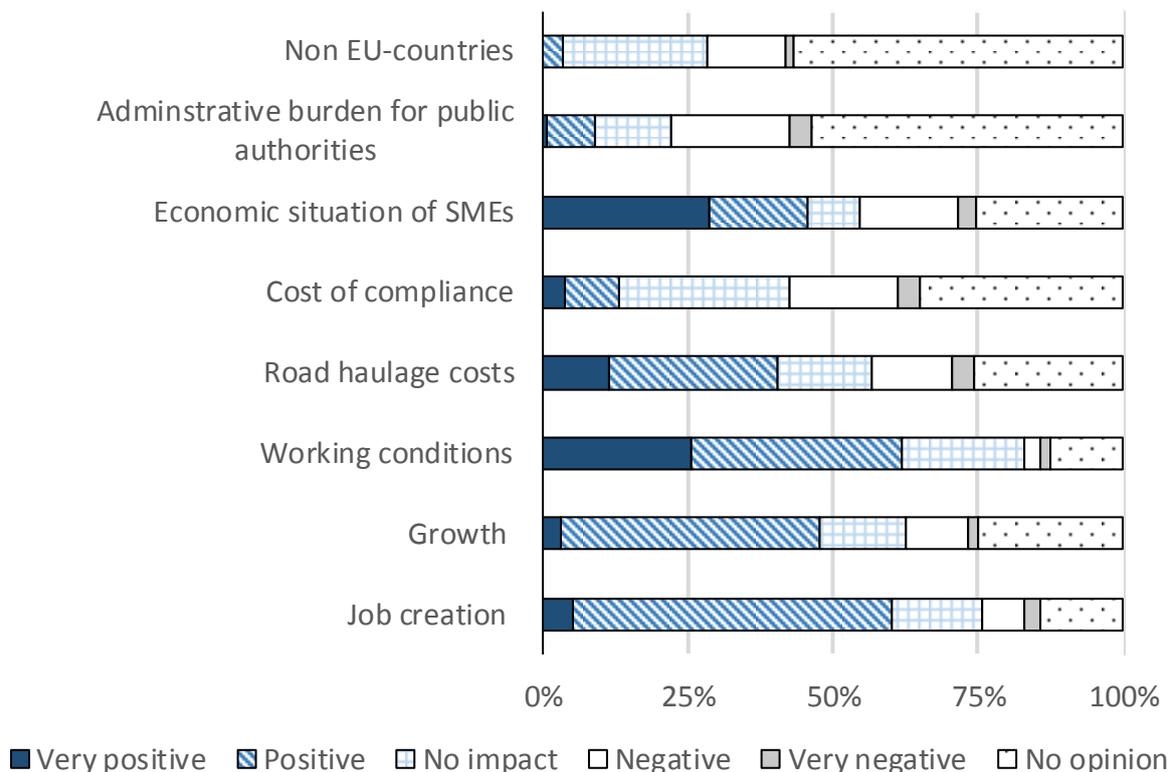
“Q21.2 Include vehicles with less than 3.5 tonnes within the scope of application of Regulation (EC) No 1071/2009. Do you agree with this measure?”

One proposed measure is to include vehicles weighing 3.5t or less, within the scope of application of Regulation 1071/2009. This would mean that, contrary to the present situation, operators using vehicles below 3.5 tonnes would have to comply with (part of) the requirements for access to the occupation of road transport operator (stable and effective establishment, good reputation, financial standing and professional competence).

Overall, there was strong agreement with this measure 67% of responses were positive in some form (49% expressed strong agreement with the proposal). When alternative proposed solutions are removed, then this figure rises to 75% (with 55% expressing strong agreement). The respondent categories that appear to disagree most with the proposed measure is the "Other" group, which includes citizens, consumers and other business sectors. Here, 40% of respondents didn't agree with the proposal. These particular respondents came from a variety of groups, including trade associations, motoring organisations and national business organisations. The other groups tended to show more uniform agreement with the measure, in particular haulier companies 78% of whom strongly agreed with the proposal (after alternative measure suggestions had been removed). When disaggregated by EU-13/EU-15 membership, the trends do not vary between membership.

It was felt that the main areas where this measure would improve the current haulage sector situation is in the job creation (60% of responses) and growth (48% of responses) of the industry, as well as improving the working conditions of the workers already within the sector (62% of responses). The working conditions in particular were thought to an area where improvement could be great, according to the respondents, with 26% suggesting the measure would have a very positive impact. In addition to this, it was felt that the measure would help improve the economic situation of SME's, with 46% of respondents suggesting (28% responded that it would have a very positive impact). By contrast, that this measure would have a negative impact on the administrative burden of public and enforcement authorities. This result would be expected, since under this measure, these bodies would need perform their current monitoring of compliance duties, but to an extended scope.

Figure 23: Survey response on the effects of including <3.5t vehicles within Regulation 1071/2009, while reducing the maximum period for cabotage operations on a number of factors within the road haulage sector



A.4.2.3 Include vehicles of <3.5t within the scope of application of Regulation 1072/2009

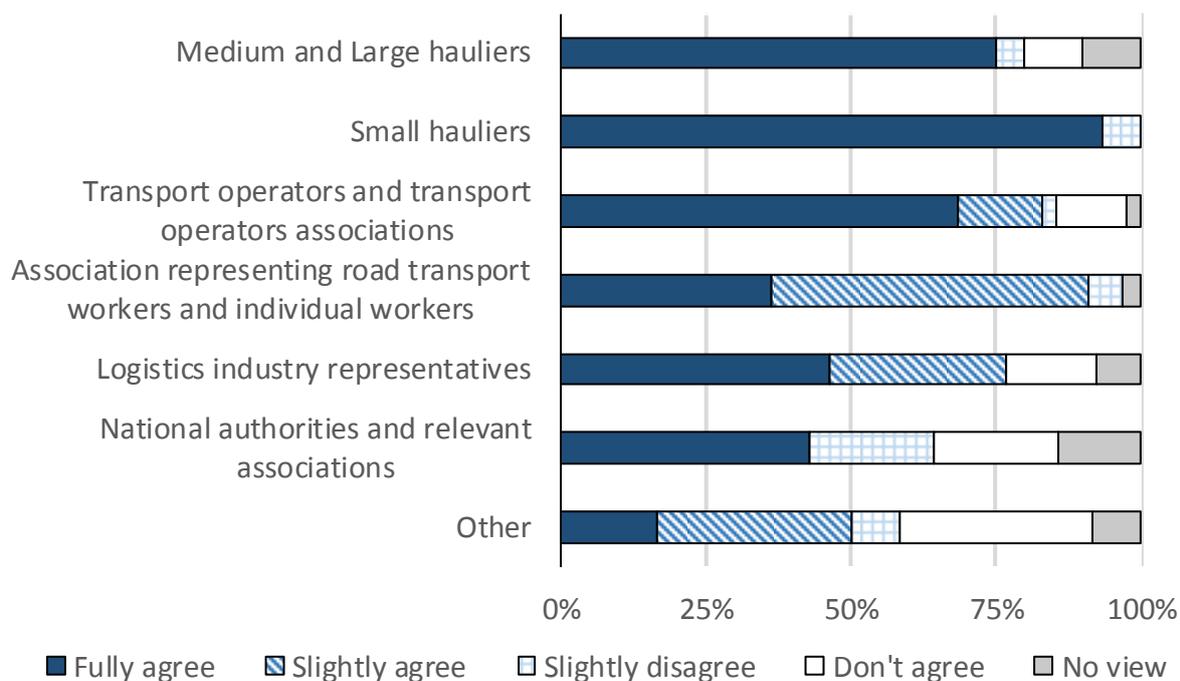
“Q21.3. Include vehicles with less than 3.5 tonnes within the scope of application of Regulation (EC) No 1072/2009... Do you agree with this measure?”

Another proposed measure is to include vehicles weighing 3.5t or less, within the scope of application of Regulation 1072/2009. This would mean that, contrary to the present situation, operators using vehicles below 3.5 tonnes would have to comply with (part of) the requirements for access to the international road transport market (e.g. they would be obliged to respect the cabotage restrictions of the regulation).

Overall, there is strong agreement with this measure. 50% of respondents fully agreed with the proposal, whilst a further 19% indicated slight agreement. Only 15% expressed some disagreement to the proposal. When these results are disaggregated by respondent category, it is immediately apparent that hauliers and transport operators (and associations) are heavily in favour of the proposal. On the other end of the spectrum, national authorities and relevant associations and the miscellaneous “Other” group were the least positive about this proposal, as they were for the previous proposal, which suggested the inclusion of light duty vehicles in Regulation 1071/2009. The reason for this variation remains uncertain, but it may be related to the increased costs that enforcement

authorities are likely to have to bear if the scope of the regulations were to increase. When disaggregated by whether the respondent is based in an EU-15 or an EU-13 Member State, there is little variation in the conclusions drawn from the analysis.

Figure 24: Response to the proposed measure of including vehicles weighing less than 3.5t in the scope Regulation 1072/2009, disaggregated by respondent category.



As with the previous, similar proposal, the main areas where this measure would have a positive effect are the working conditions of the workforce (60% of responses), and job creation and growth within the haulage sector (51% and 51% respectively). There would also be a positive effect on SME's (44%). As before, however, the respondents appear to feel that the impact on the administrative burden for public authorities would be less positive.

A.4.2.4 Review the criteria for stable and effective establishment

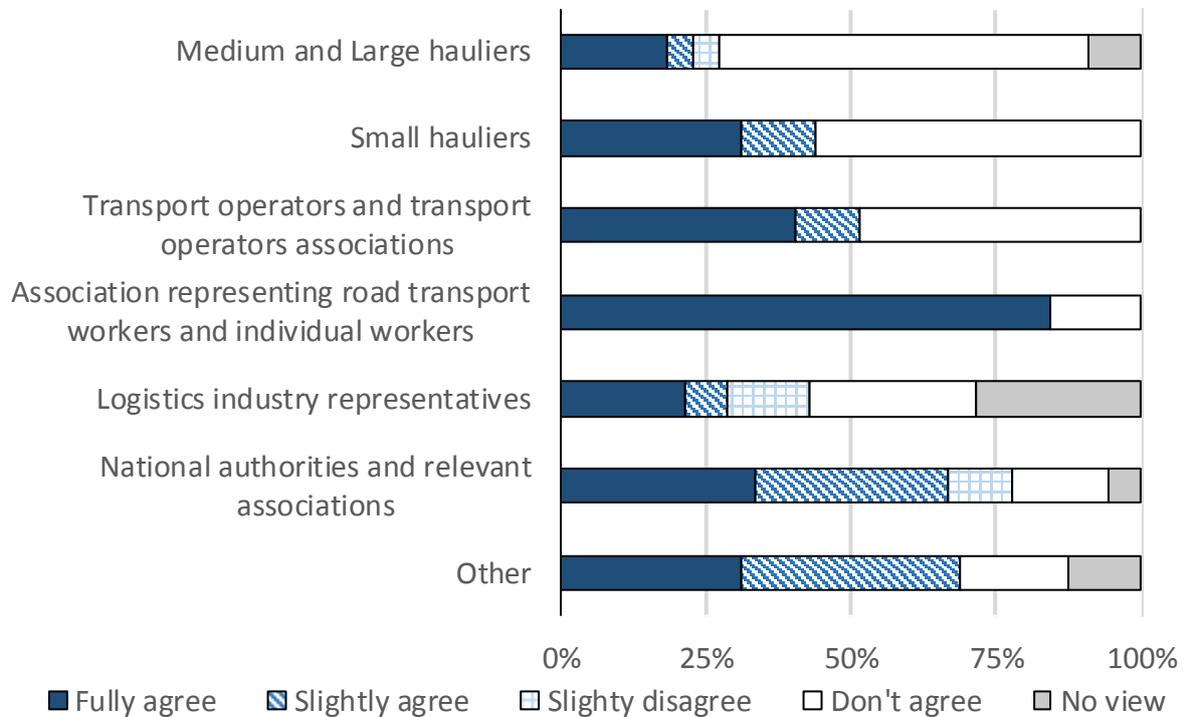
“Q21.4. Review the criteria for stable and effective establishment in order to better ensure that road hauliers have a real activity...Do you agree with this measure?”

One option being considered is to review the criteria for stable and effective establishment in order to better ensure that road hauliers have a real activity. Currently, Regulation (EC) No 1071/2009 includes several conditions used to determine whether an operator has a stable and effective establishment in a given Member State (e.g. it must keep its core business documents in premises located in the Member State of establishment, it must have at its disposal one or more vehicles which are registered in that Member State, etc.).

This proposal garnered a mixed response from the survey respondents. 55% of respondents agreed with the proposal to some extent (42% fully agreed), 39% expressed some disagreement (36% didn't agree at all). This mixed response is reflected by the results when they are disaggregated by the category of respondent. Respondents from associations representing transport workers and individual workers were most in favour of the suggestion (84% of responses expressed full agreement). In contrast to this, respondents from hauliers and transport operators (and their associations), expressed greater disagreement. In total, 63% of respondents from hauliers disagreed with this, whilst 49% of transport operators (and associations) expressed disagreement also. The reason for this disparity remains unclear, but may be related to the impacts that they feel the measure would have on the haulage sector. Interestingly, however, these groups did not express an overall negativity with the

impacts detailed in Figure 26, suggesting that the reason for the disagreement was not available within the survey, and is perhaps a consideration that has so far been missed.

Figure 25: Response to reviewing the stable and effective establishment criterion, disaggregated by respondent category.



When the results are disaggregated by whether the respondent is based in an EU-13 or an EU-15 Member State, there is clearly an opposing opinion prevalent between the two groups. Respondents from EU-15 MS were more in favour of the criteria being reviewed, whereas respondents from EU-13 MS expressed much more disagreement. This disagreement extends to the impacts listed in Figure 27. For the majority of the options listed in the figure, respondents from EU-15 Member States were more positive with respect to the impacts that the measure would have, whilst EU-13 Member States felt that they would have little impact. In some cases, respondents from EU-13 Member States felt that the measure would have a negative impact. For example, they felt that the measure would harm SME's, whilst creating a greater administrative burden for public authorities.

Figure 26: Response to reviewing the stable and effective establishment criterion, disaggregated by whether the respondent is based in an EU-15 or an EU-13 Member State.

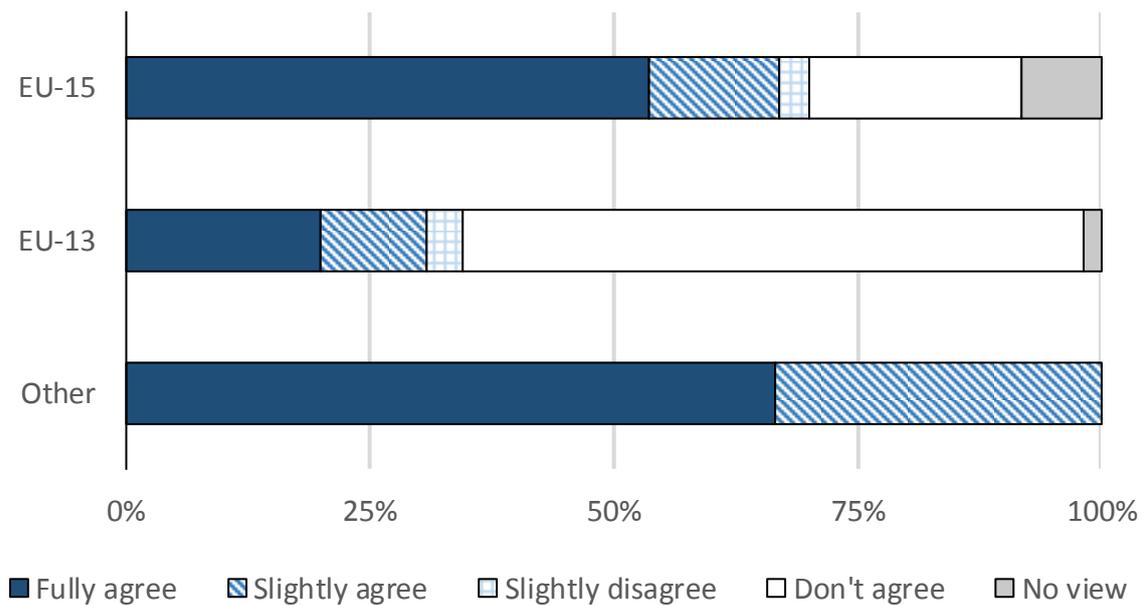
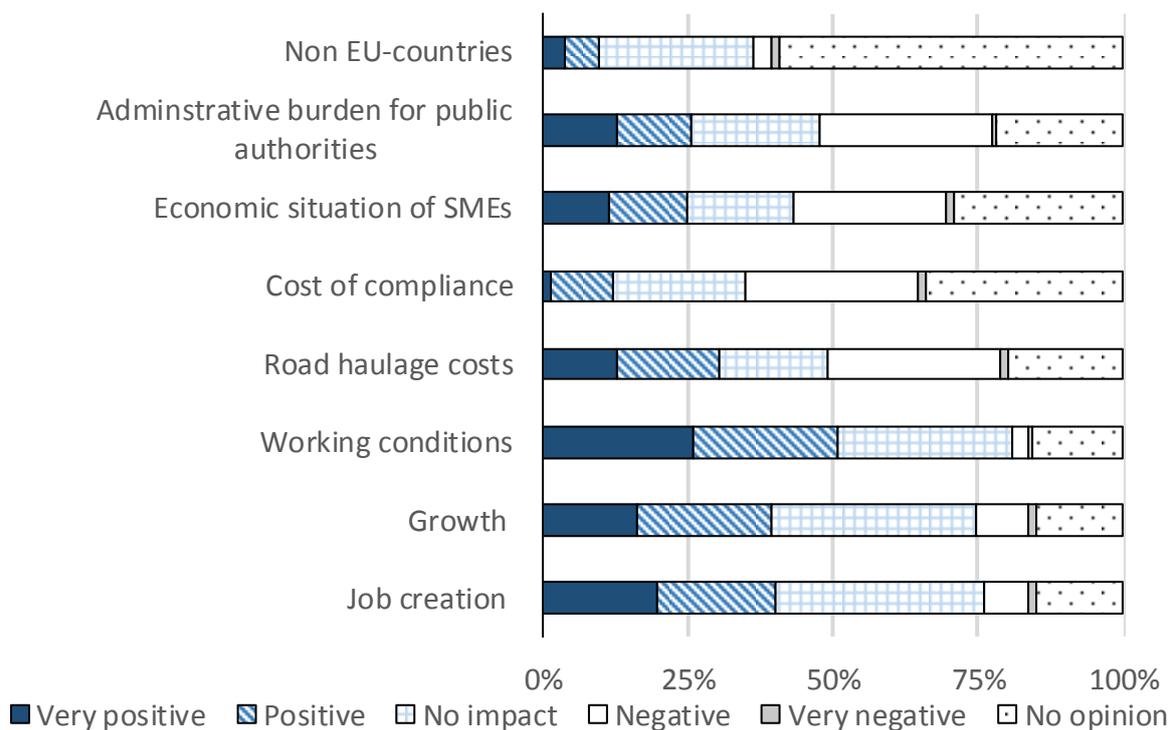


Figure 27: Survey response to the review of the stable and effective establishment criteria



A.4.2.5 Further harmonise the enforcement rules with those of the road transport social legislation

“Q21.5 Further harmonise the enforcement rules with those of the road transport social legislation adopted by the Union...Do you agree with this measure?”

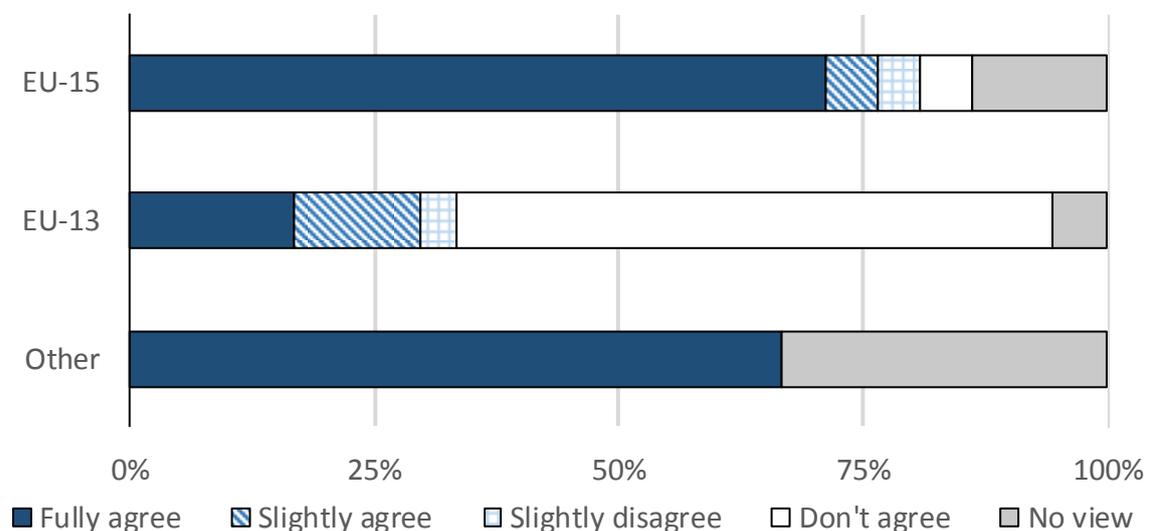
Another option considered within the survey is to further harmonise the enforcement rules with those of the road transport social legislation adopted by the Union. For example, under the social rules each Member State is obliged to organise checks of driving times, rest periods and working time amounting

to at least 3% of the days worked by drivers. Currently, there are no such minimum requirements for example for controls related to the cabotage restrictions. It is considered to impose such minimum checks of compliance with the cabotage provisions.

There is strong agreement with this proposal amongst the survey respondents. 52% of respondents fully agreed with the measure, with a further 8% indicating slight agreement. Only 29% expressed disagreement in any form. However, this is not the case when the results are disaggregated by the category of respondent. Small hauliers (67%), transport operators (and their associations; 61%), and associations representing the road transport operators and individual workers (82%) are strongly in favour of the proposed measure.

Also, when the results are disaggregated into whether the respondent is from a EU-15 or an EU-13 Member State, there is a large disparity in opinion. Respondents from EU-15 MS were much more in favour of the proposal, 71% fully agreed, whilst only 10% disagreed to any extent. By contrast, of respondents from EU-13 MS, 61% strongly disagreed, whilst only 30% agreed to some extent. The reason for this discrepancy remains unclear.

Figure 28: Harmonising the enforcement rules with those of road transport social legislation, disaggregated by whether the respondent is based in an EU-15 or an EU-13 Member State.



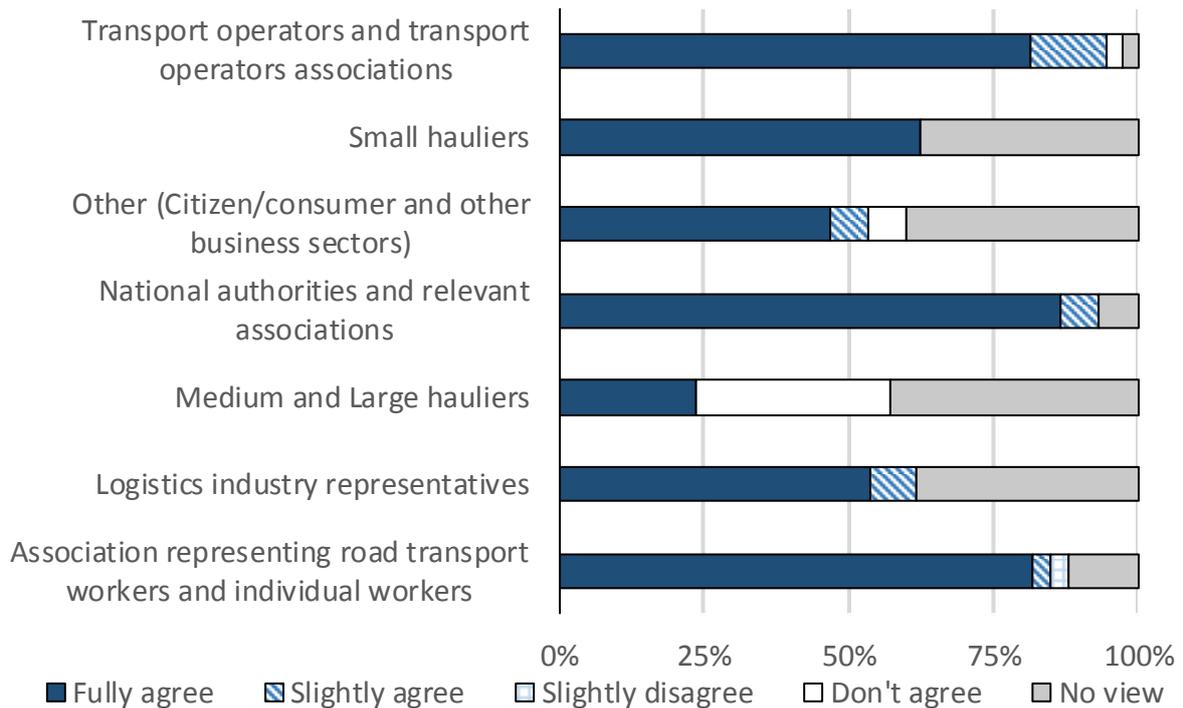
This disagreement extended to when the respondents were asked about the potential impacts of the proposal. The two groups disagreed with one another on whether the measure would encourage job creation and growth in the sector, whilst also disagreeing on whether it would have a positive influence on working conditions within the industry. EU-15 respondents felt that the proposal were likely to have a positive impact on these factors, whilst EU-13 respondents felt that there would be no impact on these factors.

A.4.2.6 Extend access the European Register of Road Transport Undertakings to road-side check officers

“Q21.6. Extend access to ERRU (European Register of Road Transport Undertakings) to road side check officers...Do you agree with this measure?”

One proposal was to extend access to the European Register of Road Transport Undertaking (ERRU) to road side check officers. Currently ERRU is only accessible to enforcement authorities through an administrative request. The access to ERRU could be extended to road side officers to help them check in real time whether a company is registered and entitled to carry out international transport operations. This would also allow them to identify high-risk companies thanks to the possibility of checking which most serious offences the company has been convicted for (if any).

Figure 29: Extending access to the European Register of Road Transport Undertakings to road-side check officers, disaggregated by respondent category.



This proposed measure was strongly received throughout the population of survey respondents. 66% strongly agreed with the measure, whilst only 6% disagreed in some form. This was a fairly consistent view across all respondent categories, with the notable exception of medium and large hauliers. In this group, 32% strongly disagreed with the measure. In fact, 77% of all responses which expressed such disagreement arise from this group. The reason for this discrepancy remains unclear. When disaggregated into whether a respondent is from an EU-13 or an EU-15 Member State, there remains general agreement with the proposal, and the distribution between the two groups is largely the same.

It was felt that this would have the largest positive impact on the working conditions within the sector. 64% felt it would have a positive influence (31% felt it would have a very positive impact). For the other factors considered however, a large share of responses felt there would be no impact.

A.4.2.7 Penalties for shippers and freight forwarders if they knowingly commission transport services involving infringements of the regulations

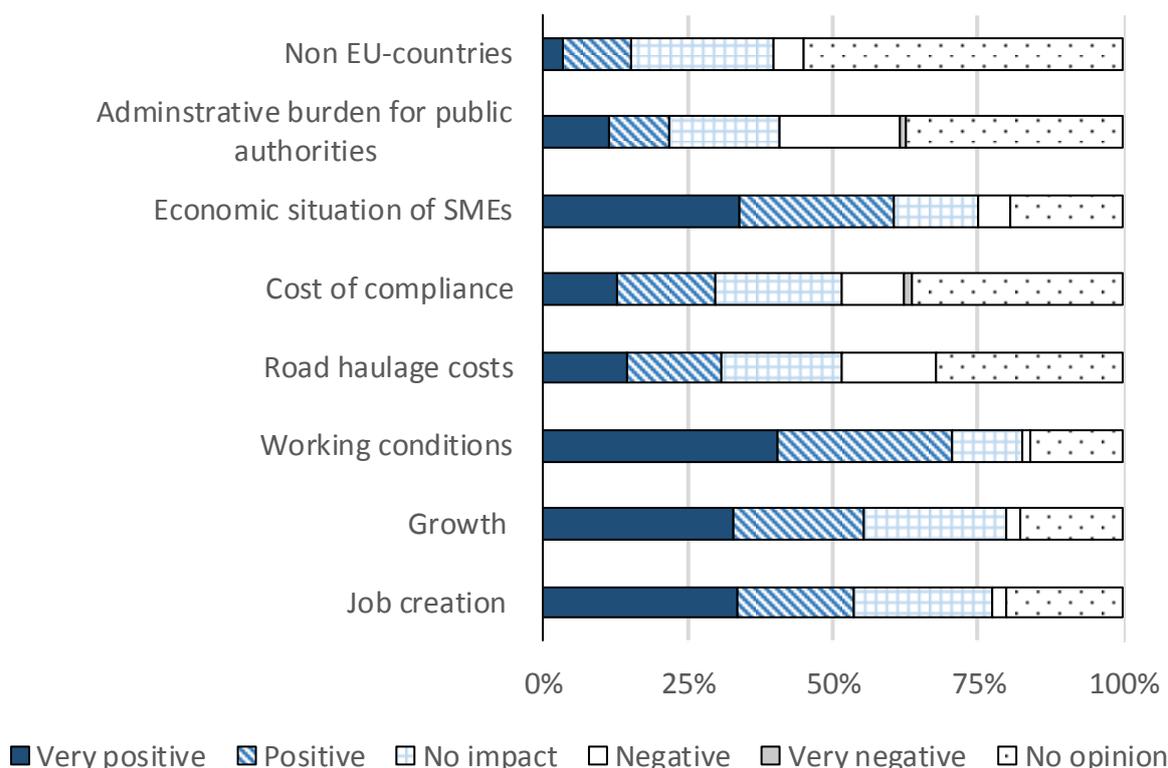
“Q21.7. Introduce penalties for shippers and freight forwarders in case they knowingly commission transport services involving infringements of the Regulations (e.g. illegal cabotage operations)...Do you agree with this measure?”

Another proposed measure was to introduce penalties for shippers and freight forwarders if they knowingly commission transport services which involve infringements in the regulations (e.g. illegal cabotage operations), in an effort to try and dis-incentivise such behaviour. This proposal was greeted extremely positively from the respondents. 86% agreed with the proposal to some extent (68% fully agreed), whilst 11% disagreed. This was met with general positivity across all respondent categories, although the exact share of respondents who disagreed with measure does vary somewhat between categories, reaching a maximum with medium and large hauliers, 29% of whom expressed disagreement.

When the results are disaggregated into respondents from EU-15 or EU-13 Member States, again the general view between the two groups is consistent with the overall conclusion.

It was felt that this proposal would have a positive impact on working conditions (71% of responses), on the economic situation of SMEs (60%), job creation (54%), and growth (55%). The only area where the level of impact was more mixed was for the administrative burden for public authorities, the number of respondents who expressed agreement and disagreement was the same.

Figure 30: Survey response to the introduction of penalties for shippers and freight forwarders who knowingly commission transport services which involve infringements of the regulations.



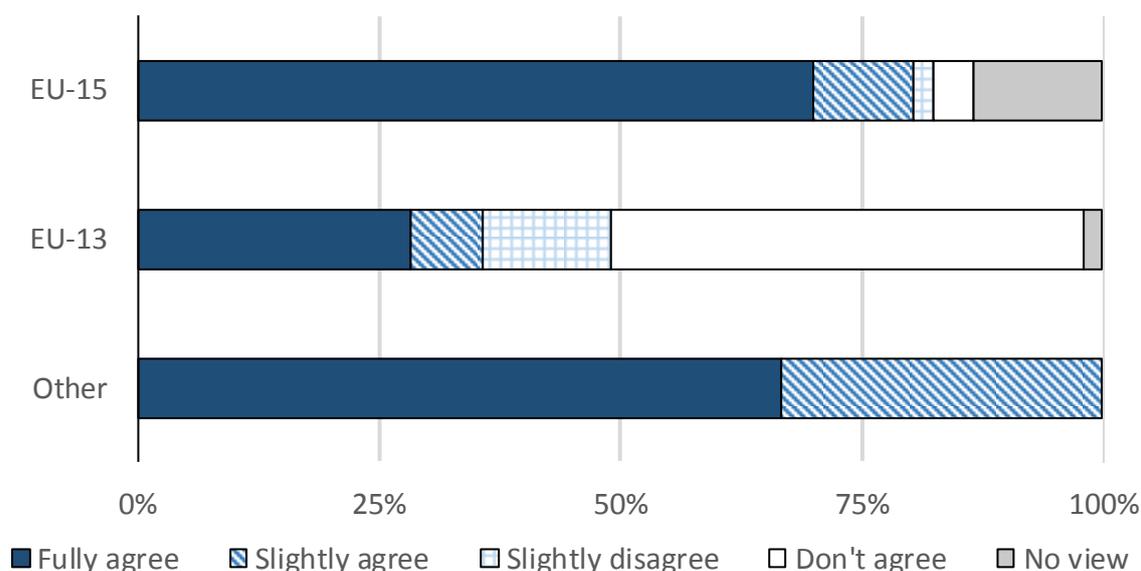
A.4.2.8 Include conditions on establishment, financial standing and professional competence into the European Register of Road Transport Undertakings

“Q21.8. Include the conditions on establishment, financial standing and professional competence in ERRU...Do you agree with this measure?”

A further proposed measure to the regulations is to include the conditions on establishment, financial standing and professional competence in ERRU. Currently ERRU only contains information on good repute. It could be extended to include the conditions on establishment, which would allow Member States to look for letterbox companies in other Member States, for example. Once again, this measure was met with overall agreement (63% agreed, 42% fully agreed), whilst only 27% expressed disagreement in some form.

Most respondent categories echoed this conclusion. The group which expressed the largest disagreement to the proposed measure were medium and large hauliers, 62% of these respondent strongly disagreed with the proposal, whilst only 29% expressed some agreement. The reason for this anomalous response remains unclear. There is also some opposition to the proposal from respondents from EU-13 Member States. In all, 58% disagreed with the proposal, in stark contrast to the 5% of respondents from EU-15 Member States. Once again, this extends to the impacts that the proposal would have, with respondents from EU-13 Member States feeling that the measure would have no impact, whilst EU-15 respondents were much more in favour.

Figure 31: Include conditions on establishment, financial standing and professional competence into the ERRU, disaggregated by whether the respondent is based in an EU-15 or an EU-13 Member State.



Overall, it was felt that this proposed measure would have a positive impact on the road haulage sector, improving working conditions, growth and job creation significantly. Very few respondents felt that this proposal would return a negative impact. The only area where more negativity was expressed was for the administrative burden for public authorities, where 20% thought it would have a negative impact (39% when “No opinion” responses are excluded).

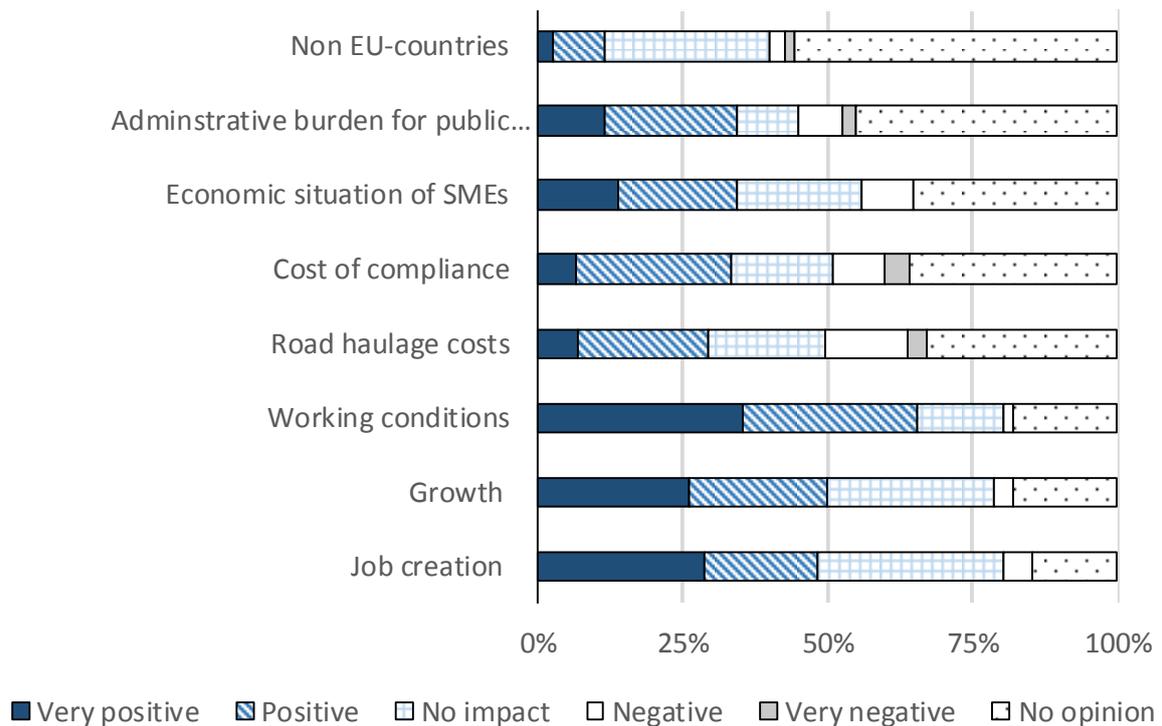
A.4.2.9 Promote the use of the digital tachograph to identify the start and end of cabotage period and target cabotage checks.

“Q21.9. Promote the use of the digital tachograph equipped with Global Navigation Satellite System (GNSS) capability to identify start and end of cabotage period and target cabotage checks...Do you agree with this measure?”

Another proposed measure to introduce into the regulations is to promote the use of the digital tachograph equipped with Global Navigation Satellite System (GNSS) capability to identify start and end of cabotage period and target cabotage checks. The digital tachograph equipped with a GNSS function will be available from 2016-2017 and thanks to its new satellite positioning function, will allow enforcers to check from the roadside the movements of a vehicle. This way, enforcement officers can filter vehicles for checks. Compliant vehicles would not be unnecessarily stopped.

This proposal was met with strong agreement. 82% agreed with the proposal to some extent (64% strongly agreed), whilst only 13% disagreed. As before, there is general agreement amongst all respondent categories, although the exact share of respondents who disagreed with the proposal varies between groups. Of respondents from medium and large hauliers, 41% expressed disagreement (in this case, 50% expressed some agreement however), representing the strongest opposition to the measure. There is little variation between respondents from EU-13 and EU-15 Member States. It was felt that this would have an overall positive impact on all factors within the haulage sector that the survey questioned. In all, there were few responses which felt that this measure would bring a negative impact, and there was particular positivity for the improvement in working conditions (66% of responses), growth within the haulage sector (50%) and job creation (48%).

Figure 32: Survey response to promoting the use of digital tachograph technology to identify the start and end of cabotage periods and target cabotage checks.

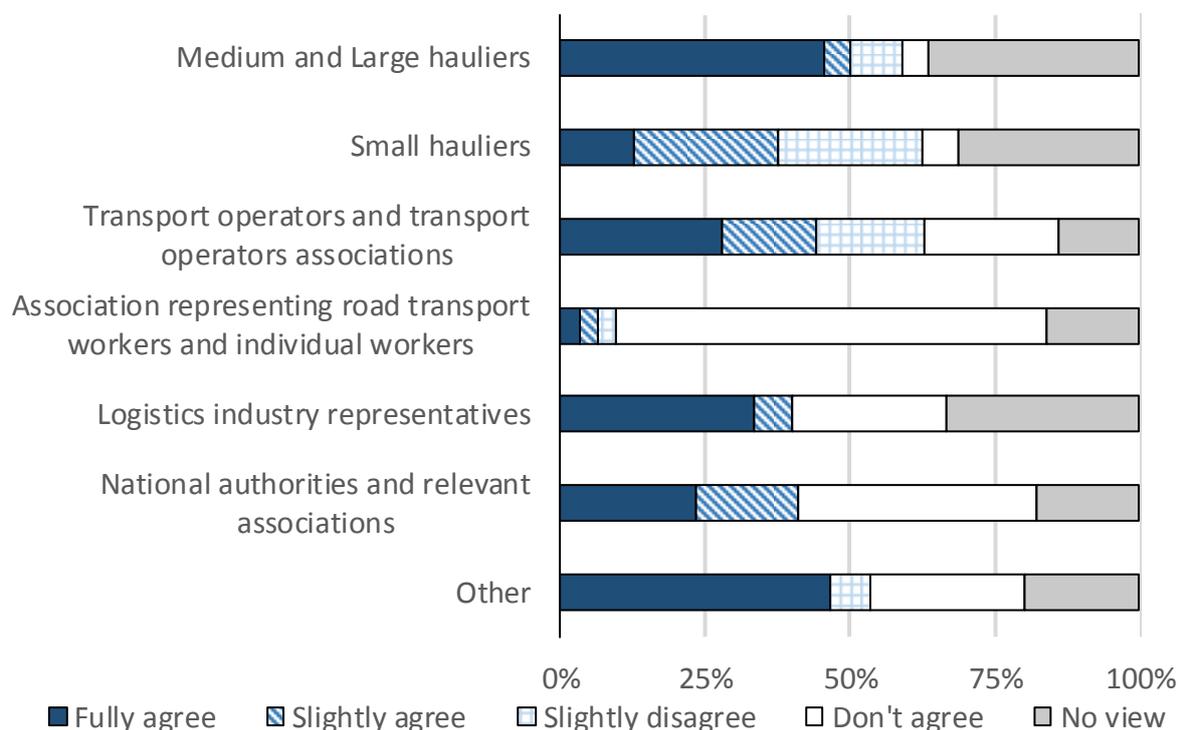


A.4.2.10 Remove the possibility for Member States to add additional requirements for establishment

“Q21.10. Remove the possibility for Member States to add additional requirements for establishment...Do you agree with this measure?”

One more proposed measure to amend the regulations is to remove the possibility for Member States to add additional requirements for establishment. Currently, Member States may introduce requirements for engagement in the occupation or road transport on top of those laid down in Regulation (EC) No 1071/2009 (stable and effective establishment, good repute, financial standing and professional competence), provided that these are proportionate and non-discriminatory. This possibility could be removed in order to promote a more consistent enforcement across all Member States.

Figure 33: Removing the possibility for Member States to add additional requirements to establishment, disaggregated by respondent category.



This proposal garnered a mixed response from the survey respondents. Whilst 37% expressed agreement with the measure, 42% didn't agree. As Figure 33 shows, the distribution of results amongst respondent categories is also highly variable. Whilst some groups, for example medium to large hauliers, appear to be strongly in favour of the proposals, others such as associations representing road transport workers and individual workers are heavily against it. The reason for this discrepancy remains unclear at this stage. Most respondent categories tend to share the mixed view that the overall analysis suggests. When disaggregated by whether the respondent is based in an EU-15 or an EU-13 Member State, the share of responses follows a similar distribution.

Perhaps reflective of the mixed opinions on the proposal, its impacts also drew a less positive response when compared to measures previously discussed. The share of respondents who responded positively to these factors, however, was much larger than those who thought it would have a detrimental effect. Respondents instead appeared less convinced that it would have any impact on these factors at all.

A.4.2.11 Facilitate cross-border checks on establishment provisions

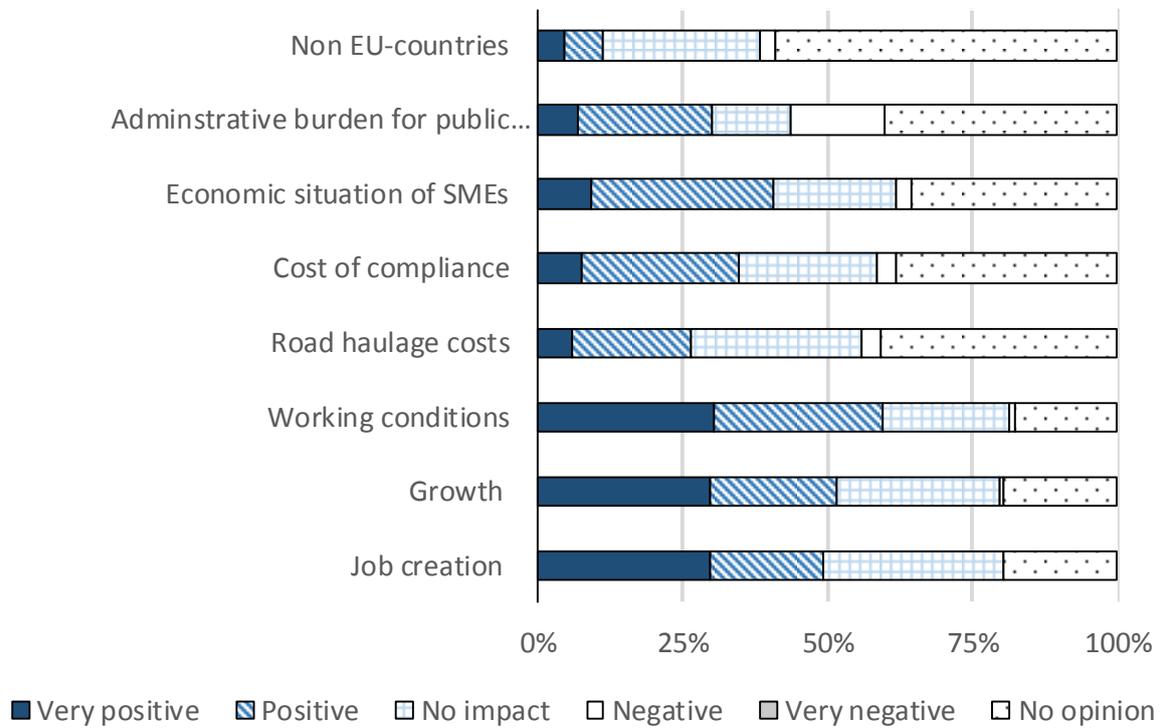
“Q21.11. Facilitate cross-border checks on establishment provisions, for example by introducing a maximum time period for replies by one Member State to questions by another Member State regarding establishment (along with a procedure for escalation if these timescales are not met). Do you agree with this measure?”

One proposed measure is to facilitate cross-border checks on establishment provisions, for example by introducing a maximum time period for replies by one Member State to questions by another Member State regarding establishment (along with a procedure for escalation if these timescales are not met). This was met with overwhelming positivity. 83% of respondents agreed with this proposed measure (48% of respondents fully agreed), whilst only 6% disagreed. This view is shared across all respondent categories. Also, when disaggregated by whether a respondent is based in an EU-13 or and EU-15 Member State, the distribution is largely similar. Respondents from EU-13 Member States tended to express only slight agreement in contrast to the large proportion of respondent from EU-15 Member States whom tend to respond with full agreement.

It was felt that this would have a positive influence on a number of factors within the haulage sector, in particular working conditions (60% of responses), growth in the sector (52%) and job creation (49%).

There were very few responses that thought the proposal would have a negative impact on the sector, although a fairly large share of respondents for each option seemed to think it would have no impact whatsoever, as Figure 34 demonstrates.

Figure 34: Survey response to facilitating cross-border checks on establishment provisions



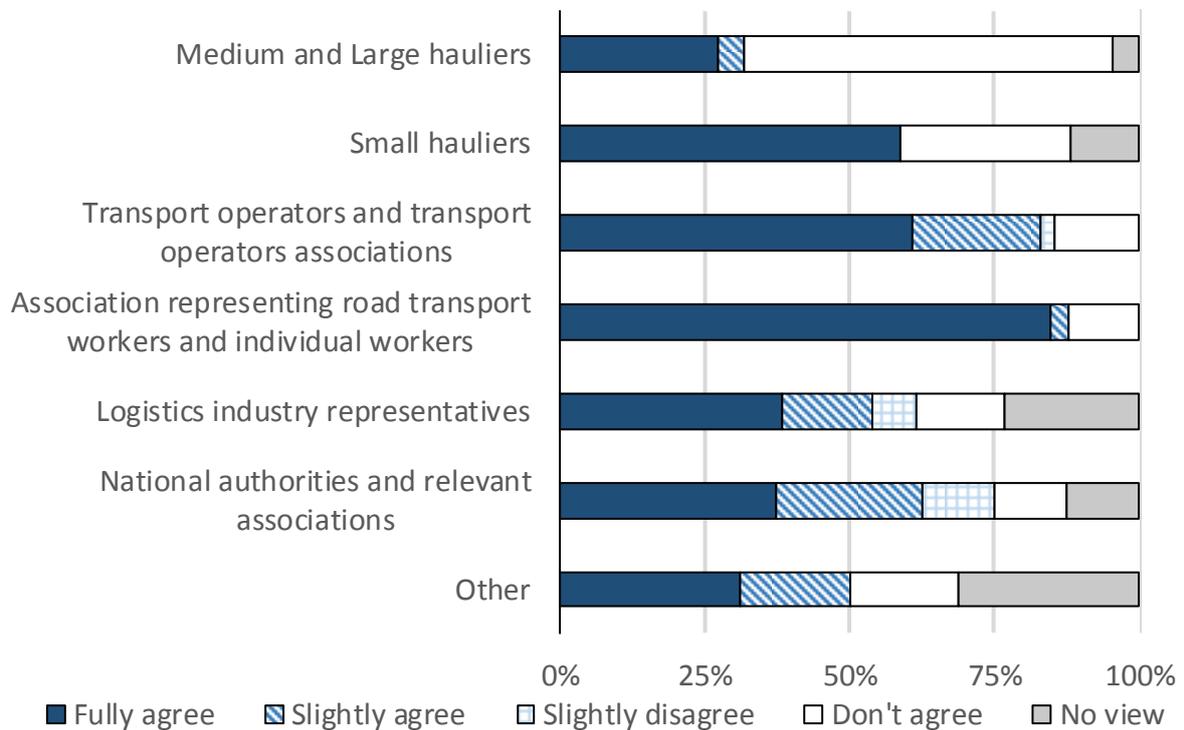
A.4.2.12 Open up national risk-rating systems to other Member States in order to promote the exchange of information on high-risk companies

“21.12. Open up the national risk-rating systems to other Member States in order to promote exchange of information on high-risk companies and to target checks...Do you agree with this measure?”

One proposal designed to improve the monitoring of high-risk companies across Member States is to open up the national risk-rating systems to other Member States in order to promote exchange of information on high-risk companies and to target checks. Under Regulation (EC) No 1071/2009 Member States are required to put in place a risk classification system for hauliers covering infringements which may lead to a loss of good repute (and consequently to a loss of access to the profession of road transport operator). However, there is no requirement for Member States to give enforcement authorities from other Member States access to these risk-rating systems at the moment.

Overall, 66% of respondents felt agreed with this proposal, whilst 25% disagreed. When split by respondent category, it is apparent that the extent to which each group agrees with the proposal strongly differs. Small hauliers, transport operators (and associations) and associations representing road transport workers and individual workers strongly agree with the measure. Medium and large hauliers represent the group of greatest opposition to the proposal. 64% strongly disagreed with the measure, a much larger proportion than for any other respondent category, as Figure 35 shows.

Figure 35: Open up national risk-rating systems to other Member States in order to promote exchange of information on high-risk companies, disaggregated by respondent category.



When split by whether the respondent is based in EU-15 or EU-13 Member States, there is a difference of opinion also apparent. Respondents from EU-15 Member States were much more in favour of the proposal, with 84% expressing agreement with the measure, whilst this drops to 36% for respondents from EU-13 Member States (in addition, 54% strongly disagreed).

Figure 36: Open up national risk-rating systems to other Member States in order to promote exchange of information on high-risk companies, disaggregated by whether the respondent is based in an EU-15 or an EU-13 Member State.

