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**COMMISSION STAFF WORKING PAPER**  
**SUMMARY OF THE IMPACT ASSESSMENT**

*Accompanying the document*

**PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF  
THE COUNCIL**

**amending Council Regulation (EEC) No 3821/85 on recording equipment in road  
transport and amending Regulation (EC) No 561/2006 of the European Parliament and  
the Council**

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This document provides the executive summary of the Impact Assessment Report on measures enhancing the effectiveness and efficiency of the tachograph system that accompanies the forthcoming revision of Council Regulation (EEC) No 3821/85.

**1. PROBLEM DEFINITION**

- (1) Since 1969, the European Union (EU) has laid down social legislation in the field of road transport to improve road safety and drivers' working conditions, and to ensure fair competition among transport companies. Regulation (EC) No 561/2006<sup>1</sup> lays down maximum daily and weekly driving times and minimum daily and weekly rest periods for drivers. The EU has developed a comprehensive policy on inspecting and checking compliance with social road transport legislation through Directive 2006/22/EC<sup>2</sup> and Council Regulation (EEC) No 3821/85<sup>3</sup>, referred to as 'the Tachograph Regulation'.
- (2) The Tachograph Regulation sets technical standards, establishes the rules on the use, type approval, installation and inspection of tachographs. It therefore creates a range of legal obligations for manufacturers, authorities, transport operators and drivers. For the time being, two types of recording equipment are in use. In addition to a digital tachograph introduced in vehicles registered after 1 May 2006, the analogue tachograph has been in use since 1985 and is still used in older vehicles.

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<sup>1</sup> Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 OJ L 102, 11.4.2006, p.1-13.

<sup>2</sup> Directive 2006/22/EC of the European Parliament and of the Council on minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and (EEC) No 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive 88/599/EEC OJ L 102, 11.3.2006, p. 35-43.

<sup>3</sup> Commission Regulation (EU) No 1266/2009 of 16 December 2009 adapting for the tenth time to technical progress Council Regulation (EEC) No 3821/85 on recording equipment in road transport, OJ L 339, 22.12.2009, p. 3–23.

- (3) On the basis of the consultations and expert reports undertaken<sup>4</sup>, the Commission has identified two main problems that needs to be tackled at EU level:
- According to data available, a significant share of controlled vehicles is found breaching the social rules. Roughly one fourth of these are found breaching tachograph rules in particular. On average, at any point in time, around 45000 vehicles are in breach of EU tachograph rules. Such persistent non-compliance with obligations for minimum rest periods and the resulting driver fatigue can be estimated to produce an increase in the societal cost of accidents of close to €2.8 billion. It also gives undue competitive advantage to those breaking the law, with negative impact on the functioning of the internal market and causing severe health implications for the drivers.
  - There is room to improve further the way in which the (digital) tachograph facilitates drivers' work and supports transport efficiency. Although the introduction of the digital tachograph has already substantially reduced the administrative burden on the various stakeholders, the cost of compliance, estimated to be approximately €2.7 billion, is still too high.
- (4) These two problems are driven by the overall vulnerability of the tachograph system to fraud; low effectiveness of controls and insufficient dissuasive effect of sanctions; and finally, the use of the tachograph system is not sufficiently optimised. The problem areas behind each of the three drivers are listed in Table 1 below.
- (5) While the problems identified primarily affect the drivers of heavy duty vehicles, and firms using the tachograph, the Member States and their inspection authorities, tachograph manufacturers and other road users are also impacted.

**Table 1 Synoptic table of drivers and problem areas**

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<sup>4</sup> These include consultation within the designated Committee with Member States and stakeholders (including inspection and police organisations as well as manufacturers); the SMART Project; the report of the Joint Research Centre; the public stakeholder consultation from December 2009 to March 2010; the consultation of the sectoral social dialogue committee on road transport, and an independent expert report validated by an expert panel of relevant organisations.

| <i>Identified drivers</i>  | <i>Problem areas</i>  |
|--|---|
| <b>Driver 1: Vulnerability of the tachograph system</b>  | Seals do not perform properly as an indicator of tachograph manipulation    |
|  | Vulnerabilities of encryption technology                                    |
|  | Misuse of driver cards  |
|  | Fraudulent or negligent workshops   |
| <b>Driver 2: Low effectiveness of controls and insufficient dissuasive effect of sanctions</b> | Non-harmonised training of enforcement officers                             |
|  | Scope of data from the digital tachograph available to enforcement officers |
|  | Sanctions policy  |
| <b>Driver 3: The use of the tachograph system is not sufficiently optimised</b>                | Inadequate provisions of the Tachograph Regulation                          |
|  | Technical limitations of the digital tachograph                             |
|  | Tachograph does not sufficiently facilitate drivers' work                   |

## 2. ANALYSIS OF SUBSIDIARITY

- (6) This impact assessment is concerned with measures to enhance the effectiveness and efficiency of the tachograph system used to ensure compliance with the above mentioned social legislation. It explores and analyses options for revising Regulation (EEC) No 3821/85, which is based on Article 71 of the EEC Treaty (91 of the TFUE). The EU added value was established when this Regulation was introduced and the arguments which substantiate this added value still hold.
- (7) These arguments are predicated upon the ever-increasing reality that road transport within the EU is transnational in nature. This is because of increasing cross-border trade and economic growth, which have in part been facilitated by EU enlargement and the liberalisation of the road haulage industry in Europe. Social legislation is harmonised at EU level, and verifying compliance with this legislation requires recording equipment to be interoperable between Member States. Given the increasingly transnational nature of road freight transport in the EU and the harmonised nature of social legislation, it would not be desirable to revert to regulating recording equipment at national level — not least because this kind of regulation has been carried out at EU level for the past 25 years.
- (8) As regards sanctions, the Commission report on penalties<sup>5</sup> showed the divergences between sanctions applied by Member States for infringements against the Tachograph Regulation. The manipulation of tachographs is already classified by the

<sup>5</sup> COM(2009)225.

EU legislation as one of ‘the most serious infringements’ within the broader list of infringements to commercial road transport rules<sup>6</sup>. But without harmonising a minimum degree of deterrent effect of sanctions imposed by Member States, such a classification does not necessarily lead to strict compliance with rules, as companies react to actual sanctions and not to the classification of infringements.

### 3. OBJECTIVES OF EU INITIATIVE

- (9) The overall aims of road transport social legislation (the rules on driving time and rest periods) are to improve road safety and drivers’ working conditions and to ensure fair competition between transport companies. The social legislation in road transport is therefore an essential element of the Common Transport Policy to attain Treaty goals such as improving transport safety (Article 91.1(c) TFUE<sup>7</sup>), social progress (Article 3.3 TEU<sup>8</sup>) and establishing an internal market (Article 3.3 TEU). The Tachograph Regulation is the main tool for monitoring and enforcing compliance with the social legislation on road transport, and the general goal of the proposals which accompany this impact assessment includes the contribution to the abovementioned Treaty goals.
- (10) At the same time, the intention of the Commission is also to contribute to the goals set out by the Communication on Better Regulation for Growth and Jobs in the European Union<sup>9</sup> and the Strategy for the simplification of the regulatory environment<sup>10</sup>. The proposals should also contribute to the goal ‘to reduce administrative burden on companies, and improve the quality of business legislation’ set out in the Europe 2020 flagship initiative ‘An industrial policy for the globalisation era’.<sup>11</sup>
- (11) This general objective can be translated into the following specific objectives: first, to improve the trustworthiness of the recording equipment; second, to increase the efficiency of the checks on compliance with social legislation on road transport; and third, to reduce the costs of using the recording equipment, partly by reducing the administrative burden related to its use.
- (12) Some data concerning road transport are collected at an EU level and could be used for monitoring the impact of the proposed regulation on the specific objectives listed above<sup>12</sup>. In this context, the following operational objectives were chosen for their usefulness in indicating the level of achievement of the specific objectives:

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<sup>6</sup> Regulation (EC) No 1071/2009 of the European Parliament and of the Council establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC OJ L300, 12.11.2009, p.51-71.

<sup>7</sup> Treaty on the Functioning of the European Union.

<sup>8</sup> Treaty on European Union.

<sup>9</sup> Communication from the Commission, Better Regulation for Growth and Jobs in the European Union, COM(2005) 97 final.

<sup>10</sup> Communication of the Commission, Implementing the Community Lisbon programme: A strategy for the simplification of the regulatory environment, COM(2005) 535 final.

<sup>11</sup> Communication of the Commission, An Integrated Industrial Policy for the Globalisation Era — Putting Competitiveness and Sustainability at Centre Stage, COM(2010)614.

<sup>12</sup> Cf. notably Eurostat statistics and EU energy and transport in figures.

- Eliminate the ‘most serious infringements’<sup>13</sup> against tachograph rules by 2020 (monitored by the Commission on the basis of the future reports submitted by Member States for the bi-annual report);
- Double by 2020 the detection rate of infringements of social legislation per vehicle controlled in a roadside check compared to 2008 (monitored by the Commission on the basis of the future reports submitted by Member States for the bi-annual report);
- Reduce the administrative burden related to the use of the digital tachograph by 20% before 2020 compared to 2010 (based on the estimations provided by the Stoiber Group and the EU project on baseline measurements and reduction of administrative costs<sup>14</sup>).

#### 4. POLICY OPTIONS

- (13) The stakeholder consultations and expert reports on the topic<sup>15</sup> allowed the Commission to identify a broad set of individual measures having the potential to address the problems identified. This was followed by a pre-screening of possible measures.
- (14) Thereafter policy packages have been established that constitute viable policy alternatives for achieving the objectives. Forming policy packages was needed as, in terms of security, the trustworthiness of the system depends on the security of many of its elements; and because different legislative procedures were required (comitology vs co-decision). The policy packages can be described in brief as follows:
- Policy Package 1 (PP1) is a technical package aiming simply at improvements to the current tachograph device.
  - Policy Package 2 (PP2) is also a package of technical measures, but which would substantially widen the functionalities of the digital tachograph, leading to a new type of digital tachograph.
  - Policy Package 3 (PP3) includes non-technical measures in addition to the measures in PP1.
  - Policy Package 4 (PP4) is a combination of technical and system improvement measures (PP2+PP3).
- (15) Table 2 below gives an overview of the policy measures included in each policy package.

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<sup>13</sup> The most serious infringements are defined in Annex IV to Regulation (EC) No 1071/2009: ‘2. Not having a tachograph and/or speed limiter, or using a fraudulent device able to modify the records of the recording equipment and/or the speed limiter or falsifying record sheets or data downloaded from the tachograph and/or the driver card; (...) 6. Driving with a driver card that has been falsified, or with a card of which the driver is not the holder, or which has been obtained on the basis of false declarations and/or forged documents.’

<sup>14</sup> Cap Gemini, EU project on baseline measurements and reduction of administrative costs, 2009.

<sup>15</sup> Ibid footnote 4.

**Table 2 Detailed content of policy packages**

|  | <i>Policy Package 1<br/>(PP1)</i>                                  | <i>Policy Package 2<br/>(PP2)</i>   | <i>Policy Package 3<br/>(PP3)</i>   | <i>Policy Package 4<br/>(PP4)</i>  |
|--|--|---|---|--|
| <b><i>Legal instrument(s)</i></b>        | Roadmap for adaptation of technical specifications                 | Roadmap for adaptation of technical specifications<br><br>Review of Regulation 3821/85 to add new functional requirements   | Review of Regulation 3821/85 only to add new rules on the use and inspection of tachographs                         | Roadmap for adaptation of technical specifications<br><br>Review of Regulation 3821/85 |
| <b><i>Content of Policy Packages</i></b> | Encryption technology<br><br>Seals<br><br>Interface with the users | PP1 +<br><br>Tachograph functions (automatic and manual recording)<br><br>Wireless communication for roadside checks<br><br>Interface with other ITS applications | PP1 +<br><br>Workshops<br><br>Driver cards<br><br>Sanctions<br><br>Training of control officers<br><br>Rules on use | PP2 + PP3  |

**5. ANALYSIS OF IMPACTS**

- (16) Table 3 below summarises the assessment of the economic, social and environmental impacts.

Table 3 Summary table of impacts

|   |          |  |   |   | <i>Impacts</i>  |   |  |  |   |
|---|----------|--|---|---|---|---|--|--|---|
|   |          |  |   |   | <i>Policy package 1</i>   | <i>Policy Package 2</i>   | <i>Policy Package 3</i>  | <i>Policy Package 4</i>                            |   |
| <i>Compliance with social legislation</i> |          |  | <b>Small and delayed improvement</b> limited to tachograph fraud (1/4 of all social legislation offences) | Impact of PP1 + <b>large potential improvement</b>  | <b>Great uncertainty</b> as to the scale of results ( <b>trade-offs</b> with budget implications)   | <b>Impact of PP1 + large potential improvement</b>  | <b>Great uncertainty</b> as to the scale of results ( <b>trade-offs</b> with budget implications)  | Impact of PP1 + <b>large potential improvement</b> | <b>Less uncertainty</b> of results than for PP2 and PP3 ( <b>large trade-offs</b> with budget implications) |
| <i>Economic impacts</i>                   |          |  |   |   |   |   |  |  |   |
| Functioning of the Market and competition | Internal |  | <b>Small and delayed improvement</b> limited to tachograph fraud (1/4 of all social legislation offences) | Same assessment as for compliance with social legislation   |   |   |  |  |   |
| Competitiveness                           |          |  | <b>Positive</b> for tachograph manufacturers  | <b>Very positive</b> for tachograph manufacturers   | <b>Positive</b> for tachograph manufacturers  | <b>Positive</b> for tachograph manufacturers  | <b>Very positive</b> for tachograph manufacturers  |  |   |
|   |          |  |   |   |   | <b>Uncertain</b> for workshops  | <b>Uncertain</b> for workshops   |  |   |
|   |          |  |   |   |   | <b>Positive</b> for undertakings for which transport is not the principal activity  | <b>Positive</b> for undertakings for which transport is not the principal activity   |  |   |
| Administrative burden and SMEs            |          |  | <b>Negligible</b>   | <b>- €383.5 million</b>   | <b>- €142 million</b>   | <b>- €142 million</b>   | <b>- €15.5 million</b>   |  |   |
| Budgetary impacts on public authorities   |          |  | <b>Minor</b> negative at EU level   | Impact of PP1 + <b>Potentially</b> negative (up to €7500000) at national level but depending on the choices of MS ( <b>trade-offs</b> with other impacts) | <b>Potentially large negative</b> (up to €7500000) at national level but depending on the choices of MS ( <b>trade-offs</b> with other impacts) | <b>Potentially large negative</b> (up to €7500000) at national level but depending on the choices of MS ( <b>trade-offs</b> with other impacts) | Impact of PP1 + <b>potentially largest negative</b> at national level but depending on the choices of MS ( <b>trade-offs</b> with other impacts) |  |   |

***Social impacts***

Working conditions, health and lifestyle of drivers    **Positive but delayed** through increased user friendliness of the device    Same assessment as for compliance with social legislation

Road safety    **Positive but delayed** through easier access while driving    Same assessment as for compliance with social legislation

Crime and security    Minor impact    **Small positive** impact thanks to more appropriate fines

Fundamental rights    **No impact**    **Marginal negative** impact on the freedom to conduct a business

***Environmental impacts***    **Marginal positive**

***Impact on specific regions***    Larger impact of all measures for undertakings from MS with high wages (EU-15), high share of self-employed.

Larger impact for Member States with a large transport sector or high share of transport undertakings in the economy (Germany, Poland, Spain, Netherlands, Romania, Lithuania, Czech Republic)

Greater effects of more appropriate sanctions in Member States with low severity of sanction today

***Third countries***    **Delayed but similar impacts on AETR countries.**

## 6. COMPARISON OF POLICY PACKAGES

- (17) As shown on Table 4 below, it has been found that, from an effectiveness point of view, PP4 is by far the most attractive as it offers the highest potential level of achievement of the two specific goals. However, the coherence analysis shows that PP4 also presents the highest trade-offs between positive economic and social impacts on the one hand, and budgetary impacts on public authorities on the other. In terms of coherence, PP1 ranks highest. Finally, PP4 is also the most expensive in terms of investment needed, while PP1 is the cheapest and the easiest to implement, since it can be adopted without going through the normal legislative procedure.

**Table 4 Comparison of Policy Options**

|            | <i>Weighted effectiveness</i> | <i>Efficiency</i> | <i>Coherence</i>   |
|------------|-------------------------------|-------------------|--------------------|
| <i>PP0</i> | -                             | -                 | -                  |
| <i>PP1</i> | Fairly low                    | No cost           | High               |
| <i>PP2</i> | Medium                        | €7.5 million      | Trade-offs         |
| <i>PP3</i> | Medium                        | €9 million        | Trade-offs         |
| <i>PP4</i> | High                          | €46.5 million     | Highest trade-offs |

- (18) Taking all these aspects into consideration, and in the absence of a full cost-benefit analysis, the positive effects of PP4 seem to far outweigh its costs. Indeed, the administrative burden reduction potential of PP4 alone is €515.5 million, well above the total costs of its full implementation. Therefore the analysis performed suggests that Policy Package 4 should be the preferred option.

## 7. MONITORING AND EVALUATION

- (19) The Commission will monitor a set of indicators as shown on Table 5.

**Table 5 Monitoring indicators**

| <i>Operational objectives</i>  | <i>Monitoring</i>  |
|--|--|
| <b><i>Eliminate the ‘most serious infringements’ against tachograph rules by 2020</i></b>  | The monitoring will be performed by using information that Member States have to communicate every two years to the Commission pursuant to Article 17 of Regulation (EC) No 561/2006   |
| Double by 2020 the detection rate of infringements of social legislation per vehicle controlled in a roadside check compared to 2008 | The monitoring will be performed by using information that Member States have to communicate every two years to the Commission pursuant to Article 17 of Regulation (EC) No 561/2006   |
| <b><i>Reduce the administrative burden related to the use of the digital tachograph by 20% before 2020 compared to 2010</i></b>      | <b><i>Use of technical upgrades of tachograph equipment will be monitored through discussions with interested parties and based on the estimations provided by the Stoiber Group and the EU project on baseline measurements and reduction of administrative costs</i></b> |