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**COMMISSION STAFF WORKING PAPER**

**IMPACT ASSESSMENT**

*Accompanying the document*

**Proposal for a Regulation of the European Parliament and of the Council  
on groundhandling services at Union airports and repealing Council Directive 96/67/EC**

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*This report commits only the Commission's services involved in its preparation and does not  
prejudge the final form of any decision to be taken by the Commission*

## 1. SECTION 1 - PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

Lead DG: DG MOVE

Agenda planning/WP reference: 2011/MOVE/008

Proposal to the European Parliament and the Council to revise Council Directive No 96/67/EC of 15 October 1996 on access to the groundhandling market at Community airports (hereafter "the Directive")<sup>1</sup>.

This proposal is part of the **Airport Package 2011** measures, together with a Proposal to revise the regulation on the allocation of airport slots<sup>2</sup> and a Proposal to revise the directive on noise restrictions at airports<sup>3</sup>. As described in details in the "Communication Chapeau" of the package, the Airport Package 2011 aims at enhancing the quality and efficiency of EU airports, by optimising the use of airport capacity (slot initiative), limiting noise impacts of aviation around airports (noise initiative) and enhancing the quality of operations at airports (groundhandling initiative).

### 1.1. Organisation and timing

1. To prepare this initiative, DG MOVE set up in May 2009 an Impact Assessment Steering Group (IASG) chaired by DG MOVE with members from DGs COMP, ECFIN, EMPL, TRADE and the Secretariat General<sup>4</sup>. The IASG held six meetings<sup>5</sup>.

### 1.2. Consultation and expertise

2. Since its adoption 15 years ago, the application of the Directive has been constantly **monitored** by the Commission. At the request of the Commission a study 'on the quality and efficiency of groundhandling services at EU airports as a result of the implementation of Council Directive 96/67/EC' was carried out in 2002.<sup>6</sup> At a hearing held on 6 April 2006, following a written consultation, the Commission consulted with all stakeholders on the various possibilities for a revision of the Directive.
3. On 24 January 2007, the Commission adopted a report on the application of the Directive<sup>7</sup> which confirmed that the main objectives of the Directive had been achieved (increase in number of groundhandlers and decrease in prices in particular), but that negative trends existed. A number of potential problems associated with the Directive

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<sup>1</sup> OJ L 272, 25.10.1996, p. 36–45.

<sup>2</sup> Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports.

<sup>3</sup> Directive 2002/30/EC of the European Parliament and of the Council of 26 March 2002 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports.

<sup>4</sup> Other DGs such as DG MARKT (for internal market aspects), DG ENTR (for SMEs aspects), LS (legal aspects) were also invited but could not participate to the IASG.

<sup>5</sup> Meetings were held on: 6.10.2009, 17.11.2009, 13.04.2010, 10.02.2011, 8.03.2011, 23.05.2011.

<sup>6</sup> SH&E study 2002 (See Annex III for details).

<sup>7</sup> COM(2006)821 final.

were identified. In this Communication, the Commission announced that it would continue to closely monitor the groundhandling market.

4. In October 2007, the European Parliament issued a resolution<sup>8</sup> requesting the European Commission to carry out a more updated and comprehensive assessment (notably an evaluation taking into account the EU12, as well as quality, security, safety and social impacts). A new study was carried out in 2008-2009.<sup>9</sup>
5. For the purpose of this Impact Assessment (IA), DG MOVE carried out a **stakeholders' consultation** from November 2009 to September 2010.<sup>10</sup> The objectives of the consultation were to collect the opinions of Member States, of the general public and of aviation stakeholders on the functioning of the groundhandling services at European airports and possible options for revising the Directive. The individual contributions are available, together with a summary of the consultation, on the Commission website.<sup>11</sup> The public consultation met the Commission minimum standards for consultation.
6. Following a dedicated meeting of the Groundhandling working group of the **Sectoral Social Dialogue Committee** (on civil aviation) held on 16.11.2009,<sup>12</sup> three of the four key representatives adopted a common statement<sup>13</sup> calling for improvements to the current tenders system (see paragraph 32) and for a social clause on transfer of staff in case of partial or total loss of activity.
7. The consultations highlight the divergent interests of the various categories of stakeholders. Airlines stress the need for a more competitive market. In a sector where stability of employment has suffered, groundhandling workers want to address social concerns (notably the transfer of staff). Airport operators call for better coordination at the airport. Independent groundhandlers insist on the need for fairer competition conditions. Nearly all stakeholders call for improved quality of services.
8. The present IA is supported by the results of a dedicated external study that has been overseen by the IASG.<sup>14</sup> Other studies<sup>15</sup> used for this IA are listed in Annex III.

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<sup>8</sup> European Parliament resolution of 11 October 2007 on airport capacity and ground handling: towards a more efficient policy (2007/2092(INI)) available at <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P6-TA-2007-0433>.

<sup>9</sup> ARC study, 2009 (see Annex III for details). This study was published on the Commission website in April 2009: [http://ec.europa.eu/transport/air/airports/ground\\_handling\\_market\\_en.htm](http://ec.europa.eu/transport/air/airports/ground_handling_market_en.htm)

<sup>10</sup> The consultation was performed notably through an Internet-based consultation supported by a questionnaire posted on the Commission's website "Your voice" between 4 December 2009 and 17 February 2010; 103 replies were collected. Details of consultation are available in Annex V.

<sup>11</sup> [http://ec.europa.eu/transport/air/consultations/2010\\_02\\_12\\_directive\\_96\\_67\\_ec\\_en.htm](http://ec.europa.eu/transport/air/consultations/2010_02_12_directive_96_67_ec_en.htm)

<sup>12</sup> A summary of the minutes of this meeting is available in Annex V.

<sup>13</sup> Statement dated 7.4.2011 of the EU Trade associations representing the Airport operators (ACI-Europe), the Independent Handlers (IAHA) and the Representatives of staff (European Transport Federation – ETF), not co-signed by airlines associations, available at: <https://www.itfglobal.org/files/seealsodocs/28646/Statement%20GH%20ACI%20IAHA%20ETF%20070411.pdf>.

<sup>14</sup> SDG study 2010 (See Annex III for details). The IASG held a number of steering meetings with the contractor (held on 6.10.2009, 17.11.2009, 13.04.2010).

<sup>15</sup> ARC Study 2009, SH&E study 2002, Booz Study 2009, ECORYS study 2008, etc: see Annex III.

### 1.3. Results of the consultation of the Impact Assessment Board (IAB)

9. Following the submission of a draft report to the Impact Assessment Board (IAB) on 8 June 2011 and a hearing with the IAB on 6 July 2011, the IAB sent its opinion on 8 July 2011. The recommendations of the IAB were duly taken into account and the main modifications were the following:

- 9.1. the problem definition was made clearer about the issues with the current legislative framework;
- 9.2. the provisions for social protection in case of transfer of employees and in particular the feasibility, effectiveness and proportionality of the full takeover of staff were clarified;
- 9.3. a wider range of feasible policy options was introduced, and the content of certain measures was clarified;
- 9.4. the comparison of options was strengthened.

## 2. SECTION 2 – CONTEXT, PROBLEM DEFINITION AND SUBSIDIARITY

### 2.1. Context

10. Europe aims at an efficient, competitive aviation system, offering a network of global connectivity where citizens can safely and securely fly at affordable rates. Airports play a crucial role in the aviation chain. Their well-functioning and efficiency is a key economic parameter for their airline clients and for businesses that work in close cooperation with them and is central for the successful delivery of the Single European Sky reform. As recognised in the Declaration adopted at the Bruges Aviation Summit in October 2010<sup>16</sup>, there is a need to reform EU rules to foster the competitiveness of European airports (and eliminate capacity bottlenecks), so that the efficiency of each link in the aviation transport chain (e.g. airport operators, carriers, other service providers) is improved to give travellers and companies more value for money. This role is also recognised in the White Paper – Roadmap to a Single European Transport Area<sup>17</sup>, which identifies the improvement of market access and the provision of quality services at airports as an essential action to achieve the Single European Transport Area.

11. **Groundhandling services** cover all ground-based aviation-related activities carried out for airlines at airports and are a key function in the aviation chain. Even though groundhandling is not necessarily visible, the passenger experience at airports and in the air relies on quality groundhandling services, whether it concerns the proper reception of passengers at the airport,<sup>18</sup> the material comfort in the plane,<sup>19</sup> or the pre-

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<sup>16</sup> A meeting which brought together high level figures from the world of aviation in order to discuss challenges facing the sector. <http://www.eutrio.be/european-aviation-summit>

<sup>17</sup> COM (2011)144 final.

<sup>18</sup> Check-in of passengers and luggage, baggage claim desks: see Annex I for the list and definitions of groundhandling services.

<sup>19</sup> Cleaning of the cabin, toilet handling, catering...

conditions for safe and secure flights.<sup>20</sup> An efficient provision of groundhandling services is therefore important for airports, airlines and passengers, is key for the efficient use of air transport infrastructure and contributes significantly to the performance of the aviation system in general.

12. The Directive defines 11 categories of groundhandling services (being themselves constituted of different subcategories: see Annex I). These categories are:

- 1) Ground administration and supervision;
- 2) Passenger handling;
- 3) Baggage handling;
- 4) Freight and mail handling;
- 5) Ramp handling;
- 6) Aircraft services ;
- 7) Fuel and oil handling;
- 8) Aircraft maintenance;
- 9) Flight operations and crew administration;
- 10) Surface transport;
- 11) Catering services

13. Historically, groundhandling activities were part of the airport operator's or airline's remit.<sup>21</sup> However, with the Directive, groundhandling services have been gradually opened up to competition. **The access to the groundhandling market**, organised by the Directive, is based on the following principles:

- **Freedom of 'self-handling'**, i.e. the possibility for airlines to self-handle at each commercial airport regardless of its volume of traffic. However, for four categories of services<sup>22</sup>, Member States may reserve the right to self-handle to no fewer than two airport users at airports with more than 2 million passenger movements or 50,000 tonnes of freight per annum. The selection is organised on the basis of relevant, objective, transparent and non-discriminatory criteria (but not through tenders).

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<sup>20</sup> Loading of fuel and oil in the plane, calculations for the aircraft balance, de-icing of the aircraft, departure and arrival guidance of the aircraft.

<sup>21</sup> This is still the case today in a number of cases (many airlines at their hub airports are still providing self- and third-party handling, many airports are also providing groundhandling services, whether internally or via a subsidiary).

<sup>22</sup> I.e. the so-called "restricted services": "baggage handling", "ramp handling", "fuel and oil handling", "freight and mail handling as regards the physical handling of freight and mail between the air terminal and the aircraft".

- **Freedom of 'third party handling'**, i.e. the possibility for groundhandling providers to provide services to third parties at airports with more than 2 million passengers or 50 000 tons of freight per year. However, for the four categories of groundhandling services noted in footnote 22, Member States may limit the number of suppliers to no fewer than two for each category. However, at least one of the authorised suppliers must be 'independent'.<sup>23</sup> The selection takes place through a tender.

14. Given the specificities of this market, namely environmental and space/capacity constraints at airports, the Directive foresees the possibility to ask for further restrictions (exemptions) for defined locations and periods.<sup>24</sup> However, there are at the moment no exemptions in force. Figure 1 below summarises the provisions on market access.

	Airports open to commercial traffic under 2 million passengers or 50,000 tons of freight per year	Airports open to commercial traffic <u>over</u> 2 million passengers or 50,000 tons of freight per year	
		All services except "restricted services"	"Restricted services" (services listed in footnote 22)
<b>Self-handling</b> (handling by airlines' own account)	<b>Free access to the market for <u>all</u> categories</b>  <i>*possibility to restrict the number of self-handlers on the basis of space/capacity limitations if request for exemption approved by EC</i>	<b>Free access to the market</b>  <i>*possibility to restrict the number of self-handlers on the basis of space/capacity limitations if request for exemption approved by EC</i>	<b>Free access</b>  <i>*possibility to restrict the number of self-handlers on the basis of space/capacity limitations if request of exemption approved by EC</i>  <b>OR</b>  <b>Restriction to at least 2 self-handling airlines per category of services (selected on the basis of relevant, objective, transparent and non-discriminatory criteria)</b>  <i>*possibility to restrict the number of self-handlers on the basis of space/capacity limitations if request for exemption approved by EC</i>
<b>Third-party handling</b>	Not covered by the Directive	<b>Free access to the market</b>  <i>*possibility to restrict the number of third-party handlers on the basis of space/capacity limitations if exemption approved by EC.</i>	<b>Free access</b>  <i>*possibility to restrict the number of third-party handlers on the basis of space/capacity limitations if exemption approved by EC.</i>  <b>OR</b>  <b>Restriction to 2 third-party handlers per category of services (selected on the basis of a <u>tender</u> procedure published in the OJEU). At least one third-party handler has to be independent from the airport and the dominant carrier.</b>  <i>**possibility to restrict the number of third-party handlers on the basis of space/capacity limitations to <u>1</u> if request for exemption approved by EC.</i>

Figure 1: Freedoms and possible exemptions foreseen by the Directive

<sup>23</sup> This means that the authorised suppliers must not be controlled directly or indirectly by: the managing body of the airport; any airport user which has carried more than 25% of the passengers or freight recorded at the airport during the year preceding that in which those suppliers were selected; and a body controlling or controlled directly or indirectly by that managing body or any such user.

<sup>24</sup> At an airport where specific constraints of available space or capacity make it impossible to open up the market to the degree provided for in the Directive, the Member State in question may introduce more stringent limitations in the number of suppliers/self-handlers. In these cases (Article 9 of the Directive), the Member State has to request officially an exemption to the European Commission, which may approve or not the exemption. The last exemption requested expired in 2001 and no exemption was requested since then (list of exemptions available in the ARC report 2009, on page 31).

15. According to the various **evaluations of the Directive** undertaken by the Commission<sup>25</sup>, the main objectives of liberalisation of the groundhandling market at EU airports were achieved: the number of service providers has increased, groundhandling prices have generally decreased, in particular at former monopoly airports where competition has been introduced. Moreover, according to airlines (but not to other stakeholders), quality of service increased with an enlarged choice of competitors. However, in the meantime, other stakeholders (mainly airport managing bodies and representatives of groundhandling staff) reported concerns about the overall quality of service at airports.
16. In addition, a number of **implementation and enforcement issues** arose with the Directive. The flexibility left by the Directive actually gave the Member States a wide margin of manoeuvre for implementing the Directive. This wide margin of manoeuvre was not always very convenient for national authorities. The number of infringements in the Member States shows for instance that, more than 10 years after the Directive is in force, the provisions of the Directive were not always easy to interpret and implement, which has led in a number of cases to infringements<sup>26</sup>. Besides, it has to be acknowledged that in a number of cases, the blur around the requirements of the Directive was used by the Member States to privilege some local interests. Actually, the legal framework as such is a source of difficulty for implementation.
17. The fact that groundhandling as a core business activity is relatively "new" **impacts negatively the availability of reliable data**. The difficulty to produce and find meaningful data can be related to the diversity and fragmentation of groundhandling services - the Directive distinguishes 11 categories of services- and to the fragmented market structure (service providers can be airport operators, airlines or independent companies that do not necessarily publish separate data for their groundhandling activities). Different definitions are used in different data sources making it difficult to arrive at "hard" estimations<sup>27</sup>. There is not one sector-based (NACE) classification which covers the sector. Member States are producing either very limited or no quantitative information<sup>28</sup>. No uniform data are collected centrally, hence making this sub-sector much harder to monitor than airline or airport businesses.
18. Regarding employment data, the European Commission services ordered, over the past couple of years, two reports from specialised aviation consultancies.<sup>29</sup> These studies, as well as the additional work carried out with Member States and social partners for the purpose of this IA, faced the difficulties previously identified.
19. Finally, the present report **does not compare directly the "performance of less and more competitive airports"** across Europe in terms of costs and quality of groundhandling services. This is due to the fact that, beside the first difficulty already

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<sup>25</sup> See in this respect ARC, 2009, SH&E 2002.

<sup>26</sup> See Annex VIII Infringements proceedings for more details.

<sup>27</sup> Groundhandling businesses use definitions that are sometimes different to the "legal" one (i.e. the ones in the Annex to the Directive) and represent a large number of highly heterogeneous companies.

<sup>28</sup> Oversight of groundhandling services by National Aviation Authorities is limited. Actually, the ICAO Chicago convention and its annexes, which is directed to States and regulates the entire aviation sector (in terms of safety, security, economics, environment etc) never addresses groundhandling as such.

<sup>29</sup> These 2 studies that addressed the social aspects of groundhandling at EU level are the ARC study, 2009, on the evaluation of the Directive 96/67 and the Social study in the field of aviation, 2009 carried out by Booz. SDG was also tasked to investigate the subject. See Annex III for more details.

mentioned to obtain data<sup>30</sup>, comparing prices and quality offered at airports would be misleading. Data when available do not reflect the same realities and depend on local conditions that have no link with the airport (prices are affected by local standards of living, currencies, etc.; "quality criteria" are not quantified or, when quantified, do not represent the same physical reality). It is also very difficult to isolate the level of quality for groundhandling services only: most of the time, the "quality of groundhandling services at an airport" for a criteria is dependent on other external factors. For instance, the quality of baggage handling and baggage delivery at a given airport is heavily dependent on airlines and airport operators' own operations and equipments: a baggage can be delayed or lost at an airport of arrival because the transfer time at an intermediate airport was too short. Similarly, the Minimum Connecting Times (MCT) of an airport (indicators given by airport operators to their airlines customers to reflect the time needed to carry out a transfer between two flights) are often mostly determined not by the groundhandling performance but by the airport design and infrastructure.

Some estimates on the groundhandling market<sup>31</sup> : In 2009, 111 European airports benefited from third-party handling and all European commercial airports were open to self-handling. According to Commission and stakeholders' estimations, the revenues of groundhandling (all categories included) would amount globally to 50 billion euro<sup>32</sup>. It is estimated that the sector employs at the minimum 60,000 persons in Europe.<sup>33</sup> The market structure is still very fragmented with over 400 operators worldwide and a combined market share of 20% for the top four handlers (source: Swissport, 2008). The cost linked to groundhandling services for airlines represents 5 to 12%<sup>34</sup> of operating costs.

20. In light of the above, it is important to note that the present IA and its conclusions are based on the best available sector-related data.<sup>35</sup>

## 2.2. Problem definition

21. Since the adoption of the Directive in 1996, framework conditions for groundhandling services have changed dramatically. In a context of rapidly growing air traffic<sup>36</sup> and

<sup>30</sup> See also Annex III, p.10, explaining the specific difficulties encountered to quantify groundhandling prices (business-sensitiveness, variability of scope and content of services paid by airlines etc.).

<sup>31</sup> The groundhandling market opening framework in force at the 60 biggest airports in Europe (i.e. those airports accommodating more than 5 millions passengers per year) is provided in Annex IX of this IA report. See also Annexes II and VI for an overview of the airports impacted by the Directive and for further information on the groundhandling market.

<sup>32</sup> According *Global Industry Analysts Inc*: "Over the years, ground-handling companies have been increasingly expanding both in size and network to meet ever-changing requirements of the highly dynamic global airlines. (...) A global network is the need of the time, and ground handlers have been rapidly expanding network via strategic partnerships, alliances and acquisitions. The economic importance of this behind-the-screen industry is obvious, with annual turnover crossing about US\$70 billion globally" (consulted at [http://www.prweb.com/releases/airport\\_airside\\_services/ground\\_ramp\\_handling/prweb8561200.htm](http://www.prweb.com/releases/airport_airside_services/ground_ramp_handling/prweb8561200.htm) on 6.09.2011).

<sup>33</sup> This figure, the best available, is an estimation of IAHA (the independent handlers' associations) for their members. Taking into account that not all groundhandling providers are members of IAHA (e.g. airports' and airlines' providers), there could actually be more than 110,000 groundhandling employees.

<sup>34</sup> Source: Stakeholders' consultations and "Air market observatory - Annual reports", available at [http://ec.europa.eu/transport/air/observatory\\_market/annual\\_reports\\_en.htm](http://ec.europa.eu/transport/air/observatory_market/annual_reports_en.htm) (see report 2008 p.85-88).

<sup>35</sup> See Annex III for full details. As explained in Annex, the consultant SDG tried to obtain as much data as possible, including with the help of the IASG or of the stakeholders (see last question of the Internet-based stakeholders' consultations), but very often, only anecdotal evidence could be found.

capacity constraints,<sup>37</sup> the question of the efficiency and quality of services delivered at airports, including groundhandling, needs to be addressed as part of the necessary "gate-to-gate" approach for aviation, which consists in optimising and integrating all phases of a flight, from airport to airport, with a view to enhance performance in terms of delays, costs, environmental impact and safety. Recent statistics show that 70 per cent of the delays affecting aviation are generated by turnarounds at airports<sup>38</sup>. The successive crises that affected air transport over the last decade (economic crisis, terrorists' attacks, severe weather conditions) have called for cost-cutting efforts, enhanced levels of security and safety, and increased coordination of ground operations at airports.

22. In this changing environment, the consultations and evaluations of the current Directive<sup>39</sup> have shown that the current legal framework is no longer fit for purpose. The problem identified is double: (i) the provision of groundhandling services is not efficient enough due to barriers to entry and expansion, and (ii) the overall quality of groundhandling services at airport level does not keep up pace with evolving needs in terms of reliability, resilience, safety and security and environment. As a consequence, the benefits of the liberalisation are not sufficiently exploited and passed on fully to businesses and citizens making use of groundhandling services.

#### 2.2.1. *The provision of groundhandling services today is not efficient enough*

##### *The problem*

23. During the consultation process, stakeholders indicated that the provision of groundhandling services under the current legal framework is not efficient enough implying untapped potential for cost reductions for airlines and for quality improvement. Whereas airlines expressed their satisfaction with the increased choice of groundhandling providers subsequent to the introduction of the Directive, they outlined that this trend is not observed everywhere in Europe. The examples of airports in Germany, Austria, Portugal were in particular reported, but also some other airports in Belgium, Bulgaria, Hungary, Malta and Italy. In the case where the choice between groundhandling providers is too limited at airports, airline stakeholders reported that the price/quality ratio of the service negotiated by airlines in their Service Level Agreement<sup>40</sup> suffers from the lack of competition between service providers<sup>41</sup>. For the airline, the power to negotiate adequate prices and levels of services with a groundhandling provider (which is key for airlines in their very competitive environment) therefore depends on the level of competition between the groundhandling providers authorised at the airport.<sup>42</sup>

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<sup>36</sup> Air traffic increased between 1996 and 2011 by 36% (Source: Eurocontrol Performance Review Commission)

<sup>37</sup> See Impact Assessment to revise the Slot Regulation (Council Regulation (EEC) No 95/93).

<sup>38</sup> Source: Eurocontrol Performance Review Commission.

<sup>39</sup> The evaluation and consultation documents are listed and detailed in Annexes III and V.

<sup>40</sup> Service Level Agreements (SLA) set the contractual provisions between airlines and their groundhandling providers.

<sup>41</sup> See in this respect ARC report p.91 and 100.

<sup>42</sup> See ARC report p.100.

### *The root causes*

24. According to stakeholders, this situation can be attributed to the presence of several obstacles which hamper market access and expansion and hinder the internal market for groundhandling services:

#### 2.2.1.1. Possibility to restrict competition for certain groundhandling services

25. As explained above, legislation allows a restriction of the freedom to 'self-handle' or to 'third party handle' for four categories of services (see footnote 22). As a consequence, at some airports (including notably all large airports in Germany, Austria, Portugal, and Belgium: see Annex IX section 2) airlines are faced with a limited choice between 2 providers, for each of the "restricted services", and are not always authorised to self-handle. According to airlines, this limited choice does not allow them to reap the full benefits of competition. In particular where the choice is limited to two providers only (and where self-handling is not possible or is not a relevant option, which is often the case): (i) for a given price, airlines cannot negotiate higher standards in terms of ground operations ; (ii) when one of the 2 providers leaves (for reasons such as dispute between the parties, end of tender period, bankruptcy/lack of profitability / change of strategy of one of the providers...), airlines have to negotiate with the remaining monopoly provider (which can impose its conditions), until a new second provider is selected; (iii) the risks of anticompetitive practices (collusion) increase.

#### 2.2.1.2. Patchwork of administrative conditions to access national markets

26. Article 14 of the Directive allows Member States to make the activity of a groundhandling supplier/self-handler conditional upon obtaining an "approval" based on certain criteria<sup>43</sup>, delivered by an entity independent from the airport operator. Such an approval has been put in place in 75% of Member States in the EU (see Annex X). Due to the nature of the legal instrument used, there is currently a diversity of numerous administrative conditions that have to be met in Europe, which oblige companies to adapt to each national market. As reported by stakeholders, this situation contributes to increasing costs (and by extension, prices) of cross-nationals groundhandling services, without any added value, acting sometimes as a deterrent to enter a given market<sup>44</sup>. The patchwork of approval systems constitutes an impediment to the proper functioning and efficiency of the internal market.

#### 2.2.1.3. New entrants have difficulties to operate at airport level

27. At present, the structure of the EU groundhandling market is determined by the presence of three different types of groundhandling providers working under distinct regulatory conditions: airport operators, airlines and independent handlers. The stakeholder consultation and the in-depth analysis undertaken by the Commission

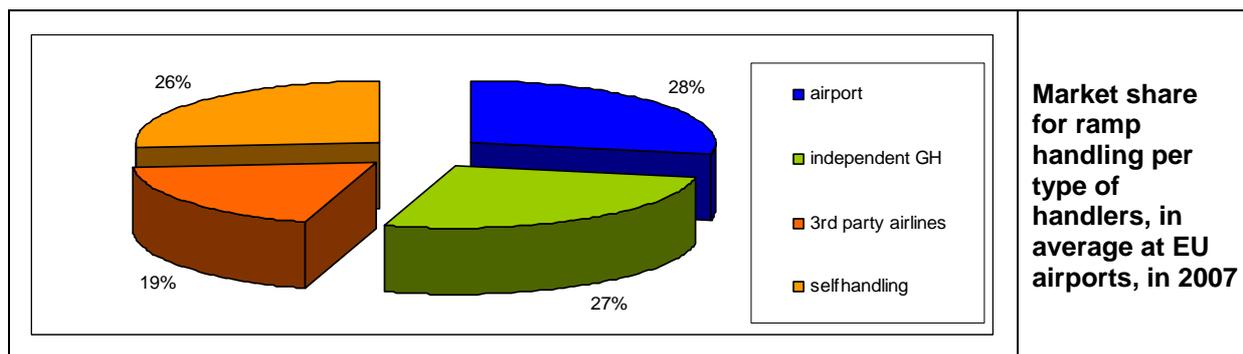
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<sup>43</sup> The Directive specifies that the criteria for such approval "must relate to a sound financial situation and sufficient insurance cover, to the security and safety of installations, of aircraft, of equipments, and of persons, as well as of environmental protection and compliance with the relevant social legislation" (Article 14 of Directive 96/67).

<sup>44</sup> See in this respect: SDG report, p.104. Obtaining an approval is assessed to cost in average 10,000€ to a groundhandling company (Source: SDG report 2010). Companies operate generally in 1 to 5 Member States (see Annex VII), focussing their operations in regional markets.

identified a series of factors creating an uneven level playing field between the different categories of service providers, thereby hampering the expansion of independent handlers.

28. An analysis of the statistical data available (about ramp handling<sup>45</sup>) shows (see figure 2) that the independent groundhandlers have in average 25% market share at EU airports; airport operators providing groundhandling services 28%; and airlines 45% (26% in self-handling and 19% in third-party-handling). These average market shares hide significant disparities. At approximately 1/3 of main EU airports,<sup>46</sup> the ramp market share of the restricted groundhandling services of the airport operator is over 70%<sup>47</sup>. At a number of airports (Lisbon, Madrid, Amsterdam, Roma, Helsinki, Palma de Mallorca, Malaga, Alicante, Barcelona etc.), the dominant provider of these services is the (incumbent) home air carrier<sup>48</sup>. High market shares as such do not mean poor groundhandling services, as larger service providers could benefit from scope and scale efficiencies. Nevertheless, in the case of groundhandling services, scale efficiencies are as a general rule limited due to the structures of costs (high personnel costs and low equipment costs). Besides, even if for a specific activity high set-up costs or equipment/infrastructures costs arise thereby justifying a monopoly situation from an economic point of view, the legal framework foresees on purpose the possibility to declare the equipment/infrastructure as "centralised" and to reserve the management of the centralised equipment/infrastructure to one entity (see §30 for more details about "centralised infrastructures").



**Figure 2**  
Source: European Commission, based on ARC report 2009.

29. The identified factors influencing negatively the level playing field are the following:

<sup>45</sup> Even if "ramp handling" is only one of the 11 categories of groundhandling services, it is the only category for which precise figures exist at the moment. However, it is one of the 4 possibly restricted "airside categories", and certainly the most important one. It is supposed here that the features of this restricted category are more or less the same as other restricted groundhandling categories.

<sup>46</sup> notably the airports of Frankfurt, Munich, Düsseldorf, Vienna, Köln-Bonn, Bratislava, Sofia

<sup>47</sup> Tables 4.6 and 4.7 p.103-104 in the ARC report 2009 give an overview of the involvement of airports in groundhandling (for ramp handling).

<sup>48</sup> Tables 4.8 and 4.9 p.108-109 in the ARC report 2009 give an overview of the involvement of airlines in groundhandling (for ramp handling). Data available shows that the number of airports concerned by a high presence of airlines on the groundhandling market is important but the exact size of the "captive market" of airlines and airlines market shares are difficult to assess (and are therefore often missing).

30. ***Inappropriate legal framework for the management of centralised infrastructures (hereinafter "CIs")***<sup>49</sup>: The Directive is unclear about what CIs (which are necessary for the execution of groundhandling services) cover and how they are managed. In the absence of a clear legal framework, distortion of competition on the groundhandling market may arise in two ways. Firstly, the management of CIs can be reserved by Member States for the airport operator or another entity that can benefit from its role as infrastructure supplier to influence competition. The management of the CIs is often reserved for an incumbent supplier (the airport operator, or in the case of fuel-distribution systems, oil companies) that also provides third-party groundhandling services. In this case, the fees levied by the manager of the centralized infrastructure for its use can deter competitors.<sup>50</sup> Secondly, since the airport operator is not restricted in proposing a list of centralised infrastructure to its Member State, it is possible for the airport operator to restrict the scope of services subject to competition by keeping some of those services under monopoly. For instance, considering bus transport as centralized will allow the airport operator not to open it to competition. The problems linked to CIs are reported by airlines as key (notably, but not only, for fuel infrastructures all over Europe).<sup>51</sup>
31. ***Inappropriate legal framework as regards separation of accounts for airport operators providing groundhandling services***: Airport operators are responsible for allocating airport spaces to groundhandlers and airlines, for defining the "rules of conduct" at the airport, for levying charges or fees for the use of the infrastructure and airport services. This makes them a powerful interlocutor of the airlines. A separation of accounts and prohibition of cross-subsidization between airport management activities and groundhandling activities are required in the Directive. However, the current system in place is very difficult to monitor for Member States and the Commission. In addition, since it does not impose separate accounting for CIs, the revenues of CIs can be used by the groundhandling division/subsidiary of the airport operator, which can constitute a great advantage.
32. ***Unbalanced tendering procedure for independent handlers***: For certain groundhandling services, where market access restrictions apply, the selection of third-party handlers is carried out through a tender procedure<sup>52</sup> to ensure that the suppliers

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<sup>49</sup> I.e. infrastructures "used for the supply of groundhandling services whose complexity, cost or environmental impact does not allow of division or duplication" (Article 8 of the Directive). Annex XII provides for a sample of European airports the CIs that have been put in place.

<sup>50</sup> This situation, which is at the origin of the current infringement proceedings against Malta, is said by independent handlers to be frequent in other Member States. Third-party handlers consider it as a significant barrier, as it deters them from entering some airports' markets, including where the market is fully open.

<sup>51</sup> Source: IATA response to the public consultation, available in Annex V p. 45, 47, 55, 56.

<sup>52</sup> This tender is not a "public procurement" because the tendering authority does not purchase or acquire works, supplies or services from economic operators (actually the tendering authority does not "contract" with the groundhandling providers, but selects the companies that are authorised to access the market; the contractual relations for the provision of groundhandling services exist between the groundhandling companies and the airlines that are the customers of the groundhandling services, and do not involve the airport operator). The tendering authority is according to the Directive (article 11) either the airport (if this airport or one of its subsidiaries does not provide groundhandling services) or an authority independent from the airport (if the airport provides groundhandling services). In this second case, it is in general the Civil Aviation Administration that is in charge of this tender.

are selected in an objective, transparent and non-discriminatory manner.<sup>53</sup> Contrary to airport operators and self-handling airlines that have a guaranteed market presence, independent suppliers have to undergo the selection process to then operate during a period of 7 years maximum. This duration is assessed by groundhandling providers as insufficient to write off the cost of ground equipments and staff, thereby generating a competition disadvantage. In addition, the tender process includes a consultation of the Airport Users Committee (AUC); the rules of procedure of this committee can in some instances confer an advantage on airlines also providing groundhandling services to the detriment of independent handling companies.

2.2.2. *The overall quality of groundhandling services at airport level does not keep up pace with evolving needs in terms of reliability, resilience, safety and security and environment*

*The problem*

33. Airport operators and representatives of staff mentioned that, in a context of increased number of service providers, the overall quality of groundhandling services at airports has not kept pace with evolving needs. This suboptimal quality at airport level can be observed across all EU airports, more particularly with regard to the following aspects:
34. Firstly, stakeholders consider that the service is **not sufficiently reliable**. As regards punctuality and delays for air transport, analysis by Eurocontrol shows that groundhandling is part of the main causes of delays.<sup>54</sup> Moreover, in terms of baggage handling, according to IATA, large European airports appear to be underperforming compared to other airports in the world.<sup>55</sup> One of the main reasons for lost and delayed baggage is errors or system failures on the part of airlines and handling agents (particularly during transfer to connecting flights).
35. Secondly, the provision of groundhandling services has shown a **low level of resilience** in recent crisis situations. Indeed, post-crisis analyses indicate that airports are suffering from a lack of coordination between the actors, in particular groundhandling companies, airport operators and airlines. The report on the December 2010 snow crisis at Heathrow<sup>56</sup> and at Paris Charles De Gaulle<sup>57</sup> highlighted for instance the key aspects

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<sup>53</sup> The airport operator and self-handling airlines can operate on the restricted market without having to pass such a tender procedure.

<sup>54</sup> Air transport punctuality depend on a number of factors (airport capacity utilisation, airport security checks and other airport processes, weather conditions, passenger behaviour,...) and the exact contribution of groundhandling is difficult to isolate. Data available nevertheless shows that groundhandling activities are often a significant contributing factor (see p.6: [http://www.eurocontrol.int/coda/gallery/content/public/docs/coda\\_reports/2011/DIGEST\\_022011.pdf](http://www.eurocontrol.int/coda/gallery/content/public/docs/coda_reports/2011/DIGEST_022011.pdf)).

<sup>55</sup> See the European airport performance reported by IATA, figure 4 "Mishandling distribution for the all airports in the world", at <http://www.iata.org/whatwedo/stb/bip/Documents/Mishandling-and-Airport-performance-report-2010.pdf>.

<sup>56</sup> Report of the Heathrow Winter Resilience Enquiry – Professor D. Begg – March 2011: [http://www.baa.com/assets/Internet/BAA%20Airports/Downloads/Static%20files/BeggReport220311\\_BAA.pdf](http://www.baa.com/assets/Internet/BAA%20Airports/Downloads/Static%20files/BeggReport220311_BAA.pdf).

<sup>57</sup> "Rapport sur le fonctionnement de l'aéroport Paris CDG lors de l'épisode neigeux des 23 et 24 décembre 2010– Conseil général de l'Environnement et du Développement durable N° 007552-01 10 janvier 2011", [http://portail.documentation.equipement.gouv.fr/documents/cgedd/007552-01\\_rapport.pdf](http://portail.documentation.equipement.gouv.fr/documents/cgedd/007552-01_rapport.pdf).

of coordination and collaborative decision-making for de-icing management and operations.

36. Thirdly, stakeholders reported that the provision of groundhandling services is not sufficiently **safe and secure**.<sup>58</sup> In relation to **safety**, EASA reported in its "Annual safety review 2009" that groundhandling is one of the important causes of commercial air transport accidents, with accidents accounting for a nearly 20% and growing share of accidents.<sup>59</sup> In addition, as highlighted by the results of the public consultation, in a context of growing air traffic, the Directive has increased the **security** risks at airports, namely through a higher number of vehicles and personnel operating on the ramp.<sup>60</sup>
37. Fourthly, **environment** is a growing quality concern. If environmental requirements set by the legal framework (including but not only through the approval systems) exist and apply already to the groundhandling companies, a number of stakeholders (in particular airports managing bodies and Member States) reported that there was room for improvement at local level to ensure coordination of measures for environment protection (for instance use of electric cars, recuperation of de-icing products) in particular where industry initiatives<sup>61</sup> or local rules (specific training in particular) exist.

#### *The root causes*

38. The results of the stakeholder consultation and various evaluations indicated that the insufficient overall quality of groundhandling services can be attributed to two main root causes: (i) insufficient coordination of groundhandling services at the airport and (ii) unsatisfactory legal framework in relation to training and transfer of personnel.

##### 2.2.2.1. Insufficient coordination of groundhandling services at the airport

39. As reported by stakeholders, the service level agreed with an individual airline is not necessarily compatible with the overall airport efficiency and more generally with the quality of groundhandling services expected by the final users and citizens (the community of passengers/freight forwarders or the other airlines). **Sub-standard quality of one groundhandling company can indeed disturb the airport system to the detriment of all stakeholders** in the air transport industry, especially in departure/transfer operations or in times of crisis. This appears under several aspects:
40. **Subcontracting practices affect the overall airport functioning:** The present Directive does not explicitly cover the subject of subcontracting practices and different rules exist in the national legislation of Member States.<sup>62</sup> Yet, at numerous airports subcontracting

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<sup>58</sup> See in this respect question 9 of the public consultation in Annex V p.29.

<sup>59</sup> The accidents include mainly collisions between ground equipment and aircraft, but also de-icing problems, collisions between aircrafts, weight and balance of the aircraft, etc. See EASA annual safety review 2009 p.18-19 (also reproduced in Annex XI p. 85): [http://www.easa.europa.eu/communications/docs/annual-safety-review/2009/RLY\\_EASA\\_Annual\\_100722.pdf](http://www.easa.europa.eu/communications/docs/annual-safety-review/2009/RLY_EASA_Annual_100722.pdf).

<sup>60</sup> See in this respect SDG report p.92.

<sup>61</sup> E.g. ACI's Airport Carbon Accreditation (see <http://www.airportcarbonaccreditation.org/> for details).

<sup>62</sup> At present, if suppliers of services wish to subcontract one or more categories of groundhandling services they do not want to perform themselves, the subcontractor shall be an "authorised" third-party

takes place where self-handlers and third-party handlers subcontract part of their activities to smaller handlers, which are not formally recognised as authorised handlers. This situation contributes to maintaining unclear responsibilities for the provision of groundhandling services and has a negative impact on airport resources and space - in particular when cascade subcontracting occurs -and on airport operations.

41. ***Absence of harmonised criteria for selection:*** Selection of restricted services providers has to take place through tenders, but criteria for the selection are not specified in the Directive. This leads to a variety of practices in this regard. By setting horizontal obligations for groundhandling companies at an airport, tender criteria contribute to ensure that selected companies are those best-suited to operate in the airport context. However, as reported by stakeholders, such selection criteria are not necessarily sufficient to ensure coordination on day-to-day operations.
42. ***Absence of a clear 'coordination' function at airports, setting minimum requirements:*** Article 15 of the Directive allows airport operators to put in place "rules of conduct" imposed upon all airport actors to ensure the proper functioning of the airport, but the scope, purpose and legal nature of these rules are not defined, and the only sanction offered by the Directive to Member States is to prohibit the provision of services for the contravening company.<sup>63</sup> This contributes to keeping unclear responsibilities having negative repercussions for the provision of groundhandling services and for the overall airport operations<sup>64</sup>. Besides, some airport operators have voluntarily developed systems to improve the sharing of information such as CDM<sup>65</sup>, but this practice is not yet sufficiently developed across Europe and only covers certain types of information. The absence of common minimum quality requirements for all groundhandling providers at an airport was reported by stakeholders (mainly airport operators and Member States) as a shortcoming of the current Directive.<sup>66</sup>
43. ***Difficulty to monitor and measure performance of groundhandling services:*** The studies performed for this IA highlighted the lack of sufficient, independent and centralised data on the performance of groundhandling services, thus preventing proper measurement and monitoring of progresses made in the sector. These lacunae are due to the fact that the current legal framework does not include reporting obligations for groundhandling undertakings.

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handler (selected by tender and/or approved by an authority and/or authorised by the airport). Self-handling shall not involve any subcontracting, per definition. See in this respect Annex XV

<sup>63</sup> This extreme solution has never implemented to the knowledge of the Commission.

<sup>64</sup> For instance insufficient coordination and unclear responsibilities are a root cause of the disruption observed at London Heathrow during the winter 2010: one key issue explaining the difficulties at the airport was the unclear responsibilities between the airport and the groundhandling companies for removing the snow around the airplanes.

<sup>65</sup> Airport CDM (Collaborative Decision-Making) consists of implementing at airports information sharing devices (not business-sensitive information) so as to improve operational efficiency at airports by reducing delays, improving the predictability of events during the progress of a flight and optimising the utilisation of resources. Currently, 4 airports have completed the implementation of a CDM (Munich, Frankfurt, Brussels and Paris CDG airports) whereas a number of airports are in the process of introducing collaborative decision-making. More information at: <http://www.euro-cdm.org/>.

<sup>66</sup> Summary of the public consultation, question 5 (see Annex V p.22-23).

### 2.2.2.2. Unsatisfactory legal framework in relation to training and transfer of personnel

44. Groundhandling services are highly labour-intensive: **personnel costs amount to 65-80% of groundhandling providers' total costs** (see figure below). The quality of services therefore deeply relies on the performance of staff, whether it concerns the physical handling of baggage on the ramp, the passengers and baggage check-in, the proper use of ground equipment, the proper respect of security, safety and environmental rules at airports. It follows that any human mishandling or underperformance has a direct impact on groundhandling services quality (baggage handling being a perfect example) at airport level. Stakeholders (mainly staff representatives, airport operators and Member States) have reported that the current working conditions such as the insufficient training of personnel and an artificially-induced high turnover affect negatively the performance of staff in the groundhandling market.

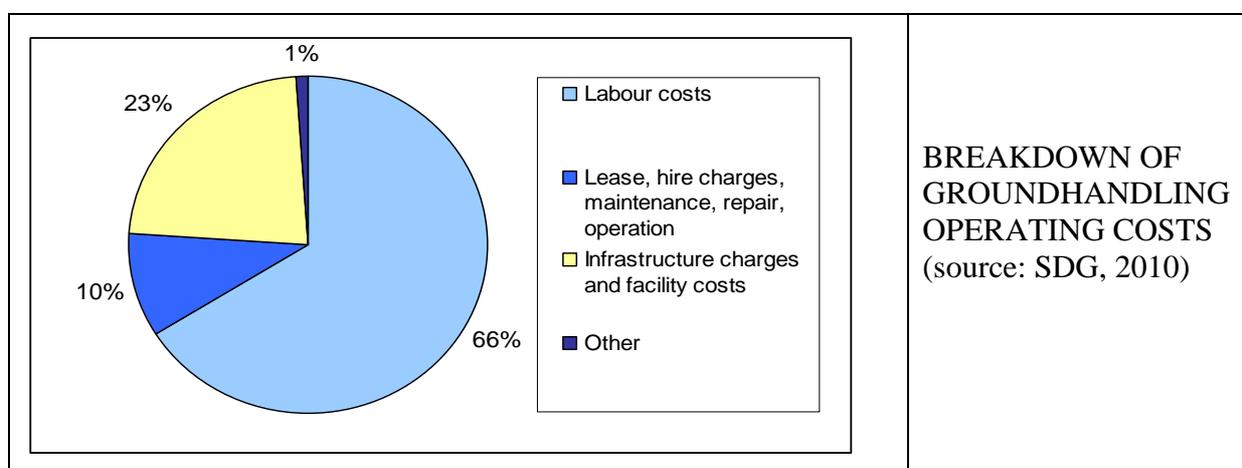


Figure 3: Breakdown of groundhandling operating costs

45. **Insufficient training of personnel:** In a labour-intensive sector such as the groundhandling market, continual staff development and training serve high quality services. The current groundhandling legal framework does not address the question of training of personnel. A number of concerns were raised by stakeholders (in particular airport operators and Member States) in this respect<sup>67</sup>. The pressure exercised by the current economic situation on airlines and groundhandling companies results in cost-savings practices and, in particular, in a reduction in investment in staff leading to poorly trained staff.<sup>68</sup> Poorly trained staff in turn increases the risk of a low quality service in all the components envisaged above (reliability, resilience, environmental protection etc.), notably in the light of safety and security hazards.<sup>69</sup>
46. **Transfer of staff:** The Directive recognised the importance of working conditions for the proper provision of groundhandling services in stipulating in Article 18 that Member States retained the power to ensure an adequate level of social protection for

<sup>67</sup> Summary of the consultation, question 5, see Annex V p. 22-24.

<sup>68</sup> Summary of the consultation, question 9, see Annex V p.30.

<sup>69</sup> Summary of the consultation, question 5, see Annex V p.22-24.

the staff of undertakings providing groundhandling services. However, pursuant to case laws, there is today uncertainty as regards the measures that Member States are authorised to take for transfer of staff pursuant to Article 18:<sup>70</sup> Member States are limited in the measures they can take in terms of transfer of staff, but no clear line defines what is permitted or not.<sup>71</sup> This was reported as a key issue in the summary of the public consultation.<sup>72</sup> Turnover of staff in the groundhandling industry is high (see Annex XIV). Most problematically, it is fuelled in part by the Directive. Tenders prescribed by Article 11 imply an "artificial" turnover of staff, independent from market evolutions: at airports where a limitation of groundhandling services is in place, the selected suppliers are authorised to operate only for a limited period (maximum 7 years) at the airport. The possibility to work as a groundhandling agent for longer periods requires to be hired by the new entrants, which is often made under less favourable working conditions.<sup>73</sup> The system of tenders affects staff working conditions and encourages turnover of staff, but the legal situation does not allow at present to take mitigating measures which would go beyond the safeguards already provided in Directive 2001/23.<sup>74 75</sup>

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<sup>70</sup> According to Court's cases C-460/02 and C-386/03, in the case of a change of a groundhandling services provider, the Member State is not entitled to organise the systematic compulsory take-over of staff by the new company in case of every transfer of activity in the groundhandling sector (and thus going beyond the scope of the application of Directive 2001/23 on safeguarding of employees' rights in the event of transfers of undertakings) as it would go against the objective of the groundhandling Directive (which is to open the groundhandling market).

<sup>71</sup> In any case, when there is a transfer within the meaning of Directive 2001/23/EC, this directive will be applicable in the groundhandling sector as in the others.

<sup>72</sup> "There is current uncertainty in when the current regulation is applicable, for example when companies are taken over as opposed to their right to operate expires and a new company takes over. Overall further regulation and clarity was deemed necessary, whether through the Directive or other legislation" (Summary of the public consultation, questions 6/7, see Annex V, p.27).

<sup>73</sup> Considering the factors of competitive disadvantage faced by independent suppliers compared to incumbent suppliers, a reduction in staff costs and lower working conditions was apparently observed at some airports as a strategy to be able to compete with incumbent suppliers and increase market shares.

<sup>74</sup> Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses. See also footnote 70.

<sup>75</sup> National and cross-sectoral EU legislation cannot address this question in every possible case: Directive 2001/23 defines the conditions under which staff rights have to be safeguarded following a transfer of an undertaking, businesses or parts thereof. The Directive does not provide that existing employment levels are to be maintained and that labour relations with staff under the previous employment arrangements are to be continued in all situations, as this Directive applies in cases of transfers within its meaning. According to the Court of Justice, it is only by having regard to the specific characteristics of each case that it is possible to determine whether the transaction concerned constitutes a transfer for the purposes of the Directive. According to the Court, there is the "transfer" only in situations where the organised economic entity taken over by the new employer keeps its identity, which should be ascertained on the basis of all the facts characterising the transaction concerned. A national provision which goes beyond the protection of the Directive 2001/23 in the groundhandling sector is also not an option (see to this effect paragraph 46 footnote 70 above).

### 2.2.3. Conclusion

**Table 1: Synoptic table of problems and root causes**

<i>Problem</i>	<i>Root causes</i>
<b>The provision of groundhandling services today is not efficient enough</b>	Possibility to restrict competition for certain services
	Patchwork of administrative conditions to access national markets (approvals)
	Difficulties for new entrant to enter and grow operations at airport level
<b>Overall quality of groundhandling services at airport level does not keep up pace with evolving needs in terms of reliability, resilience, safety and security and environment</b>	Insufficient coordination of groundhandling services at the airport
	Unsatisfactory legal framework in relation to training and transfer of personnel

### 2.3. Who is affected, in what ways, and to what extent?

47. **Groundhandling undertakings**, which can be airlines, airport operators (or airport operators' subsidiaries) or independent firms, are impacted negatively by the limited access to some airport groundhandling markets, by the administrative costs linked to approvals, by the high costs of centralised infrastructures, as well as by the problems related to coordination and staff.
48. **Airport managing bodies (or 'airport operators')** provide and allocate to groundhandlers the infrastructures; groundhandling services may impact the airport's operations, space and image. Airport operators are particularly impacted by problems of coordination and training of staff (insufficient training of staff having direct negative impacts on the reliability, resilience, safety, security and environment protection level of the airport).
49. **Airlines** are the customers/users of groundhandling services: they contract with groundhandlers and are seeking greater choice in groundhandling to propose adequate cost-efficient services to their own customers (passengers for instance).
50. **Groundhandling staff and workers' representatives** are particularly impacted by the problems of transfer and training of staff.
51. **Passengers and freight forwarders** are the final users of air travel services and benefit from good quality and cost-efficient groundhandling services. Problems related to the market, leading to non cost-efficient services, insufficient coordination at the airport or training of staff affect them directly.

### 2.4. How would the problem evolve, all things being equal?

52. The Commission has carried out an analysis of possible future developments in a scenario at unchanged policies, the so-called 'baseline scenario'.
53. In force since 1996, the present Directive has been transposed into the national legislation of the EU15 since 1999 at the latest, while the EU12 have implemented it

before 2004 and 2007<sup>76</sup>. The lack of enforcement by Member States has in a number of cases led the European Commission to resort to taking infringement procedures<sup>77</sup>: most of the infringements concerned obstacles to the proper opening of the market, whether related to tenders processes and conditions, approval conditions, or to unfair competitive practices on the part of the airport operator or of the centralised infrastructures managers.

54. The growth of traffic expected in aviation means that existing airports are to face more and more aircraft movements and congestion difficulties, which may increase delays and safety/security risks, and that more airports will reach the Directive threshold. New technologies and organisation of services could have an impact on some of the groundhandling services: for example, passenger and baggage check-in with more and more self-service<sup>78</sup> (less manpower would be needed for "passenger services"), and onboard aircraft cleaning with times reduced to the minimum. As regards services such as de-icing services, ramp handling, fuel and oil handling, surface transport, flight operations, no major technological shift is expected by stakeholders.
55. As regards **efficiency** of services, very few changes have been introduced in recent years in Member States on market access restrictions for certain services to further open the market and nothing indicates a possible change<sup>79</sup>. The general trend has been for Member States to keep policies unchanged. Approval-related procedures and conditions would continue to duplicate unnecessarily groundhandling firms' work. The groundhandling market structure would continue to be "regional" with multinational groundhandling companies active in 1 to 4 Member States. The obstacles to a level playing field would also remain. The 'natural' advantages of airport operators (and the CI managers) vis-à-vis present competitors and new competitors willing to enter the market would remain. If maintained, the current structure of the groundhandling market would limit competition and thus hamper the sound development of the groundhandling market into a cost-efficient and high-quality services market.
56. **Overall quality of services** resulting from coordination problems at airports would not be expected to change significantly. Regarding safety in particular, the new EU rules<sup>80</sup>

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<sup>76</sup> Before 2004 for CY, CZ, EE, HU, LT, LV, MT, PL, SI, SK. Before 2007 for BG and RO. The vast majority of airports impacted by the Directive for third-party handling are located in the "old" Member States - 90 % of airports above 2 millions passengers or 50,000 tons of freight in 2008. Source: SDG report 2010, table 6.7: in 2008, 12 airports out of 110 were located in a new Member State.

<sup>77</sup> 35 since 1996, 18 of them for improper application of the Directive (see annex VIII). The list of infringements proceedings which were made public are available at: [http://ec.europa.eu/transport/infringements/proceedings/air\\_en.htm](http://ec.europa.eu/transport/infringements/proceedings/air_en.htm).

<sup>78</sup> IATA drives a number of projects to develop self-boarding or self check-in with the objective that by 2020, 80% of global passengers will be offered a complete self-service suite: <http://www.iata.org/whatwedo/stb/fast-travel/Documents/fast-travel-factsheet.pdf>.

<sup>79</sup> Actually Member States having the most restrictive approaches for market opening (and therefore where the problems identified in terms of choice for airlines are the most stringent) have not indicated any intention to increase the opening of the market. Only in a few instances the choice of airlines was increased, either by increasing the number of minimum providers (Parisian airports in France, planned and conditional further market opening at Brussels airport for Belgium) or by removing the existing restrictions (Polish airports subsequently to an infringement procedures, Gatwick airport).

<sup>80</sup> These are the Implementing Rules to the Annex Va "Essential Requirements for aerodromes" of Regulation 1108/2009 amending Regulation No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002

applying to aerodrome operations (and *not* to groundhandling operations), which are to be implemented in 2013-2014, would create an obligation on airport operators to coordinate with third-party operating at the airport, including groundhandlers. However, it does not put any obligation for groundhandlers to coordinate with airport operators. At global level, international standards for groundhandling (ICAO for instance) do not exist for the moment and are not expected to be released in the short to medium term. On the side of the industry, nevertheless, initiatives have been proposed by the International Air Transport Association (IATA), representing major airlines, to improve some aspects of quality and coordination issues that penalise airlines (e.g. quality label<sup>81</sup>, baggage improvement programme<sup>82</sup>). However, these industry-led programmes, designed to respond to the needs of the airlines' business, are all based on voluntary action and are not expected to be followed by all EU groundhandling undertakings and airport operators (in addition to the fact that the scope and effects of these initiatives may not be sufficient to solve in practice the previously identified problems at EU airports). The absence of coordination linked with the increase of traffic would generate more important problems in case of crisis. While air traffic growth would lead to further job creations, the quality of service provided by staff would probably remain the same (and at some airports, worsen, as a direct result of the increase of traffic combined with new cost-savings practices of airlines).

57. It is therefore estimated that, all things remaining equal, the overall quality and efficiency of groundhandling services at European airports would not evolve positively with unchanged policies.

## 2.5. Does the EU have the right to act?

58. EU action in the groundhandling sector is justified in application of Articles 58 and 90 of the TFEU the objective of which is to eliminate restrictions on freedom to provide services in the EU and to put in place a framework of a common transport policy. The EU added value was established on the adoption of the Directive and the arguments still hold. According to Article 4 of the TFEU, EU action on the common air transport policy, which includes groundhandling, has to be justified and the subsidiarity principle set out in Article 5(3) of the Treaty on the European Union must be respected. This involves assessing two aspects.
59. Firstly, it has to be assessed if the objectives of the proposed action could not be achieved sufficiently by Member States in the framework of their national constitutional system, the so-called necessity test. In the present case, **it was acknowledged as essential in 1996 that access to the groundhandling market should take place within an EU framework**, while allowing Member States the possibility of taking into consideration the specific nature of the sector, since

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and Directive 2004/36/EC). More information on:  
<http://easa.europa.eu/atm/docs/Aerodromes%20concept%20paper.pdf>.

<sup>81</sup> The initiative launched by IATA to label groundhandling suppliers and to have an oversight of these handlers, called "ISAGO", may improve the situation. For the time being, 14 groundhandling companies at 23 stations have requested and been awarded the label. <http://www.iata.org/ps/certification/isago/Pages/registry.aspx?id=Region3>. The list at the date of 4.02.2011 is reproduced in Annex XVII ISAGO.

<sup>82</sup> The Baggage Improvement Programme (BIP) will "propose solutions that, when implemented, will cut baggage mishandling in half by 2012". <http://www.iata.org/whatwedo/stb/bip/Documents/bip-factsheet.pdf>.

groundhandling services are **essential to the proper functioning of air transport**. For instance, Member States retained the power to ensure an adequate level of social protection for the staff of undertakings providing groundhandling services and an adequate level of market opening for certain groundhandling services. This philosophy will still hold, and will only be changed in the case where a particular aspect requires an EU intervention (such as the clarification of the transfer of staff policies or the need to strengthen the competition features of the groundhandling market for airport operators). In these specific areas, for the sake of the proper provision of groundhandling services, the EU has competence to act<sup>83</sup>.

60. Secondly, it has to be considered whether and how the objectives could be better achieved by action on the part of the EU, the so-called “test of European added value.” **In achieving a true internal market for air transport**, the EU's added-value should consist of implementing measures that take into account the situation of different airports while, at same time, **ensuring that the competition between operators is not hindered**. Airlines operate in a Single Aviation market, groundhandling companies also operate on a European/International market. A level-playing field remains necessary at European level. The framework for groundhandling services cannot be addressed at a lower level of regulation. Any individual action at the Member State level would potentially prejudice the functioning of the internal market.

### 3. SECTION 3 - OBJECTIVES

#### 3.1. Policy Objectives

##### 3.1.1. General objective

61. The general objective of the proposed initiative is **to enhance the efficiency and overall quality of groundhandling services for users (airlines) and end-users (passengers and freight forwarders) at EU airports**. This will lead to a better quality of overall airport operations in the context of a worsening congestion at airports and an increasing fragmentation of the providers at airports. The Groundhandling Directive is therefore an essential element of the common air transport policy to attain Treaties' goals like common rules applicable to international transport to or from the territory of a Member State or passing across the territory of one or more Member States<sup>84</sup>, or

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<sup>83</sup> The competence of the EU for safeguarding employees' rights regarding transfer of staff in the case of tenders deserves to be further explained here. As already mentioned, Directive 2001/23 establishes an obligation of safeguarding of employees' rights following a transfer of an undertaking, businesses or parts of businesses. Recital 3 of the Directive provides that "It is necessary to provide for the protection of employees in the event of a change of employer, in particular, to ensure that their rights are safeguarded." Recital 4 provides that "Differences still remain in the Member States as regards the extent of the protection of employees in this respect and these differences should be reduced." Measures for the safeguarding of employees' rights following a transfer of activities in the context of Directive 96/67 will actually only broaden the scope of protection already provided for in Directive 2001/23 for some cases of transfer of activity. In this regard, it seems that the existence of EU competence in the context of Directive 2001/23 should by analogy be applied in the context of Directive 96/67. With respect to the question of the proportionality, it is important to highlight that 3 out of the 4 largest stakeholders groups call for an ambitious 'social clause'. It is striking that the trade unions are not alone on this since the potential 'new entrants', i.e. the independent groundhandlers, call for it.

<sup>84</sup> Article 91(1)(a) of the Treaty on the Functioning of the European Union) and establishing an internal market (Article 3(3) of the Treaty on European Union).

ensure freedom to provide services in the field of transport within the framework of a common transport policy<sup>85</sup>.

### 3.1.2. *Specific objectives (hereinafter "SO")*

62. Based on the problem and related root causes summarised in section 2 above, the general objective can be translated into more specific objectives:

*In relation with the efficient provision of groundhandling services*

63. **SO1. Ensure that airlines have an increased choice of groundhandling solutions at EU airports.** Airlines should have a real choice between self-handling and/or selecting groundhandling agents amongst a proper pool of competing potential providers, so that the end user (passenger, freight forwarders) will benefit from proper conditions and cost-efficient prices negotiated by airlines.
64. **SO2. Harmonise and clarify national administrative conditions on market entry (approvals).** Divergences and duplication among Member States' approval requirements governing market entry should be reduced.
65. **SO3. Ensure a level playing field at airport level between groundhandling companies operating under different regulatory regimes.** Market entry should not be hampered by unfair competition from the airport operator or by unfair management of centralised infrastructures.

*In relation with the overall quality of groundhandling services at airports*

66. **SO4. Increase coordination between groundhandling providers at the airport.** Regardless of the number of groundhandling providers, operations at the airport should remain effective and coordinated (in particular in terms of reliability, resilience, safety and security, environment protection).
67. **SO5. Clarify the legal framework in relation to personnel training and transfer.**

### 3.1.3. *Operational objectives (hereinafter "OO")*

68. The mentioned specific objectives can in turn be translated into operational objectives. These objectives include the following: OO1. Increase in groundhandling service providers at airports; OO2. Improve satisfaction rate with approval systems; OO3. Improve satisfaction with access conditions to EU airports for groundhandling companies; OO4. Improve safety figures and satisfaction with coordination at the airport (in particular in terms of reliability, resilience, security, environment protection). OO5. Improve satisfaction with training and transfer of staff for groundhandling services. We have excluded the quantification of some of the operational objectives: the achievement of the operational objectives will rely in these cases on opinion of stakeholders.

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<sup>85</sup> Articles 58 and 90 of the Treaty on the Functioning of the European Union and establishing an internal market

### 3.2. Possible trade-offs between policy objectives

69. SO1/SO3 and SO4/SO5 are conflicting objectives, since increasing the choice for airlines and introducing more competition in terms of groundhandling services affect negatively coordination at airport and staff working conditions.

### 3.3. Consistency with other horizontal policies of the EU

70. Measures designed to meet the objectives will be in compliance with fundamental rights and principles as embodied in the Charter of Fundamental Rights of the EU. In particular, the measures aimed at enhancing competition among and competitiveness of operators will respect the freedom to conduct a business (Art. 16).<sup>86</sup> A better quality of groundhandling at airports contributes to the overall objective of the Sustainable Development Strategy regarding sustainable transport: ensure that our transport system meets society's economic, social and environmental needs whilst minimising their undesirable impacts on the economy, society and the environment. Investing in training of staff and ensuring decent working conditions are in line with EU's social market economy for the 21st century set out in the Europe 2020 strategy.

## 4. SECTION 4 - DESCRIPTION OF POLICY PACKAGES

71. The Commission has firstly envisaged several possible interventions at EU level to address the problem identified above and its root causes.
72. **The first possible EU intervention could be repealing the Directive.** Previous consultation with all the stakeholders indicates no desire to repeal the Directive. An EU regulatory framework ensures a level playing field for the provision of groundhandling services, which are essential not only for airlines operating in the European market place, but also for independent groundhandlers' activities. In view of the risk of fragmentation of the internal market and the complexity that would result from different national/local/airport requirements in the 27 Member States and associated countries, this possibility has not been pursued further.
73. **The second possible EU intervention could be strict implementation of the existing, unchanged Directive coupled with guidance material.** This policy option is preferred by some stakeholders (e.g. German and Austrian airport operators) but is not favoured by the European organisations representing airlines, airport operators, representatives of staff, etc. This option is not pursued further because at least one of the key drivers

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<sup>86</sup> Regarding EU competence to act on the possibility for airports to provide groundhandling services at their own airport, this is sensitive issue as it affects the rights of ownership. The Commission has however already proposed ownership unbundling, e.g. in the energy sector (legislative package on the internal market for electricity and gas). The ownership unbundling is a strong measure since it is in conflict with property rights, protected under the Charter of Fundamental rights (Article 17) as well as under most if not all Constitutions of Member States. However, it is possible to legislate on property rights if duly justified from a public interest point of view (Article 17, 2nd sentence, Charter of Fundamental Rights). Considering that airports will always find means to advantage their own groundhandling company (because airports are responsible for allocating airport spaces to groundhandlers and airlines, for defining the "rules of conduct" at the airport, for levying charges or fees for the use of the infrastructure and airport services), and that this is to the detriment of the air passengers, this measure is considered compatible with EU law.

cannot be addressed by strict implementation and guidance (Root cause 1: '*Possibility to restrict competition for certain services*'<sup>87</sup>). However, wherever possible, policy measures consisting in giving guidance are addressed further (see 4.1 on policy measures and 4.2 on policy packages).

74. A proposal of the European Commission to update the current EU Regulatory framework is therefore the only form of EU intervention to address all root causes.

#### **4.1. Identification of possible policy measures**

75. The stakeholders' consultation allowed identifying a broad set of individual measures having the potential to address the drivers/root causes above. The main specificity of the file is the large number of policy measures that have to be addressed on many different aspects of the Directive. The following process was applied:
76. 1) Identify the policy measures which can be discarded after a first, preliminary assessment (see Annex XVIII), for not bringing sufficiently high benefits in comparison to their costs.
77. 2) Draft a list of retained policy measures, classified to address the 5 root causes. Table 2 below presents each individual root cause and the corresponding policy measures. We have sought to reduce the number of policy measures *per root cause* to the maximum (generally 3 measures) while ensuring that they would be sufficiently distinct from one another to highlight their main advantages and disadvantages. To that end, we have chosen and classified the policy measures according to their intensities in a gradual and progressive manner.<sup>88</sup> The measure with highest intensity corresponds to a strong request expressed by one particular group of stakeholders (full market access requested by airlines, full transfer of staff requested by workers' organisations etc.) or to a strong measure in terms of harmonisation at EU level. It is important to note that, most of the time, the request of one stakeholder group conflicts with the priorities of another group (i.e. full market access is opposed by workers' representatives; full transfer of staff is opposed by airlines).

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<sup>87</sup> Guidance would be meaningless or even conflict with the implementing measures/internal legal order of the Member States who have opted to limit competition for certain airside services, in full compliance and lawfulness with the existing Directive. A strict monitoring of the implementation of the Directive, that has been carried out by the Commission as highlighted earlier, cannot address this driver neither.

<sup>88</sup> For example, three policy measures are identified to the driver 1 '*Possibility to restrict competition for certain groundhandling services*,' the first one being the '*softer measure*', the second one being more intense in market access, the third one concentrating on full market access

<i>Root causes / Areas for action</i>	<i>Retained policy measures</i>		<i>Content of policy measures</i>
<b>1: Possibility to restrict competition for certain groundhandling services</b>	Full opening of the self-handling market		Open the market for the 4 categories of groundhandling services that can be subject to limitations for self-handling (at airports above 2 million passengers annually or 50,000 tons of freight).
	Increase to 3 the minimum number of groundhandling suppliers at very big airports for the 4 categories of services that can be subject to limitations		Upgrade the minimum number of suppliers for the 4 categories of groundhandling services that can be subject to limitations to minimum 3 at airports with more than 5 million passengers annually or 100,000 tons of freight. <sup>89</sup>
	Full opening of the groundhandling market		Open fully the groundhandling market at airports above the annual thresholds of 2 million passengers or 50,000 tons of freight (no more need for tenders).
<b>2: Patchwork of administrative conditions to access national markets (approvals)</b>	Guidance for member states on approval requirements		Clarification of criteria and processes that can be taken by Member States for their approval systems, as well as recommendations.
	Mutual recognition of approvals between the EU Member States with harmonised requirements		Harmonise the content of approvals and require Member States to recognize approvals delivered in another Member State. Definition of conditions for obtaining such approval, such as insurance, financial fitness, training, safety and environment.
	Set-up an EU approval		Harmonise the content of approvals and centralise issuance of approvals at EU level. Definition of conditions for obtaining such approval, such as insurance, financial fitness, training, safety and environment.
<b>3: Difficulties for new entrant to enter and grow operations at airport level</b>	a) Management of CI:	Clarify definitions in the current Directive for centralised infrastructures	Clarify in the Directive the definitions for centralised infrastructures and give guidance on management of centralised infrastructures.
		Better management of "centralised infrastructures" used by groundhandlers	Better define centralised infrastructures and clarify the process to designate and validate the price for use of a centralized infrastructure, along the principles set by Directive 2009/12 on Airport Charges for airports above 5 million passengers (Proposal by the airport; consultation of the Airport User Committee, role of an independent authority).

<sup>89</sup> This 5 million passengers or 100,000 tons freight threshold corresponds to the ACI threshold for large airports and to the threshold used for the Directive 2009/12 on airport charges. Considering that airports with 2 millions passengers and 50,000 tons of freight can sustain 2 providers (this is the volume of traffic used in the Directive 96/67), it is considered that with 5 millions passengers and 100,000 tons of freight, 3 providers could be sustainable (the volume is at least the double so in theory, 4 providers could be sustainable, but a margin is taken for coping with varying self-handling volumes and the volume taken by the biggest airline). With this threshold, 60 airports would be affected.

<i>Root causes / Areas for action</i>	<i>Retained policy measures</i>		<i>Content of policy measures</i>
	b) Airport operators privileged position	Clarify definitions in the current Directive for separation of accounts	Clarify in the Directive the definitions for separation of accounts infrastructures (and possibly giving guidance on how to operate this separation of accounts).
		Legal separation for airport operators between their groundhandling activities and their airport activities (CI being considered as airport activity)	Amend the legislation to introduce a legal separation for airport operators (and CI managers) between their activities as groundhandling providers and other activities. The subsidiary in charge of groundhandling will not receive any financial support from the airport operators (or the CIs manager), and will not operate CIs.
		Suppression of the possibility for airport operators to control a groundhandling activity at their own airport	Require airport operators to abandon their control over their divisions/ companies, providing groundhandling services at their own airport (provision of groundhandling services by the airport operator at other airports being possible).
	c) Tender process	Clarify Airport Users Committee (AUC)'s role and definitions in the Directive	Clarify in the Directive the definitions and role of the Airport User Committee and give additional guidance on its role.
		Improve the procedure for tenders (AUC + duration)	Introduce clarified rules for the AUC, in particular regarding the powers of the "home airline", and introduce an extended duration for tendered activities (up to 10 years). This option consists in clarifying the rules of procedure of AUCs, in terms of voting powers for the airlines : (i) to limit the powers of the dominant airline, which is often the "home airlines" (ii) to avoid conflict of interest in the case where airlines are represented by their groundhandling companies or where airlines also provide groundhandling services.
<b>4:Insufficient coordination of groundhandling services at airports</b>	a) Subcontracting practices	Guidance on subcontracting	Provide guidance to Member States on subcontracting in groundhandling.
		Introduce clarified rules for subcontracting	Introduce clarified rules for subcontracting about cascade subcontracting and subcontracting for airlines and airports: "no contract of any description" should exist for self-handling (regarding staff providing the service), any groundhandling provider willing to subcontract services shall keep the airport operator informed of the subcontractors and use only "authorised subcontractors", groundhandling providers submitting an offer to a tender procedure shall clearly specify if they use a subcontractor and give the identity of such subcontractors; subcontracting "in cascade" is prohibited.
	b) Criteria for selection	Harmonise the criteria to select a competitor by tender	Harmonise the criteria to be taken into account for tenders (selection of restricted services only).
	c) Airport	Guidance on "rules of conduct"	Explain and give guidance on "the rules of conduct" referred to in the Directive.

<i>Root causes / Areas for action</i>	<i>Retained policy measures</i>		<i>Content of policy measures</i>
	operator's supervision and quality requirements	Role of airport operators for ground operations	Clarify that airport operators are "ground coordinators" for the proper operations at the airport, including for coordinating groundhandling services (in terms of reliability, resilience, safety/security, environment protection)
		Airport operator responsible for minimum quality requirements for groundhandlers' operations to be defined in a delegated act	Airports above 5 million passengers or 100,000 tons of freight <sup>90</sup> to introduce minimum quality level requirements, to be followed by groundhandling companies on a fair, transparent and non-discriminatory basis, coupled with a sanction mechanism in case of non-compliance. The scope of these quality requirements would be framed in EU delegated legislation and could encompass operational performance, training, assistance and information to passengers, CDM, safety, security, contingency measures, and environment.
		Minimum quality requirements defined at EU level	EU to define for airports above 5 million passengers or 100,000 tons of freight minimum quality level requirements for groundhandling companies. The quality requirements encompass operational performance, training, assistance and information to passengers, CDM, safety, security, contingency measures, and environment.
	d) Reporting obligation for groundhandling companies	Introduce at airports above 5 million passengers or 100,000 tons of freight obligations for groundhandling companies (whether independent, airlines, or airport operators) to report to the European Commission <sup>91</sup> on their operational performance regarding a number of fields (covering reliability, resilience, safety/security, environment protection), to be defined in a delegated act .	
<b>5: Unsatisfactory</b>	a) Training	Guidance on training	Provide general guidance to Member States about training

<sup>90</sup> This threshold was preferred for these measures for proportionality reasons. Problems of coordination are expected to be more and more significant with the size of airports. However, the amount of efforts for the industry to comply with these measures would be similar whatever the size of airports. In addition, it is considered at this stage that this threshold would correspond to the 60 airports key for the Single European Sky network, where coordination at the airport is crucial, and improper quality could impact on the EU aviation network.

<sup>91</sup> Along the logic initiated with the Single European Sky (SES) and the gate-to-gate approach, the performance of groundhandling companies could be monitored on behalf of the Commission by Eurocontrol (the newly appointed Performance Review Body- PRB). Some reporting systems already exist consisting for stakeholders in reporting directly to the PRB some aspects of performance (delays) but not for all aspects envisaged in this IA. The current system for monitoring the performance of Air Navigation Service Providers is that reporting is made directly by stakeholders to the PRB, which in turn can redistribute the information under the appropriate form. Without prejudice to "lessons learnt" in the future with the SES performance scheme, it was preferred at this stage to ask the groundhandling companies to report directly to the Commission, without involving the airports, because: (i) It is more effective (notably in terms of administrative burden for the industry); (ii) It avoids that airports that are also groundhandling providers have access to some business-sensitive data about their competitors; (iii) It is technically feasible to envisage a redistribution of the information in a non-sensitive form to the airports by the PRB, if need be.

<i>Root causes / Areas for action</i>	<i>Retained policy measures</i>		<i>Content of policy measures</i>
<i>legal framework in relation to training and transfer of personnel</i>		Compulsory minimum training of staff	Require in some identified domains (safety, environment, baggage handling etc.) mandatory initial and vocational training by groundhandling companies.
		Introduce individual staff qualification (licensing) for key staff categories	Introduce the mandatory licensing of groundhandling employees carrying out certain tasks (loaders, loadmasters, check-in agents, ramp agents and de-icers).
	b) Transfer of staff	Consultation of employees' representatives in the selection of tendered groundhandling activities.	In the case of tenders for restricted services, require a consultation of employees' representatives at airport level before the tendering authority makes its choice. The employees' representatives' opinion would be consultative.
		Allow Member States to impose a requirement to take over staff with similar conditions for services to which access is restricted.	In the case of groundhandling services to which access is restricted, clarify that measures can be taken at Member State level to ensure the take-over of staff with similar conditions by the other groundhandling companies- which can be (self-handling or third-party handling) airlines, airport operators or independent groundhandling companies- where there is a partial or full loss of activity.
		Full take-over of staff with similar conditions in cases of a loss of activity to a different provider	Impose that for any partial of total loss of activity of a groundhandler or self-handler, in the case of all groundhandling services, the staff is taken over by the company replacing this groundhandling company, with similar conditions.

**Table 2: Retained policy measures**

## 4.2. Description of policy packages

### 4.2.1. Construction and content of retained packages

78. To determine appropriate EU policy action, the Commission has considered first the possible application of an isolated intervention in each of the five areas for action identified in section 2 above. None of the policy measures taken in isolation presented above can achieve the objective of enhancing the efficiency and the overall quality of groundhandling services. A holistic approach covering all elements considered so far is required. To this end, the Commission has identified four policy packages, besides the baseline scenario, that combine specific EU actions across the five areas identified above. By construction, each policy package is capable of tackling the five root causes of the problem identified in section 2 above and of reaching the five specific objectives set out in section 3 above. In addition, for the 3 key packages, each policy package - presented in table 3 below – incorporates policy measures chosen in table 2 with the same level of intensity (low, medium or high) across the five areas identified. This approach aimed at minimising the possible conflicts between efficiency and quality (for instance in the case of training of staff), between efficiency and working conditions for staff. Consequently, the envisaged policy packages are internally coherent.
79. However, as for 2 of the 5 areas identified, some more ambitious measures could also be considered without affecting the internal coherence of the package, an intermediate package incorporating medium measures (for contentious areas, i.e. areas where the views of different stakeholders were not incompatible) and more ambitious measures (for non contentious areas) was added.
80. The first policy package (PP1) seeks to **improve the current system by amending the Directive only to the necessary minimum and providing guidance wherever possible. It contains the less intense policy measures identified above.** In terms of content, PP1 includes the following measures: the market of groundhandling services for self-handling is free, guidance is provided for approval requirements, clarified definitions and more detailed requirements are set for account separation, centralised infrastructures, subcontracting, AUC role and composition. As for coordination at airport level, guidance is provided about subcontracting and harmonised criteria are defined in case of tenders. In addition, PP1 makes sure that minimum training is covered as well as consultation of employees' representatives in case of tenders.
81. The second policy package (PP2) seeks to **improve the current system with a set of policy measures with medium intensity and is therefore more ambitious than PP1.** In terms of content, PP2 increases the choice of airlines: it opens fully the self-handling market and increases to 3 the minimal number of restricted services providers for third party handling. It also contains measures such as mutual recognition of approvals and harmonised tender criteria, but also better management of centralised infrastructures, legal separation of airport operators and longer duration for tenders. To ensure coordination at airports, it contains measures about subcontracting, role of airport operators for overall operations and possibility to set minimum requirements, as well as reporting obligations on performance. Minimum training and authorisation for Member State to implement transfer of staff with similar conditions for services to which access is restricted are part of this Package.

82. Another policy package (PP2'), similar to PP2 but with alternate measures (high intensity) for the non-contentious areas of problem identified, is also possible. In terms of content, PP2' increases the choice of airlines: it opens fully the self-handling market and increases to 3 the minimal number of restricted services providers for third party handling. It also contains measures such as harmonised tender criteria, but also better management of centralised infrastructures, legal separation of airport operators and longer duration for tenders. To ensure coordination at airports, it contains measures about subcontracting, role of airport operators for overall operations as well as reporting obligations on performance. Minimum training and authorisation for Member State to implement transfer of staff with similar conditions for services to which access is restricted are also part of this Package. The difference with PP2 lies in the approval set at EU-level (not at Member State level with mutual recognition) and the minimum quality requirements set at EU level (not at airport level on the basis of a delegated act).
83. Finally the third policy package (PP3) **seeks to improve the current system with policy measures with high intensity, providing for a full harmonisation of the groundhandling market legal framework.** This package includes a uniform framework for market opening (full opening of the market, which means no more tenders are needed) and market access conditions (better CI management, introduction of an EU approval, suppression of the possibility for airport operators to have a groundhandling activity). As for coordination, it contains measures on subcontracting, role of airport operators for overall operations and possibility to set minimum requirements at EU level, as well as reporting obligations on performance. And finally for working conditions, this package foresees a total transfer of staff and a licensing of key staff.

#### 4.2.2. Policy instrument

84. PP2, PP2' and PP3 are constructed in the form of a Regulation<sup>92</sup>. The main reason for choosing this instrument is that it better suits the needs for harmonisation of groundhandling markets at EU level that was identified as a problem. Most of the difficulties and problem areas identified with the current legal framework are linked to divergent implementation among Member States. Considering the gradual opening of the groundhandling market that has already taken place at all EU airports (and therefore the level of harmonisation already achieved), the new need for minimum quality at airports to respect the gate-to-gate approach (see paragraph 21) and the level of prescription of PP2/PP2' and PP3 (irrespective of the legal instrument chosen), the flexibility offered in 1996 by choosing a Directive is no longer required. In addition, a number of small/medium Member States cited the difficulty of implementing the Directive in their national systems, and called for a “joint” implementation work with other Member States via implementing/delegated acts (article 291 TFUE).
85. However, a number of drawbacks may arise due to the choice of a Regulation: the flexibility to accommodate varying situation in different Member States and individual airports will be presumably more limited. However, the drafting of a Regulation allows

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<sup>92</sup> The final choice of the instrument (Directive/Regulation) will be subject to a careful analysis of the draft proposal with the Legal service in order to check that the instrument fully meets the content and purpose of the specific provisions/articles.

leaving in some cases some flexibility for Member States where need be, by addressing the measures to Member States (for instance for the number of providers at airports).

86. As reflected in the public consultation results (questions 20 and 21), no clear consensus emerged from the consultation about this question of the harmonisation of the groundhandling services. Member States were divided on this question, with a majority of Member States supporting greater harmonisation. Airlines, independent handlers and representatives of staff were in favour of more harmonisation. The majority of airport operators were against greater harmonisation. However, some proposals for harmonisation were made by airport operators.
87. Considering *prima facie* that similar measures in PP2/PP2' and PP3 could be retained under the form of a Directive, another aspect justifying the preferred recourse to a Regulation is the simplification of the legislative framework (no transposition measures needed).
88. To conclude, the advantages of a Regulation in this specific case surmount the drawbacks.

#### 4.2.3. Measures proposed to be implemented by delegated acts

89. The packages contain two measures that are proposed to be implemented via delegated acts. They concern the fields in which groundhandling companies will have to report their operational performance (measure proposed in PP2, PP2' and PP3) and the scope and content of the minimum quality level requirements that can be set by airport operators (PP2).

#### 4.2.4. Overview of policy packages retained for the impact assessment

<i>Legal instrument envisaged</i>	<b>Marginally amended Directive (+guidance):</b>	<b>Regulation building on the current framework:</b>	<b>Regulation building on the current framework:</b>	<b>Regulation with full harmonization</b>
<b>Root cause 1: Possibility to restrict competition for certain groundhandling services</b>	- Full opening of the self-handling market	- Full opening of the self-handling market  - At large airports, increase to 3 of the minimal number of providers for third party handling for the 4 categories of services that can be restricted.	- Full opening of the self-handling market  - At large airports, increase to 3 of the minimal number of airside services providers for third party handling.	- Full opening of the self- and third-party handling markets (no tenders any more)

<b>Root cause 2: Patchwork of administrative conditions to access national markets (approvals)</b>	- Guidance for Member States on approval requirements	- Mutual recognition of approvals with harmonised requirements	- Set-up an EU approval	- Set-up an EU approval	
<b>Root cause 3: Difficulties for new entrant to enter and grow operations at airport level</b>	a) Clarified definitions in the Directive for centralised infrastructures (CIs)	a) Better management of centralised infrastructures,	a) Better management of centralised infrastructures,	a) Better management of centralised infrastructures;	
	b) Clarified definitions in the Directive for separation of accounts	b) Legal separation of airport operators and their groundhandling subsidiaries	b) Legal separation of airport operators and their groundhandling subsidiaries	b) Suppression of the possibility for airport operators to control a groundhandling activity at their own airport	
	c) Clarified Airport Users Committee's role and definitions in the Directive	c) Improved tender procedure (Airport Users Committee + duration tendered activities).	c) Improved tender procedure (Airport Users Committee + duration tendered activities).	( no c ) : no tenders in PP3)	
<b>Root cause 4: Insufficient coordination of groundhandling services at airports</b>	a) Guidance on subcontracting	a) Introduce clarified rules for subcontracting	a) Introduce clarified rules for subcontracting	a) Introduce clarified rules for subcontracting	
	b) Harmonised criteria for tenders	b) Harmonised criteria for tenders	b) Harmonised criteria for tenders	(no b) : no tender in PP3)	
	c) Guidance on "rules of conduct"	c) Role of the airport operator for ground operations	c) Role of the airport operator for ground operations	c) Role of the airport operator for ground operations	c) Role of the airport operator for ground operations
		At large airports, airport operator responsible for minimum quality requirements for groundhandlers' operations to be specified in a delegated act	At large airports, minimum quality requirements defined at EU level	At large airports, minimum quality requirements defined at EU level	At large airports, minimum quality requirements defined at EU level
	d) Reporting obligations on performance operations to be specified in a delegated act	d) Reporting obligations on performance operations to be specified in a delegated act	d) Reporting obligations on performance operations to be specified in a delegated act	d) Reporting obligations on performance operations to be specified in a delegated act	

<b>Root cause 5: Unsatisfactory legal framework in relation to training and transfer of personnel</b>	a) Guidance on training	a) Compulsory minimum training of staff	a) Compulsory minimum training of staff	a) Introduce individual staff qualification (licensing) for key staff categories
	b) Consultation of employees' representatives during tenders	b) Allow Member States to impose a requirement to take over staff with similar conditions for services to which access is restricted.	b) Allow Member States to impose a requirement to take over staff with similar conditions for services to which access is restricted.	b) Full take-over of staff with similar conditions in cases of a loss of activity to a different provider, for all groundhandling services categories.

**Table 3: Policy packages**

## 5. SECTION 5 - ANALYSIS OF IMPACTS

90. This section provides an assessment of the economic, social and environmental impacts of the policy packages described in section 4 compared to the baseline scenario. In light of the scarce availability of quantitative data explained in section 2.1 above, a quantitative assessment was carried out when possible, i.e. for the calculations of the administrative burden of relevant policy measures, and for an estimation of the impact on employment of the packages.

91. Policy Packages are first assessed along economic impacts (5.1), social impacts (5.2), environmental impact (5.3), but also at the level of compliance aspects (5.5), simplification of the legislation (5.6). A section on the quality of service (5.4) aims at analysing the impact of the policy packages on the overall quality of services (reliability, resilience, etc.) that have not been assessed elsewhere. A table summarizing the impacts of the three policy packages is provided in 5.7.

### 5.1. Economic impacts

#### 5.1.1. Impacts on the functioning of the internal market, competition and competitiveness of groundhandling services

92. The criteria to assess the impact of the policy packages are: (i) Number of competing service suppliers at each airport; (ii) Airport operators' and air carriers' involvement in groundhandling<sup>93</sup>; (iii) Harmonisation of conditions to enter the market (iv) Groundhandling prices.

93. **PP1** will not change significantly the situation compared to the baseline.

93.1. The number of competing groundhandling suppliers at each airport is expected to very slightly increase compared to the baseline. The situation of airports with only 2 suppliers for restricted services is unlikely to change, but the new definition of centralised

<sup>93</sup> Involvement of airport operators in groundhandling services is to be understood as the involvement of an airport operator *at its own airport* (the involvement of an airport operator in groundhandling services at another airport not causing competition concerns due to the mix of roles).

infrastructures may oblige some airports to open to competition some of the services to manage CIs. However, PP1 will not ensure that the price to be paid for the use of CI is reasonable, which may discourage some potential suppliers from entering the market. All in all, the impact of PP1 on the number of suppliers will be limited.

93.2. As regards the involvement of airport operators and air carriers in groundhandling services, at a number of airports, where the airport managing body is a quasi monopoly competing in groundhandling with a single competitor for the restricted services, the clearer definitions for separation of accounts and centralised infrastructures are not expected to prevent them from keeping a very high market share. Therefore the involvement of airport operators will remain similar to the baseline. Besides, PP1 gives entire freedom for air carriers to carry out their own self-handling. At airports where self-handling is currently restricted, this measure could limit the size of the third-party handling market. However, even if this is very difficult to predict (the self-handling market is very difficult to assess because it changes fast, the limitations are not always implemented, and the decision for an airline to self-handle or not also depends on its business strategy), it is expected that the impact of a full opening of the self-handling market will be overall limited (the number of self-handling airlines at fully open airports is in average inferior to 2<sup>94</sup>, while the legal limitations currently foreseen in the Directive 96/67 for the number of self-handling airport users set that the minimum shall be "at least 2").

93.3. As regards the harmonisation of conditions to enter the market, PP1 is expected to have a very limited impact compared to the baseline. The introduction of guidance about approvals will have very limited effect since approvals requests will still have to be filed in different Member States. The harmonised criteria for tenders may improve, across the European Union, the consistency of national/local measures to select independent groundhandlers for restricted services.

93.4. The price of groundhandling may fall slightly due to slightly enhanced competition with the full freedom to self-handle and the clearer definitions of separation of accounts and centralised infrastructures.

94. **PP2** will have a significant positive impact on the functioning of the internal market and the competitiveness of the groundhandling business.

94.1. The number of competing service suppliers at each airport is set to increase, in particular at airports where restricted services were limited to 2 providers. The measures on centralised infrastructures are also expected to lead to an increased number of providers.

94.2. As regards the involvement of airport operators and air carriers in groundhandling services, PP2 is expected to limit the privileged position that some of the airport operators have over their groundhandling competitors, thereby levelling the involvement of airport operators. PP2 gives entire freedom for air carriers to carry out their self-handling. At airports where self-handling is currently restricted, this measure could impact negatively the size of the third-party handling market. However, even if this is very difficult to

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<sup>94</sup> The average number of self-handling airport users for the 4 categories of services potentially subject to limitation at airports where no restrictions apply is: 2 for baggage handling; 1.9 for ramp handling; 1.9 for freight and mail handling between the aircraft and the terminal; and 0.1 for fuel and oil handling (source: annex IX section 2, p. 66).

predict (the self-handling market is very difficult to assess because it changes fast, the limitations are not always implemented, and the decision for an airline to self-handle or not also depends on its business strategy), it is expected that the impact of a full opening of the self-handling market will be limited (see paragraph 93)

94.3.As regards the harmonisation of conditions to enter the market (contribution to creating a single EU market for groundhandling), PP2 is expected to harmonise the way to obtain approvals and to pass tenders. However, the way to access the market will continue to be divided between airports where the 4 services that can be subject to limitation are effectively restricted in access, and airports where the market is fully open for all categories of services.

94.4.Finally, in terms of groundhandling prices, the enhanced competition on the self-handling and third-party handling market will contribute to ensure cost-efficient services, in particular at airports where the third-party handling market was still protected from effective fair competition. Competition will in addition be much fairer in PP2 compared with the baseline, with the legal separation of groundhandling activities from other airports activities; the measure forbidding the transfer of revenues derived from centralised infrastructure to groundhandling activities; the better management and oversight of centralised infrastructures, and the longer duration for tendered activities. The oversight of centralised infrastructures will allow a better monitoring of prices. In the case of services to which access is restricted where Member States put in place compulsory transfer of staff, the prices will most probably increase. Compared to the baseline, at the same level of traffic, new entrants and other groundhandling providers will bear the cost of taking over staff with similar conditions that they would have otherwise hired at lower prices (or not hired). To the extent that the measure corresponds only to transfers following tenders (i.e. concerns half of Member States), and where it is foreseen at national level, this increase in prices should be marginal compared to benefits expected from other measures. All in all, PP2 is therefore expected to decrease groundhandling prices.

95. **PP2'** will also have a significant positive impact on the functioning of the internal market and the competitiveness of the groundhandling business (similar to PP2).

96. **PP3** will have a significant positive impact on the functioning of the internal market and the competitiveness of the groundhandling business.

96.1.The number of competing service suppliers at each airport is set to increase, in particular at airports where services subject to limitation in numbers were limited to 2 providers. The measures on centralised infrastructures are expected to increase the number of providers.

96.2.As regards the involvement of airport operators and air carriers in groundhandling services, PP3 is expected to end the involvement of airport operators as groundhandling companies at their own airport. PP3 gives entire freedom for air carriers to carry out their self-handling. At airports where self-handling is currently restricted, this measure could impact negatively the size of the third-party handling market. However, even if this is very difficult to predict (the self-handling market is very difficult to assess because it changes fast, the limitations are not always implemented, and the decision for an airline to self-handle or not also depends on its business strategy), it is expected that the impact of a full opening of the self-handling market will be limited (see paragraph 93).

96.3. As regards the harmonisation of conditions to enter the market, **PP3** is expected to harmonise deeply the market: the way to obtain approvals, the way to enter the market (no more tenders), as well as the quality requirements, will all be defined at EU level.

96.4. Finally, in terms of groundhandling prices, the measures in **PP3** will have contradictory effects. On the one hand, full freedom to self-handle and removal of restriction on third-party handling market will ensure cost-efficient services. Competition would in addition be much fairer in **PP3** compared with the baseline, with the suppression for airport operators of their right to control groundhandling companies operating at their airport and the fairer management/oversight of centralised infrastructures. Finally, the oversight of centralised infrastructures will allow a better monitoring of costs for groundhandlers, and therefore would normally decrease prices due to competition. However, despite enhanced competition, prices could increase due to the systematic transfer of staff to be operated for each partial or total change of provider, since this will have to be integrated in all groundhandling companies' costs. This increase in prices due to staff transfer will affect nearly all Member States. All in all, price will increase at airports where the market was previously open while prices could decrease/increase slightly at airports which were not subject to open competition previously (the prices evolution at airports which were not subject to open competition previously is expected to depend on the local features of the airport, in particular on the level of staff costs compared to the level of competitive pressure that existed previously).

*5.1.2. Impacts on operating costs and conduct of businesses for groundhandling operators, airport operators, airlines*

97. Compared to the baseline, **PP1** will have a very limited impact on operating costs of groundhandling operators, airport operators or airlines. The new definition of centralised infrastructures may impact negatively in some cases the airport operator's conduct of business.

98. Compared to the baseline, **PP2** will impact quite moderately operating costs of businesses. Groundhandling businesses will be impacted marginally (less substantive costs due to better management of CI, longer access to market allowing a better amortization of equipment costs, but higher substantive costs due to minimum training obligations and transfer of staff in case of tenders with similar working conditions). As for airport operators, the legal separation between the groundhandling activities and other airport activities will imply substantive costs for airport operators that are involved in groundhandling services. This option will imply costs for airport operators that still have an integrated groundhandling department, for example in terms of buildings, systems, and properties, legal matters and processes (communications, information, advertising, financial and management systems). There remains a number of airport operators having integrated groundhandling activities, amongst which large airports such as Fraport (Frankfurt airport), Koln or Prague, but mostly many small/medium airports such as Sofia, Charleroi, Skavsta. For the latter, the cost of a compulsory legal separation could be significant, even if some "small airport operators" set up subsidiaries, thereby proving that it is feasible. Whereas a number of airport operators providing groundhandling services have recently set up at their own initiative

subsidiaries<sup>95</sup>, no rules has obliged them to keep CIs outside the perimeter of the subsidiary. Costs could arise from a new perimeter of the subsidiary. Finally, the cost linked to groundhandling services for airlines (5 to 12% of operating costs) will decrease (the cost for airlines of groundhandling services corresponds to the prices of groundhandling services since airlines are the customers of groundhandling services: see impact of PP2 on groundhandling prices, 5.2.1.).

99. Compared to the baseline, **PP2'** will impact quite moderately operating costs of businesses (similar impact as PP2).
100. Compared to the baseline, **PP3** will impact quite significantly operating costs of businesses. Groundhandling businesses are expected to be impacted negatively: on the one hand, less substantive costs are expected due to better management of CI, open access to the market; on the other hand though, licensing of key staff and full transfer of staff with similar working conditions are expected to represent very high substantive costs at all airports. As for airport operators, the suppression of the possibility for airport operators to control a groundhandling activity at their airport will imply substantive costs for airport operators that are involved in groundhandling services. There could be an impact on the business model of the airport operators that propose full airport services and market this expertise and reputation by providing airport management and groundhandling services abroad. However, this impact will be limited as these airport operators will be able to continue providing groundhandling services at other airports if so wished. Finally, PP3 will have an impact on the cost linked to groundhandling services for airlines that will be variable (the cost for airlines of groundhandling services corresponds to the prices of groundhandling services since airlines are the customers of groundhandling services: see impact of PP3 on groundhandling prices, 5.2.1.).

### 5.1.3. *Impacts on small and medium enterprises (SMEs)*

101. Amongst the undertakings affected, only a low/medium portion of independent groundhandling companies are expected to be SMEs.
102. Compared to the baseline, **PP1** will have a very limited if any impact on SMEs.
103. **PP2** will impact SMEs on different aspects. The enhanced opening of the third party market will allow more companies, including SMEs, to enter the market. In particular, the longer duration offered for tendered activities will particularly be valuable for companies that need to buy equipment, such as new /small companies. Nevertheless, measures such as minimum training of staff, transfer of staff in case of tenders or limitation of subcontracting practices such as cascade subcontracting could impact the possibility for some SMEs to participate in the groundhandling market. The impacts shall nevertheless be limited when personnel are already properly trained, or at airports when after part of staff is taken-over in case of partial or full loss of activity for services to which access is restricted. SMEs could also be impacted by the introduction of approval requirements where they do not exist for the moment (in 25% of Member States). SMEs would have to obtain such an approval. However, the cost to obtain an

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<sup>95</sup> Aeroports de Paris, Munich, Vienna, Aeroportos de Portugal ANA, Düsseldorf, Leipzig, Nuremberg, Stuttgart, Tallinn, Milan SEA...

approval in PP2 is not expected to be disproportionate: it is expected to be similar as in the current 75% of Member States with approvals, where SMEs already operate without particular problems. This impact will therefore be limited. All in all the impact of PP2 on SMEs should be a low negative impact.

104. **PP2'** will have the same low negative impact on SMEs as PP2.
105. **PP3** will have similar negative impacts as PP2, but at more significant level because measures such as licensing of staff and full transfer of staff will impact more significantly the possibility for some small and medium companies to participate in the groundhandling market. All in all, the impact on SMEs of PP3 should be a medium negative impact.

#### 5.1.4. *Impacts on consumers (=passengers)*

106. The main criteria for the impact on consumers relates to aviation prices in general (assessed in 5.1.2), as well as quality of services (assessed in 5.4). It may be worth mentioning that the packages proposed will not change the responsibilities/accountability of airlines in front of passengers.<sup>96</sup>
107. Compared to the baseline, **PP1** is expected to have a very limited impact on aviation prices and the quality of services.
108. **PP2** is expected to decrease slightly aviation prices: the prices of groundhandling services will decrease (see 5.1.1), while the prices paid by consumer linked to airport services may be slightly impacted by legal separation, new rules on centralised infrastructure and new obligation to ensure minimum requirements. In addition, the quality of services in general will increase (in particular for delays and staff competence: see 5.4). All in all, PP2 should be more favourable to the consumers than the baseline.
109. **PP2'** will have a similar impact on consumers as PP2 (medium positive).
110. **PP3** is expected to slightly impact on aviation prices: it will have differential impacts on groundhandling prices depending on the airports (see 5.2.1) and the impact on airport prices for consumers should be moderate: the prices paid by consumer linked to airport services may be slightly impacted by the obligation for airport operators to stop controlling groundhandling activities at their airport and the new rules on centralised infrastructure. As for quality of services, PP3 will improve the quality of services (see 5.1). All in all, PP3 should also be more favourable for the consumer than the baseline.

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<sup>96</sup> Regarding the impacts of our proposal to give to the airport operator more power for the coordination of groundhandling services, this will not change the responsibilities in face of passengers, which will remain clear and unchanged: as a general rule, airlines are always responsible in face of passengers, for instance in case of baggage problems, or in case of extraordinary conditions causing flights delays/cancellations, as provided for by regulation 261/2004 about passengers rights. The contractual link between the passengers and the airlines are the tickets. There are no contractual links between the groundhandling provider and the passenger. However, the new role of the airport operator introduced in PP2/PP2'/PP3 may have an impact in case of exceptional situations (bad weather conditions in particular): airlines unsatisfied with the groundhandling performance in case of snow will be able to attack the responsibilities of their own groundhandling companies (which is already the case) and (which is new) of the airport operator on condition that coordination of activities is concerned.

#### 5.1.5. Administrative burdens on businesses

111. The criteria to assess this aspect relates to administrative costs. Tables 4 and 6 give an overview of the administrative burdens hereafter described.
112. **PP1** is expected to have a very limited impact on administrative costs on businesses compared to the baseline (being informed of guidance).
113. The introduction of mutual recognition of approvals and the reporting obligations in **PP2** will imply a change in the administrative cost for groundhandling companies (and some airport operators). Regarding mutual recognition of approvals, groundhandling companies operating in several Member States will save the administrative costs linked to a multiplicity of approval systems. Calculations provided in Annex XXI show that the introduction of mutually recognised approvals will imply less administrative costs than the baseline: after 5 years, the cost for the industry will be of 2.52M€ for the baseline compared to 1.41M€ for the mutually recognised approvals (-44%). As for reporting obligations on performance, they are new reporting obligations that will be put on groundhandling actors. This will imply more administrative costs than the baseline. The expected cost for 5 years amounts to around 0.5M€ for businesses (See Annex XXI). All in all, **PP2** will therefore imply **less administrative costs than the baseline (the saving for 5 years is estimated to 0.61M€)**.
114. As to **PP2'** and **PP3**, the introduction of approvals defined at EU level and the reporting obligations will have the same overall administrative costs as **PP2** (**saving for 5 years estimated to 0.61M€** see Annex XXI).

#### 5.1.6. Public authorities

115. The impact on administrative costs for public authorities will be assessed at EU level and at national level. Tables 4 and 6 give an overview of the administrative burdens hereafter described.
116. **PP1** will have no impact on administrative costs for the EU or for Member States.
117. In **PP2**, the introduction of the mutually recognised approvals will correspond to administrative costs for the Member States of 0.86M€ after 5 years against 1.06M€ for the baseline (-18%). As for reporting obligations, they will correspond to new administrative costs for the European Commission. The cost for the Commission, estimated to 0.015M€ for 5 years (see Annex XXI), is negligible. All in all, **PP2** will therefore imply **less administrative costs than the baseline for authorities (the saving for 5 years is estimated to 0.18M€)**. The impact on authorities' administrative burden is therefore positive.
118. **PP2'** will have similar overall impacts as **PP2** for authorities (but the burden will be differently shared by the various authorities). The introduction of approvals at EU level will remove the burden which was in the baseline on Member States (1.06M€ for 5 years), but this burden will actually be reported in part on the EU (administrative costs for the EU of 0.86M€ for 5 years). As for reporting obligations, they will correspond to new administrative costs for the European Commission. The cost for the Commission, estimated to 0.015M€ for 5 years (see Annex XXI), is negligible. All in all, **PP3** will overall therefore imply **less administrative costs than the baseline for public**

**authorities (the saving for 5 years is estimated to 0.18M€).** In the detail, the impact will be positive for the Member States (saving of 1.06M€ over 5 years) but negative for the Commission (new costs of 0.86M€).

119. **PP3** will have the same impact as **PP2** for authorities.

Overview table: Administrative burdens in absolute numbers after 5 years								
	Baseline/PP1		PP2		PP2'		PP3	
	Approval systems in Member States	No reporting obligations	Mutual recognition of approvals	Reporting obligations	Approvals set at EU level	Reporting obligations	Approvals set at EU level	Reporting obligations
<b>Administrative burden for businesses</b>	<b>2.52M€</b>	-	<b>1.41M€</b>	<b>0.5M€</b>	<b>1.41M€</b>	<b>0.5M€</b>	<b>1.41M€</b>	<b>0.5M€</b>
<b>Administrative burden for Authorities</b>	<b>1.06M€</b>	-	<b>0.86M€</b>	<b>0.015M€</b>	<b>0.86M€</b>	0.015M€	<b>0.86M€</b>	0.015M€
Member States	1.06M€	-	0.86M€	-	-	-	-	-
European Commission	-	-	-	0.015M€	0.86M€	0.015M€	0.86M€	0.015M€
<b>TOTAL measures</b>	<b>3.58M€</b>	-	<b>2.27M€</b>	<b>0.515M€</b>	<b>2.27M€</b>	<b>0.515M€</b>	<b>2.27M€</b>	<b>0.515M€</b>
<b>TOTAL packages</b>	<b>3.58M€</b>		<b>2.785M€</b>		<b>2.785M€</b>		<b>2.785M€</b>	

Table 4 : Administrative burdens in absolute numbers after 5 years

Overview table: Administrative burdens as compared to the Baseline after 5 years							
	PP1	PP2		PP2'		PP3	
		Mutual recognition of approvals	Reporting obligations	Approvals set at EU level	Reporting obligations	Approvals set at EU level	Reporting obligations
Administrative burden for businesses	-	- 1.11 M€	+ 0.5M€	- 1.11 M€	+ 0.5M€	- 1.11 M€	+ 0.5M€
Administrative burden for Authorities	-	- 0.2M€	+ 0.015M€	- 0.2M€	+ 0.015M€	- 0.2M€	+ 0.015M€
Member States	-	- 0.2M€	-	- 1.06M€	-	- 1.06M€	-
European Commission	-	-	+ 0.015M€	+ 0.86M€	+ 0.015M€	+ 0.86M€	+ 0.015M€
<b>TOTAL measures</b>		<b>-1.31M€</b>	<b>+ 0.515M€</b>	<b>-1.31M€</b>	<b>+ 0.515M€</b>	<b>-1.31M€</b>	<b>+ 0.515M€</b>
<b>TOTAL packages (rounded)</b>	-	<b>-0.8M€</b>		<b>-0.8M€</b>		<b>-0.8M€</b>	

Table 5: Administrative burdens as compared to the Baseline after 5 years

### 5.1.7. *Third countries*

120. Third country carriers that operate to or from EU airports will benefit from a revised framework in terms of quality/efficiency of these services, as for EU carriers. The impact will be limited for **PP1**, moderate for **PP2** and more important for **PP3**.
121. The countries with which the EU has currently agreements providing for the transposition of the Groundhandling Directive are: - Norway, Lichtenstein and Iceland (EEA<sup>97</sup> Agreement); Western Balkans States (ECAA<sup>98</sup> Agreement-7 States) - Georgia (initialled aviation agreement); and Switzerland (EU-Switzerland aviation agreement). However, only EEA States have to follow a change in the EU legislation. In each of these countries there will be similar types of impacts as identified in the assessment for the EU-27 as identified above.
122. Apart from the amendment to the legislation for EEA States, the three policy packages could also facilitate the negotiations in the World Trade Organisation on groundhandling services since the EU would be able to offer additional market opening to third countries.

## 5.2. **Social impacts**

### 5.2.1. *Employment (number of jobs)*

123. The main criteria used to assess the impact on employment will be the evolution in the number of FTEs (full time equivalent) in groundhandling. It is important to note that **the main driver for employment in the groundhandling business is air traffic growth** (the more planes to handle, the more personnel needed). SDG assumed that in the baseline, employment growth is 50% of the growth in traffic: with a base of 60,000 groundhandling agents (estimation IAHA<sup>99</sup>), and an average growth rate of 3%, it would imply that an additional 900 jobs would be created by year (baseline).
124. Compared to the baseline, employment under **PP1** is not expected to change significantly. A slight positive impact could come from the measure consisting in consulting employees' representatives during tenders (but the effect would be marginal compared to the total number of workers, as the opinion of employees' representatives is consultative).
125. **PP2** will have a negative impact on employment: enhanced competition between companies will lead to a limitation in job creation due to cost pressure. According to SDG (p.148-149), increasing the number of providers to 3 for restricted services with conditions for a fairer market would imply employment growth of 450 jobs (50% of the baseline).
126. **PP2'** will have the same impact as PP2.
127. **PP3** will have a negative impact on employment: enhanced competition between companies will lead to a limitation in job creation. According to SDG (p.154), the

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<sup>97</sup> EEA: European Economic Area.

<sup>98</sup> ECAA: European Common Aviation Area.

<sup>99</sup> International Aviation Handlers' Association, the association of independent handlers.

measure consisting in opening fully the market with conditions for a fairer market would imply that employment growth would stop due to competitive pressure (no new jobs created). The full transfer of staff is expected to improve only marginally this evolution; the current jobs will be transferred, with similar conditions, but the measure will not lead to job creation. Licensing of key staff may however lead to the creation of jobs in organisations defining and verifying staff competence.

#### 5.2.2. *Job quality, workers' health and safety, and workers' dignity*

128. For the impacts in terms of jobs quality and workers' health safety and dignity, the qualitative analysis was based on parameters such as pay and benefits, working conditions, job security, health and safety at work, access to training and career prospects (pay and status), social dialogue and workers' participation, and non-discrimination.
129. In **PP1**, the measure consisting of consulting employees' representatives during tenders implies an involvement of staff (via their representatives) in the analysis of groundhandling offers made by companies. The full freedom to self-handle is not expected to have a negative impact on job quality, on the condition that unauthorised subcontracting does not develop. In **PP1**, guidance is given about subcontracting rules, which may help limit subcontracting practices, but may not limit them completely. The overall impact of **PP1** may therefore be no change compared to the baseline.
130. **PP2** will have a medium positive impact on job quality and workers' health safety and dignity:
- 130.1. Firstly, the opening of the market to 3 providers for the restricted services will have an impact on job quality and workers' health safety and dignity. More competition at big airports where this is at present limited will be achieved with this measure, which could have consequences on working conditions at those airports. At such airports, there could be an impact on job quality due to increased competition (higher turnover, operational pressure etc.), that will impact *a priori* the restricted categories at 11 airports (19 airports according to IAHA)<sup>100</sup>. Nevertheless, the level of competition achieved with this option at these 11 (19 according to IAHA) airports will be the same as what is currently applied to the 49 (51 according to IAHA) remaining airports having more than 5 millions passengers. In addition, the extent of such impacts will mainly depend on the existence or not of other measures at the airport (existence of minimum levels of quality for service, social protection in the Member State concerned etc.).
- 130.2. The freedom to self-handle is not expected to have a negative impact on job quality for **PP2**, as in **PP2** rules on subcontracting are foreseen (if not, there could be a trend for airlines to use subcontractors at low prices). Indeed: (i) where airlines self-handle "truly",

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<sup>100</sup> Source: Annex IX, section 2 table "Number of groundhandling suppliers and self-handling airlines for restricted services at the 60 busiest airports". This number of 11 airports is based on available data (for a number of airports amongst the 60 busiest airports, data is not available) for the year 2007. It corresponds to airports that have restricted the 4 categories of groundhandling services to 2 horizontally (and for which data is available). If we take into account all the airports that have at least one category of services restricted to 2 suppliers, the number of airports impacted is between 20 and 32 airports (data 2007). IAHA assesses to 19 airports in 2011 the number of airports impacted by an opening to a third supplier.

this option will not change the situation. (ii) Where airlines self-handle "in a fake manner" (i.e. with subcontracting), some subcontracted operations could be reintegrated as airline self-handling operations - thereby (according to workers' representatives) improving the working conditions on the long term- or these operations will be contracted with an authorised groundhandling company (which will lead to a change of employer for these workers, but will not change the situation on the long-term). (iii) For airlines contracting with third-party handlers, if airlines switch to self-handling, workers' conditions will improve according to workers.<sup>101</sup> However, as explained in paragraph 93, it is expected that self-handling will not develop much with the full opening of the self-handling market.

- 130.3. The introduction of minimum training, as well as the introduction of minimum quality requirement in terms of safety of operations, will also contribute to an improvement of working conditions (for instance safer operations for the use of groundhandling equipments will imply safer conditions for groundhandling workers at their workplace).
  - 130.4. Besides, allowing Member States to organise the transfer of staff with similar conditions for services to which access is restricted will impact positively job quality: compared to the baseline, workers will no longer see their career horizon limited to the seven-year maximum for restricted groundhandling services.
  - 130.5. At last, the measures in PP2 which aim to level the playing field and contribute to a more effective competition might have a slight positive impact on job quality: by improving the position of non-incumbent groundhandling providers on the market, they may reduce the pressure on staff costs (new entrants being able to enter the market more easily).
131. **PP2'** will have the same medium positive impact as PP2.
  132. **PP3** will have a highly positive impact on job quality and workers' health safety and dignity:
    - 132.1. The full opening of the market could be expected to have a very negative impact on working conditions: an increased pressure on cost for staff due to competition would be expected (higher turnover, operational pressure etc.). However, this impact should be neutralised by the full transfer of staff: the working conditions will be transferred each time a change of providers takes place. The stability of the workforce will have a positive impact on workers' representation.
    - 132.2. Groundhandlers' wages are expected to increase: indeed, working conditions will not deteriorate 'due to transfers. Introducing licensing for key staff will also play a role: experience shows that licences tend to raise wages for workers and will therefore be very beneficial from a worker's perspective. The creation of licensing organisations for staff will also create jobs, and therefore possibly open new carrier perspectives for handling agents.
    - 132.3. At last and as in PP2/PP2', the measures in **PP3** which aim to level the playing field and contribute to a more effective competition might have a slight positive impact on job quality: by improving the position of non-incumbent groundhandling providers on the

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<sup>101</sup> However it is not because the self-handling market will be open that the airlines will all turn to self-handling: self-handling is a strategic choice depending on the business model of airlines..

market, they may reduce the pressure on staff costs (new entrants being able to enter the market more easily).

### 5.3. Environmental impacts

133. **PP1** is expected to have a very slight impact on the environment compared to the baseline. The introduction of harmonised criteria for tenders incorporating environmental aspects could represent an improvement; however, as tenders are only a way of selecting providers, and as PP1 does not contain measures guaranteeing a monitoring of the situation, it is expected that this measure will not change significantly the situation.
134. In **PP2**, the measure consisting of making the airport operator responsible for minimum quality requirements for groundhandling operations in some fields to be defined in a delegated act will incorporate environmental aspects (*a priori* fuel consumption and de-icing products use). In addition, the set-up of a performance reporting system for groundhandling companies (which will be defined in a delegated act but should include environmental "key performance indicators" such as fuel consumption) could encourage on the longer term a better protection of the environment. Therefore a positive impact of PP2 on the environment is expected.
135. Similarly to PP2, **PP2'** and **PP3** include the set-up of a performance reporting system, which will be beneficial in terms of environmental protection on the long term. PP2' and PP3 foresee quality requirements for groundhandling companies defined at EU level that will incorporate environmental aspects (*a priori* fuel consumption and de-icing products use). Therefore a positive impact of PP2'/PP3 on the environment is expected.

### 5.4. Impacts on the quality of groundhandling services

136. This section chapter aims at analysing the impact of the policy packages on the overall quality of services as defined in section 2 above, namely in terms of reliability, resilience, safety and security and environment. Sections above have already assessed the environmental component of the quality as meant by this IA (see section 2.2.2) in this respect. The following criteria will be assessed here: (i) Impact on safety/security of services and on available airport capacity and space;<sup>102</sup> (ii) Impact on staff training; (iii) Impact on reliability; (iv) Impact on continuity and resilience of service.
137. Compared to the baseline, **PP1** is expected to have only limited impacts on the remaining criteria for quality of groundhandling services.
  - 137.1. The effect on safety and security of services will be similar to the baseline. Some slight positive impacts could come from harmonised criteria for tenders (systematic assessment of safety and security systems of applicants) and guidance on "rules of conduct" (guidance could cover the way airport operators should address safety and security in their "rules of conduct" for groundhandling companies). However, the impacts are expected to be indirect and are not guaranteed. The freedom to self-handle for restricted services may impact negatively airport space (and consequently airport safety), at airports where the access to the market is currently limited for self-handling. However, the number of self-

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<sup>102</sup> See Annex XX about congestion and space considerations for more information on this aspect.

handling airlines is not expected to change much (see paragraph 93): the experience of countries having a fully liberalised self-handling market for these services shows that not all companies wish to self-handle, notably because of the different business strategies of airlines. Should a space problem arise, the Member States could request an exemption to limit the number of self-handling providers.

- 137.2. As for the impact on staff training, the policy measure "guidance on training" could in some instances encourage Member States to introduce new regulation in this regard. However, this is hypothetical and the effective impacts may depend on the content and relevance of guidance in the national context.
- 137.3. Regarding the impact on delays and reliability, this option could improve marginally the situation by giving some guidance on the "rules of conducts" for instance, or by introducing in tenders a new criterion concerning expected performance for delays. Here again, the impact will be marginal as it will depend on stakeholders' good will or will only apply in a limited number of cases (services subject to restrictions). In addition, the tender conditions are only used as a selection tool, and do not ensure that actual operations do in fact meet the conditions.
- 137.4. Finally, as regards continuity and resilience of services, the risk of failure will remain the same as for the baseline.

138. **PP2** will entail a better quality of groundhandling services compared to the baseline.

- 138.1. Regarding safety and security of services, the enhanced role of the airport operator and its responsibility to set minimum quality requirements to groundhandlers will allow the airport operator to act concretely on groundhandling companies' behaviour (for instance, minimum requirements could be set and monitored by airport operators for snow plans and contingency plans of groundhandlers, for groundhandling companies' safety management systems etc.). The increase to 3 providers at large airports for third-party handling could affect negatively airports that have currently less than 3 providers for one of the services possibly subject to restriction and that have a tender selection in place. This would correspond to 11 airports (19 airports according to IAHA)<sup>103</sup>. In case space problems would arise, an exemption could be requested by the airports, and processed by the Commission. The limited number of new providers and the selection of these providers via tenders would allow an anticipated monitoring of space and thereby a limited impact on safety.
- 138.2. As for the impact on staff training, the compulsory minimum training measure will give a minimum level of training across the board, inducing a medium impact on staff competence in the field identified.
- 138.3. Regarding delays and reliability, **PP2** is expected to improve the performance of the service: the enhanced role of the airport operator and its responsibility to set minimum quality requirements to groundhandlers will also allow the airport operator to act concretely on groundhandling companies' performance (for instance through targeting loopholes in the baggage handling delivery). The reporting obligation will allow in the

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<sup>103</sup> Source: Annex IX, section 2 table "Number of groundhandling suppliers and self-handling airlines for restricted services at the 60 busiest airports". See footnote 100 for details.

medium term a monitoring of the situation, thereby setting proper conditions to improve with time the state of play.

- 138.4. As for the impact on continuity and resilience of service, the increase to 3 providers per categories at large airports will avoid that a failure of one provider results in a monopoly situation (which is the case in the baseline). Resilience will also be improved by the new airport role and the minimum quality requirements. Consequently, a significant improvement on continuity of service is expected compared to the baseline.
139. **PP2'** will have similar impacts as PP2.
140. **PP3** should also improve the quality of groundhandling services compared to the baseline, but may also lead to some concerns for safety, security and space:
- 140.1. Regarding safety and security of services, the enhanced role of the airport operator and minimum quality requirements for groundhandlers set at EU level will define a framework for monitoring and acting on groundhandling companies (for instance, minimum requirements could be set at EU level and monitored by airport operators for snow plans and contingency plans of ground handlers, for groundhandling companies' safety management systems etc.). Nevertheless, the full opening of the third-party handling market may lead to issues on safety and security if it is not gradually introduced, in particular at airports where the markets are still protected (mainly Germany, Austria, Portugal, Belgium). The opening of the market will certainly lead some airports (around 45) to request exemptions due to space management problems (all airports above 2 millions passengers or 50,000 tons of freight that have limited the access to the market, whatever the number of providers). The difficulty for managing space, safety and security could be significant due to the difficulty to anticipate and follow the providers at the airport, in terms of number and place of operations.
- 140.2. Regarding staff training, the licensing of key staff is expected to have a strong positive impact compared to the baseline, as it will standardise and ensure the continuous monitoring of staff skills. In addition, the compulsory transfer of staff will ensure that staff is in general very experienced.
- 140.3. Regarding delays and reliability, even though the increased number of providers may increase slightly the delays, the enhanced role of the airport operator and the minimum quality requirements set at EU level to groundhandlers will allow acting concretely on groundhandling companies' performance. The reporting obligation will allow in the medium term a monitoring of the situation, thereby setting proper conditions to improve with time the state of play.
- 140.4. Finally, regarding the continuity of services and resilience, as the groundhandling market will be fully open with **PP3**, a groundhandling company leaving the market could be replaced by any other groundhandling company easily, as the airlines will have a free choice. Thanks to the compulsory transfer of personnel, the new company should in principle be able to provide exactly the same service to the airlines. However, this compulsory transfer could also lead to disruptions of service at the airport in case a groundhandling company decides to leave the market because its operating costs are eventually too high to sustain competition with other groundhandlers at the airport. Resilience will also be improved by the new airport role and the minimum quality requirements.

## 5.5. Impacts on simplification of existing legislation

141. The impact of all policy packages on the simplification of existing legislation is expected to be limited. By clarifying some definitions of the current Directive and providing guidance, PP1 has a limited positive impact on the simplification of the current rules. By ensuring a mutual recognition of approvals with harmonised requirements, PP2 is expected to also have a limited positive impact. PP2' will have a limited positive impact on simplification by centralising the delivery of approvals at EU level and by setting harmonised minimum quality requirements at EU level. PP3 has a limited positive impact on the simplification of the current rules, by removing the system of tenders and harmonising the conditions at EU level, but this is offset by the new personnel licensing requirements.

## 5.6. Transposition and compliance aspects

142. PP1 will not imply significant changes to the current framework and therefore compliance to this package should not be an issue for the industry. Member States will nevertheless have to adapt their transposition measures, which may require some time and efforts, in particular when the transposition law consisted of several pieces of legislation (which is often the case).

143. PP2 will introduce a number of significant changes requiring implementation efforts. If the opening to 3 providers (for the 11 airports<sup>104</sup> currently limiting the restricted services to 2) may lead to exemptions request to be handled by the Commission, some moderate efforts may also come from the better management of centralised infrastructure and from the legal separation of activities for airport operators. The reporting obligations and the role of airport operators in setting minimum quality requirements will imply the recourse to an delegated act before being fully implemented. As for transfer of staff with similar working conditions after partial or full loss of activity for services to which access is restricted, Member States having restricted access to certain categories of groundhandling services tenders at their airports (half of Member States) may decide to organise the take-over of staff, which will represent specific compliance efforts for undertakings. However, compliance will be simplified for Member States, since they will not any more be responsible for transposing the Directive.

144. PP2' will have roughly similar impacts as PP2 (except that the Commission will have to put in place the delivery of approvals for groundhandling companies at the scale of the EU).

145. PP3 will have similar impacts as PP2 but the full opening of the third-party handling market may lead to a higher number of exemption requests to be handled by the Commission. In addition, the main implementation efforts are expected to come from the full transfer of staff and the licensing of key staff.

## 5.7. Summary of impacts

146. Caution should be taken when reading the following table: different rows in the table sometimes reflect the same impacts, but seen from different perspectives (for instance,

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<sup>104</sup> See footnote 100.

the administrative burden on the EC is also the impact on the EU budget; impacts on SMEs are very similar to the impacts on the conduct of businesses, and impacts on consumers take into account impacts on quality and on competitiveness of groundhandling services). Comparisons or "additions" between impacts pertaining to different rows may therefore be in some cases irrelevant.

Impacts as compared to the Baseline				
	PP1	PP2	PP2'	PP3
<b>Economic impacts</b>				
Impacts on the functioning of the internal market, competition and competitiveness of groundhandling services	VERY LOW POSITIVE	HIGH POSITIVE	HIGH POSITIVE	MEDIUM POSITIVE
Impacts on operating costs and conduct of businesses	ZERO	NEUTRAL	NEUTRAL	MEDIUM NEGATIVE
Impacts on small and medium enterprises	ZERO	LOW NEGATIVE	LOW NEGATIVE	MEDIUM NEGATIVE
Impacts on consumers	ZERO	MEDIUM POSITIVE	MEDIUM POSITIVE	LOW POSITIVE
Businesses - administrative burden (AB) after 5 years	ZERO	- €0.61m LOW POSITIVE	- €0.61m LOW POSITIVE	- €0.61m LOW POSITIVE
Public authorities - AB after 5 years	ZERO	- €0,185m LOW POSITIVE	- €0,185m LOW POSITIVE	- €0,185m LOW POSITIVE
Member States	ZERO	- €0.2M	- €1.06m	- €1.06m
European Commission	ZERO	Negligible (+ €0.015m)	+ €0.86m	+ €0.86m
Third countries	VERY LOW POSITIVE	HIGH POSITIVE	HIGH POSITIVE	MEDIUM POSITIVE
EU budget	ZERO	ZERO	€0.86m over 5 years	€0.86m over 5 years

Impacts as compared to the Baseline				
	PP1	PP2	PP2'	PP3
<b>Social impacts</b>				
Employment (number of jobs)	ZERO	- 450 jobs / year in groundhandling	- 450 jobs / year in groundhandling	- 900 jobs/year in groundhandling but new jobs in organisations licensing groundhandling staff
Job quality, workers' health, safety and dignity	VERY LOW POSITIVE	MEDIUM POSITIVE	MEDIUM POSITIVE	VERY HIGH POSITIVE
<b>Environmental impacts</b>	<b>VERY LOW POSITIVE</b>	<b>MEDIUM POSITIVE</b>	<b>MEDIUM POSITIVE</b>	<b>MEDIUM POSITIVE</b>
<b>Impact on quality of groundhandling services</b>	<b>LOW POSITIVE</b>	<b>HIGH POSITIVE</b>	<b>HIGH POSITIVE</b>	<b>HIGH POSITIVE</b>
<b>Impacts on simplification of existing legislation</b>	<b>VERY LOW POSITIVE</b>	<b>NEUTRAL</b>	<b>NEUTRAL</b>	<b>NEUTRAL</b>
<b>Transposition and compliance aspects</b>	<b>LOW NEGATIVE</b>	<b>MEDIUM NEGATIVE</b>	<b>MEDIUM NEGATIVE</b>	<b>HIGH NEGATIVE</b>

Table 6 : Summary table of impacts

## 6. SECTION 6 - COMPARING THE OPTIONS

147. The policy packages will be assessed against the following criteria:

- effectiveness** – the extent to which options achieve the objectives of the proposal;
- efficiency** – the extent to which objectives can be achieved at least cost;
- coherence** – the extent to which options are coherent with the overarching objectives of EU policy, and the extent to which policy options are likely to limit trade-offs across the economic, social, and environmental domain.

### 6.1. Effectiveness

148. **PP1** will have **limited effectiveness in achieving all specific objectives**. Effectiveness will be limited in the achievement of SO1 since the third-party handling market will not be further opened. It will be very limited in the achievement of SO2, as guidance on approvals may not have many effects in practice. It will be limited in the achievement of SO3 because clarified definitions on separation of accounts, centralised infrastructures, and the AUC are not expected to change significantly the situation; it will also have a limited effectiveness in the achievement of SO4 because guidance on the "rules of conduct" may not affect much the practices. Finally, the effectiveness will

be limited in the achievement of SO5 as guidance about training and consultation of staff during tender procedures are not expected to imply much improvement in practice.

149. **PP2** will have **good effectiveness in achieving SO1**, because of the removal of the self-handling limitations, the increase to 3 third-party providers for services that can be subject to restrictions, the better management of CI, and legal separation of groundhandling activities from other airport activities. It will also have a **very good effectiveness in achieving SO2**, with a mutual recognition of approvals. The effectiveness in the **achievement of SO3 will also be very high** because the proposed measures limit significantly the advantages of some players over their competitors. It will also be **very effective in achieving SO4**, by ensuring that performance of groundhandling companies is monitored and coordinated. The **effectiveness will be good in the achievement of SO5**, as the legal framework will be clarified both for transfer of staff and for training of personnel.
150. **PP2'** has the same effectiveness as **PP2**.
151. **PP3** will have a **very good effectiveness for all the objectives**. It will fully achieve SO1 through removal of all regulatory obstacles to self-handling and third-party handling, better management of CI and suppression of the possibility to control a groundhandling activity for airport operators. It will also have a very good effectiveness in achieving SO2, with the introduction of approvals at EU level. The effectiveness in the achievement of SO3 will be excellent because the proposed measures limit completely the advantages of some players over their competitors. It will also have a very good effectiveness in achieving SO4, by ensuring that performance of groundhandling companies is monitored and coordinated. Finally, the package will be highly effective in achieving SO5, with a very clear legal framework both for "full" transfer of staff, in all situations, and for licensing of key staff.

## 6.2. Efficiency

152. **PP1** contains measures requiring **low implementation or administrative costs**. However, this high efficiency is to be **linked to its low effectiveness**.
153. **PP2** implies substantial costs mainly related to the introduction of better management of centralised infrastructures, legal separation for airport operators, or reporting obligations, but they are expected to be offset by the important economic and quality benefits obtained (see quality and economic impacts in section 5: highly positive impact on the functioning of the market and competitiveness, good impact on aviation prices for consumers, good environmental impact, etc.). Therefore **PP2 can be considered as introducing efficient measures**.
154. **PP2'** has the same efficiency as **PP2'**.
155. **PP3** implies **high implementation costs** (the same as **PP2/PP2'** plus the obligation for airport operators to cease groundhandling activities at their airport, full transfer of staff and above all licensing of key staff). However, **PP3** does not achieve significantly higher benefits than **PP2/PP2'**: **PP3** has bigger benefits than **PP2/PP2'** for SO1 (increasing the choice for airlines) and above all, for SO5 (improving working conditions features in terms of training and transfer of staff), but they are offset by the

high implementation costs, which lower the net overall benefits. Therefore **PP3** appears to be less efficient than **PP2 and PP2'**.

### 6.3. Coherence

156. All policy packages are more or less coherent with the overarching objectives of EU policy. Indeed, so as to be able to respond appropriately to all the specific objectives, the policy packages were built with a balance of economic and social measures, to avoid that action on one pillar would imply very negative consequences on the other and to respond to the specific objectives associated. Consequently, the different policy packages are overall built to be coherent, each one containing measures to ensure that the social impacts and economic impacts are mutually counterbalanced in each package. The analysis therefore indicates that **PP1**, **PP2**, **PP2'** and **PP3** present a **limited trade-off between the different types of impacts**.

### 6.4. Comparing the options: overview

Comparison of policy packages: effectiveness, efficiency and coherence of the policy packages				
	PP1	PP2	PP2'	PP3
<b>Effectiveness</b>	Limited	Good	Good	Very good
SO1 – ensure that airlines have an increased choice of groundhandling solutions at EU airports.	Limited	Good	Good	Very good
SO2 – Harmonize and clarify national administrative conditions on market entry (approvals)	Very limited	Very good	Very good	Very good
SO3 – Ensure a level playing field at airport level between groundhandling companies operating under different regulatory regimes	Limited	Very good	Very good	Excellent
SO4 – increase coordination between groundhandling providers at the airports	Limited	Very good	Very good	Very good
SO5 – clarify the legal framework in relation to personnel training and transfers	Limited	Good	Good	Very good
<b>Efficiency</b>	Very good	Good	Good	Limited

Comparison of policy packages: effectiveness, efficiency and coherence of the policy packages				
	PP1	PP2	PP2'	PP3
Coherence	Limited trade-off	Limited trade-off	Limited trade-off	Limited trade-off

Table 7 : Overview of effectiveness, efficiency and coherence of the 4 policy packages

## 6.5. Preferred option

157. PP3 is the most effective: it offers the highest potential level of achievement of all specific goals, while PP2/PP2' cannot attain the most efficient result for SO1 and SO5. PP1 achieves only in a limited manner all the specific objectives. As shown in sections 6.1 and 6.2, PP3 is the most effective, while **PP2 and PP2' achieve very good results at a lower cost** and are the most efficient. PP3 is the most costly, while PP1 is the cheapest and the easiest to implement. Finally, PP1, PP2/PP2' and PP3 are similarly coherent.
158. To conclude, **PP2/PP2'** and **PP3** present an interesting score, though with different advantages and drawbacks. **PP1** is less attractive: the efforts needed for revising the legislation appear disproportionate compared to the expected limited benefits, as PP1 does not actually solve most of the identified problems. To differentiate PP2, PP2' and PP3, a more thorough analysis can be used, comparing the benefits in terms of effectiveness (the fact to solve the identified problems) with the impacts/efficiency:
- 158.1. The difference in terms of effectiveness between PP2/PP2' and PP3 exists but is actually limited: PP2 and PP2' show good effectiveness for SO1 and SO5 while PP3 present a very good effectiveness; and PP2/PP2' present a very good effectiveness for SO3 while PP3 presents an excellent effectiveness.
- 158.2. On the contrary, the differences in terms of impacts are significant: where the impact is positive, the magnitude of the impact is always more important for PP2/PP2' than for PP3 (for instance impacts on the functioning of the internal market, competition and competitiveness, on consumers, or on third-countries). The only exception to this rule is for the impact on the quality of jobs, for which PP2 and PP2' would have a positive impact, which would be less important in magnitude than PP3. And where the impact is negative, the magnitude of the impact is always more important for PP3 than for PP2/PP2' (for instance impacts on operating costs, on SMEs, on the number of jobs, on transposition and compliance aspects). This means that for nearly all criteria, PP2/PP2' improve the situation or limit harmful impacts in a significantly better way than PP3.
- 158.3. Consequently, it is considered that, compared to PP3, PP2/PP2' present a better trade-off between effectiveness and acceptable impacts: they achieve the objective without implying too costly changes. PP2/PP2' are therefore preferred to PP3.
159. PP2 and PP2' are very close. To differentiate between the 2 options, it is necessary to concentrate on their different measures:
- 159.1. PP2 and PP2' diverge first regarding the entity delivering the approval (but not regarding the requirements for obtaining an approval that are harmonised at EU level in both policy packages): in PP2, the approval delivery system is kept at national level,

while in PP2' it is centralised at EU level. This implies that PP2 is better for "transposition and compliance aspects" than PP2'<sup>105</sup> (with PP2', more efforts are expected to set-up the delivery of approvals due to lack of experience of the EU in this matter- contrary to Member States). PP2' is in turn better for simplification purposes (1 entity instead of 27).

159.2. PP2 and PP2' diverge also regarding the way to set the minimum quality requirements (directly at EU level for PP2' while for PP2 it is set by airport operator on the basis of specifications defined in a delegated act). Again, this implies that PP2 is slightly better for transposition and compliance aspects than PP2' (with PP2', more efforts are expected to enforce the minimum quality requirements)<sup>106</sup>. PP2' is in turn slightly better for simplification purposes (clear harmonised quality requirements defined at EU level).

159.3. Finally, considering the key aspect of implementation and compliance/enforcement in this file (as discussed in the problem definition part of this report: see paragraph 16), PP2 is the preferred option.

160. In light of the above, the **recommended package is PP2**. It opens the groundhandling market moderately, while not damaging working conditions (transfer of staff with similar conditions would be possible where further opening is imposed). PP2 would provide, at a reasonable cost, for a more open, fairer groundhandling market, together with better quality and clarified responsibilities in the airport context, and a clarified framework for training and transfer of staff.

## 7. SECTION 7 - MONITORING AND EVALUATION

161. The Commission would evaluate the implementation of the new Regulation 5 years after its adoption, with the following set of core indicators (for a sample of airports):

**Table 8: MONITORING INDICATORS**

Operational objective	Indicators	Source of data
OO1. Increase the number of groundhandling service providers at each airport.	<ul style="list-style-type: none"> <li>- Number of suppliers at EU airports in average, for the 11 categories of services</li> <li>- Number of airport users self-handling at each EU airport, for the 11 categories of services</li> <li>- Number of airports with limited number of services providers, and value of the limitation(s)</li> </ul>	Questionnaire sent to different stakeholders (Member States, air carriers, airport operators, groundhandling providers) three years after the adoption of the new legislation

<sup>105</sup> Contrarily to the concerns reported in the problem definition, the risk to have enforcement problems with these measures will be very limited considering the harmonisation at EU level of the requirements to obtain an approval: Member States will not any more use the approval systems as a barrier to market entry.

<sup>106</sup> Attention is drawn on the fact that, for both policy packages, minimum quality requirements are harmonised in terms of substance: in PP2', it is the Regulation that defines directly the minimum quality requirements, while in PP2, it is a delegated act that specifies how these requirements shall be set.

Operational objective	Indicators	Source of data
OO2. Improve the satisfaction rate about approval systems	<ul style="list-style-type: none"> <li>- Number of companies having an approval from a Member State and operating in another Member State</li> <li>- Stakeholders' opinion on the approval system (approval criteria, implementation issues, price etc.)</li> </ul>	Questionnaire to groundhandling companies and Member States (ideally every 3 years) about approvals
OO3. Improve the satisfaction about access conditions to EU airports for groundhandling companies	<ul style="list-style-type: none"> <li>- Number of groundhandling companies operating in the EU (all included)</li> <li>- Price and management system of centralised infrastructures at each airport</li> <li>- Market share of airport operators in the groundhandling business at each airport for the 11 categories of services</li> <li>- Market share of airlines providing third-party handling at each airport for all categories of services</li> </ul>	<ul style="list-style-type: none"> <li>- Number of approvals in circulation: (questionnaire sent to the EU-27 Member when considered necessary - ideally every 3 years).</li> <li>- Questionnaire to stakeholders (Member States, air carriers, airport operators, groundhandling providers) about the CI and involvement of airport operators</li> </ul>
OO4. Improve safety figures and satisfaction about coordination at the airport	<ul style="list-style-type: none"> <li>- Safety accidents involving groundhandling</li> <li>- Opinion of stakeholders on quality of groundhandling at airports in terms of staff competence, environment, security, coordination of activities (CDM, contingency measures, training in the airport context, subcontracting)</li> <li>- Key Performance Indicators (KPI) for groundhandling companies<sup>107</sup></li> </ul>	<ul style="list-style-type: none"> <li>- EASA annual safety reports</li> <li>- Questionnaire about quality of groundhandling (staff competence, environment, security; coordination of activities, subcontracting )</li> <li>- KPI: reporting obligation once defined in a delegated act</li> </ul>
OO5: Improve satisfaction about staff training and transfer	<ul style="list-style-type: none"> <li>- Training features</li> <li>- Transfer of staff and its impact on the protection of employees</li> <li>- Employment and working conditions in the groundhandling sectors</li> </ul>	Questionnaire about training and qualifications, and number of staff transferred.

<sup>107</sup> These KPIs are expected to cover the following aspects: operational performance, training, assistance and information to passengers, CDM, safety, security, contingency measures, and environmental protection.