4th EUROPEAN CONFERENCE ON PRIVATE SECURITY SERVICES

Cash in Transit and Transport of valuables from a European perspective.

Speaker: Francis Ravez – Secretary General of ESTA – the European Security Transport Association.

The European Security Transport Association, a corresponding member of CoESS with its 140 Members (87 effective, 51 adherent and 2 associate) is commonly acknowledged to represent 90% of European CIT industry.

The European Model of Private Security, the main theme of this conference will discuss the main challenges which our industry is facing or going to face in the near future.

There is not doubt that one of them is the "Services Directive", proposed by the European Commission which aims at providing a legal framework that will eliminate the obstacles to the freedom of establishment for service providers and the free movement of services between the Member States. The key objective of the proposal is to enhance legal certainty in the way services are provided to EU citizens and businesses.

Key points of the proposal are:

- that it is a *framework* Directive, which covers basically all service activities except those explicitly excluded – mostly because they are regulated specifically elsewhere.

- the country of origin principle, according to which, for example, a French company providing services in Spain would be regulated under French law.

It would be wrong to underestimate the scope of the proposal: the directive will regulate nearly half of EU GDP in what can be described as a piece of "one-size-fits-all" legislation.

How will the proposal affect the transport of funds and valuables?
The proposal gives to our sector a transitional exclusion from the country of origin principle. This means that a cash transport operator from a "home country" will have to establish and register in the "host country" if it wants to do business in the "host country". Therefore, that cash operator, will have to comply with all the other provisions of the proposal, notably those related to establishment. This

is a point which should not be overlooked when we focus on the CIT derogation from the country of origin principle.

CIT is one of only three activities which will benefit from this transitional derogation from the country of origin principle. This status rightfully reflects the accurate assessment by the EU Commission of the very peculiar nature of our business. This assessment derives from the fact that the commodities we deal with are cash and valuables, and that such commodities are inherently linked to risk, particularly that of the safety of people working in this sector.

ESTA fully supports the Commission's proposal to exclude CIT from the rules prevailing for country of origin.

And the reason is not that we don't believe in market forces and competition: all of us know that our industry is extremely competitive. The reason is, as I mentioned above, because our industry is also about managing risk – a risk that concerns directly the personal safety of our men and women, the real footsoldiers of the transport of valuables and cash – and because the nature of that risk varies from one country to the next, possibly even within the same country.

Because risk patterns vary, and because risk cannot be harmonised, the rules that dictate the way the job has to be done cannot be prescribed at EU level. In 2003 there were, 700 attacks in the UK and none in Austria, Finland and Luxemburg; while attacks were mostly on vans in Italy they concerned pavement transfer in the UK. As a regulator, as a responsible regulator, the Commission can't address such situations with only one set of rules, nor with the rules designed for another Member State.

What the exclusion of CIT from the country of origin principle really recognises is that the risk in country A where a company operates is different from that in country B, and that the rules and business standards of country A are not necessarily suitable for country B.

Then, where is the problem, you would ask?
Our concerns are that the derogation for CIT from the country of origin principle is not permanent, and because the proposal provides for a "harmonisation instrument" for CIT within one year after the date of entry into force of the Directive.

Article 40 is the problem and ESTA thinks that it should be modified.

First, the Commission already has the legislative right to take the initiative to assess the need for a harmonisation instrument; it does not need any authorisation from a Directive in order to do this.

The second problem is the “automatic” switch of CIT to country of origin principle in 2010. This would lead to the situation I referred to earlier of having to face the risk in Country B with the rules of Country A.

By avoiding setting deadlines, the Commission would ensure that it has the time to take the right decision, or that the adoption of a harmonisation is not dependent on a deadline if the 25 Member States in the Council fail to find a consensus on the various sensitive issues.

This is why ESTA shares the view that the services Directive should be amended to make the derogation for CIT from the country of origin principle permanent, rather than until 2010 or harmonisation instrument is adopted, and urges the Commission to assess the situation of CIT in Europe.