



## **OTIF Secretariat's position paper concerning: The draft limited revision of the NOI TSI**

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### **Introduction**

Since 2007 all new freight wagons authorised in the EU must meet harmonised noise emission requirements in accordance with the NOI TSI. Since the end of 2012 these provisions have been taken over in the UTP NOI and are also applicable to new wagons admitted in accordance with COTIF. This means that progressively, as old wagons are being replaced with new ones, the fleet of freight wagons will become quieter.

Nevertheless, the progress in phasing out old noisy wagons is not quick enough for several states and additional measures are required. Research and impact assessments have demonstrated that the most effective measure is to replace cast iron brake blocks on old wagons with composite brake blocks which smoothen the wheels' running surface, thus reduce running noise. The core of the issue is how to use the law to stimulate the progress of such replacement, often referred to as 'retrofitting'.

In order to avoid unilateral measures by individual states, the European Commission initiated a coordinated approach at EU level and mandated the the European Union Agency for Railways (ERA) to recommend solutions.

ERA is in the process of drafting a recommendation on the limited revision of the NOI TSI. The revision process started in October 2017. The objective was to amend the NOI TSI by including provisions that effectively address rail freight noise by stimulating the retrofitting of existing freight wagons with composite brake blocks. The drafting process followed the work of the ERA's Task Force and ad-hoc workshops held in 2016 and 2017 in which the OTIF Secretariat was involved and the results of which the OTIF Committee of Technical Experts and its standing working group were kept informed about.

As the NOI TSI has its equivalent in COTIF in the [UTP NOI](#), the proposed modifications are of interest to OTIF.

The draft recommendation on the limited revision of the NOI TSI is currently subject to consultation, which allows stakeholders and OTIF's non-EU Member States to comment on the proposals before they become formal proposals.

ERA has published its consultation here:

<http://www.era.europa.eu/Document-Register/Pages/Consultation-draft-limited-revision-TSI-subsystem-rolling-stock-Noise.aspx>

### **Summary of the proposals subject to consultation**

Instead of requiring all wagons to become silent before a certain deadline, ERA proposes to restrict the use of existing freight wagons which are equipped with cast-iron brake blocks. The concept is that some parts of the railway networks within the European Union will be declared 'quieter routes', on which only freight wagons complying with the TSI Noise or the UTP Noise (such as retrofitted wagons) will be permitted to run. The proposal foresees common criteria applicable throughout the EU to establish which routes are 'quieter routes'.

The rationale behind this is that pass-by noise could be defined as a parameter of compatibility between the infrastructure and the vehicle. It would then be the responsibility of the railway undertaking to ensure that it runs only quiet wagons on infrastructure designated as a 'quieter route'.

The concept is not very different from the railway undertaking's duty to ensure that, for example, the operating speed, the axle load and the gauge of the vehicles and the infrastructure are compatible.

ERA also proposed criteria which must be applied by states when defining which parts of the network are quieter routes. All EU Member States would have to apply these criteria. The main criterion is traffic density during the night.

### **Possibility of taking over the requirements in COTIF**

It should be noted that COTIF is a treaty concerning international carriage by rail and that noise abatement is not included in its scope or aims. In principle therefore, noise abatement policy is not covered by COTIF. It has nevertheless proved necessary, under COTIF, to harmonise noise emission requirements for new railway vehicles so they can be accepted by all states.

One element of the proposal is to make noise a compatibility parameter between the vehicle and the infrastructure. This element seems to fit within the scope of COTIF and is possible to transpose.

Article 6 § 2 ATMF lays down that “*An admission to operation allows the rail transport undertakings to operate a vehicle only on infrastructures compatible with the vehicle according to its specifications and other conditions of the admission; it is the responsibility of the rail transport undertaking to ensure this*”. There is no explicit list of infrastructure compatibility parameters, so “noise” could be one of them.

Another element of the proposal concerns the criteria which states must apply when defining quieter routes. This element seems not to fit within the scope of COTIF.

COTIF does not provide a legal basis for setting mandatory harmonised criteria which (non EU) Contracting States would be required to use to define quieter routes. If, in line with the proposal, noise were to become an infrastructure compatibility parameter, it would most likely be at the discretion of each (non EU) state as to whether, and according to which criteria, they would define quieter routes. However, defining criteria under COTIF as ‘soft law’, in the form of recommended best practices, should not be ruled out. In such case it would probably not be sufficient to only consider traffic density as a criterion, but population density along the railway route should be considered as well.

It is not anticipated that this potential difference between EU law (mandatory criteria for defining quieter routes) and COTIF (no criteria or recommended criteria) will create legal incompatibilities.

### **Position of the OTIF Secretariat**

The OTIF Secretariat supports the proposed recommendation on the basis of the following arguments:

Measures which effectively address rail freight noise are necessary in several OTIF Member States. If measures are not taken at international level, unilateral and potentially incompatible measures will be taken by individual states. Therefore, there is a need to act.

ERA's impact assessment indicates that the operational costs of wagons increase after they are retrofitted with composite brake blocks. It therefore seems reasonable to require the retrofitting of wagons only if they are used on routes where rail noise is an issue, without imposing the retrofitting of all wagons. States could continue to allow the operation of noisy wagons on part of the network where noise nuisance is limited, for example if the traffic density is limited.

The concept of making pass-by noise a train-infrastructure compatibility parameter is compatible with COTIF without having to change the existing provisions. In this case the parameter should be included in the list of parameters of vehicles and fixed subsystems to be checked by railway undertaking to ensure compatibility.

Although the criteria for defining quieter routes could probably not be taken over in COTIF in a mandatory form, this is not expected to create legal incompatibilities between COTIF and EU law.

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