OTIF

ORGANISATION INTERGOUVERNEMENTALE POUR LES TRANSPORTS INTERNATIONAUX FERROVIAIRES

ZWISCHENSTAATLICHE ORGANISATION FÜR DEN INTERNATIONALEN EISENBAHNVERKEHR

INTERGOVERNMENTAL ORGANISATION FOR INTERNATIONAL CARRIAGE BY RAIL

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Process for correcting deficiencies in UTP
Discussion document for WG TECH 18

1. Introduction

The legal basis for the process of correcting deficiencies in UTP is Article 8a APTU, which gives the Committee of Technical Experts two main possibilities as to the appropriate measures. This document aims to explain the legal basis within OTIF and proposes a process to apply these legal provisions in practice.
The European Union has introduced the omnibus process to deal with deficiencies in TSIs. The omnibus process deals with the correction of several errors/omissions in several TSIs.
As the UTPs are transposed from TSIs, the processes for the correction of TSIs/UTPs need to be harmonised and close cooperation between OTIF and the European Commission/ERA is desirable from the very beginning of the processes.

2. Input

According to Article 8a § 2 APTU "*The Contracting States, regional organisations and assessing bodies have the obligation to inform Secretary General without delay if they discover errors or deficiencies in UTP.*"
Other input for the process of correcting of UTP deficiencies may come from the EU Omnibus procedure.

3. Procedures for the correction of deficiencies

APTU Article 8a recognises two procedures for the correction of deficiencies in UTP

1. Amendment of the UTP in accordance with Articles 6 and 8 of APTU and
2. Recommendations for justified provisional solutions

The first procedure is the amendment procedure which is intended to amend UTP by a process which is subject to a vote in the CTE. This process may not be the most suitable in the case of deficiencies which must be resolved as a matter of urgency.

The second procedure is aimed at adopting a provisional solution to allow the railway sector and authorities to deal with the deficiency. This procedure may be suitable for use in cases

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where an urgent measure is needed, but it must be followed by a subsequent procedure to amend the UTP.

4. EU process

According to the EU draft working document 08/57 - DV22 dated 16.02.2011 which was presented by the representative of the EU at the 17th session of the standing working group WG TECH (Berne, 4 and 5 September 2012), in the EU, deficiencies are classified into the following five categories:

1) Typographical errors (spelling, typing errors, computing errors, text with no meaning, formatting, missing words, missing figures) as well as obvious translation mistakes (i.e. easily detectable in a translated version without having to be compared with the original English version).
2) Substantial linguistic and translation deficiencies which may affect the content of the TSI.
3) Technical deficiencies, which need to be analysed by the Agency experts.
4) Critical errors.
5) Critical errors which must be urgently corrected.

The European Commission proposes which classification is to be used.

In the European Union the process of correcting deficiencies can take from 8 to 18 months, depending on the category.

Categories 1 and 2 are checked by ERA, RISC is informed and the correction is implemented at the time of planned/ongoing revision, by means of a corrigendum or by means of the omnibus procedure (duration 12-18 months).

Category 3 is analysed by ERA, which issues a Technical Opinion. RISC is informed and the correction is implemented at the time of planned/ongoing revision or by means of the omnibus procedure (duration 12-18 months).

Categories 4 and 5 are analysed by ERA, which issues a Technical Opinion. RISC is consulted to approve the Technical Opinion. The correction made and implemented after approval by RISC (duration 10 or 8 months, respectively).

Depending on the importance and urgency of the correction, the legal act implementing the amendment can be included in an ongoing revision, in an ad-hoc act or in an "omnibus" procedure.

5. OTIF process

After receiving a proposal to correct deficiencies in UTP, the first step is to inform the European Commission (if the proposal has not been submitted by the EU) in order to initiate cooperation between OTIF and the EU.

The next step is to decide whether a technical assessment of the proposal is required. This would be the case if the deficiency has a technical impact, i.e. if it is not just a typographical or translation error. In cases when the technical assessment of the proposed correction is necessary, a document should be drafted setting out the technical analysis of the deficiency and

the proposed solution. Such technical assessments should be drafted under the auspices of the OTIF secretariat. The technical assessment may refer directly to an ERA Technical Opinion where feasible.

The possibility of a combined OTIF/ERA Technical Opinion (adopted by RISC and CTE) to be published on the respective websites should also be explored.

As set out in section 3 of this document, there are two procedures for dealing with UTP deficiencies. Which of these two procedures is selected depends on how urgent the problems are.

1. Amendment of the UTP, resulting in a definite solution for less urgent problems. The lead time for this procedure may be limited to 11 months.
2. Recommendation for justified provisional solutions, resulting in a temporary solution for more urgent problems. The lead time for this procedure is approximately 3 months.

In all cases the Committee of Technical Experts (CTE) approves measures concerning the correction of deficiencies.

The decision can be taken

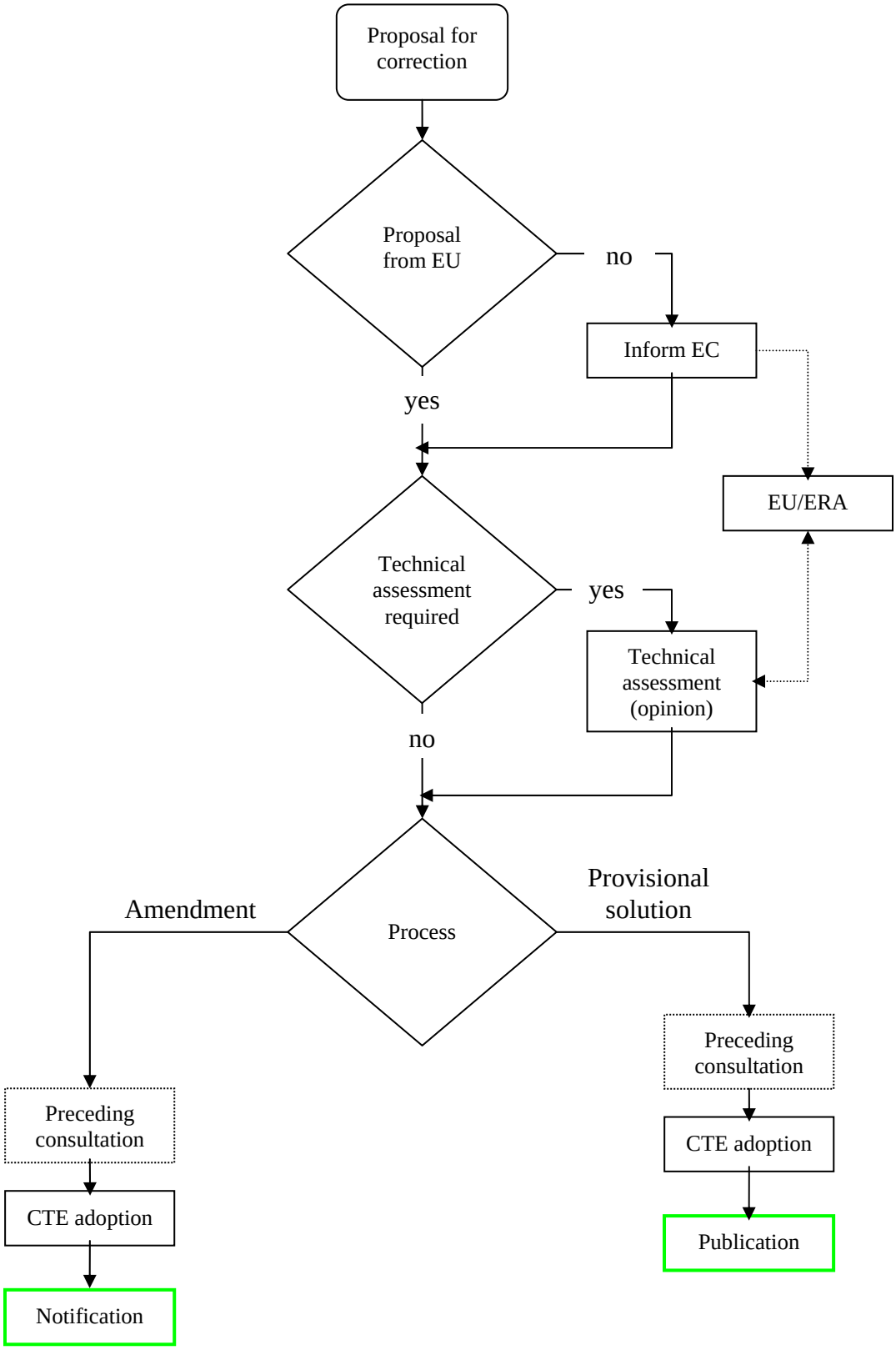
- at a regular session of the CTE
- at an extraordinary session of CTE or
- using the vote by written procedure.

Taking into account the cost of convening a session of CTE and in particular the time between two regular CTE sessions, the option of using the vote by written procedure may be useful. The Contracting States could be consulted on the proposed amendments (document with “track changes”) before a vote is taken.

If UTP are amendment, the adoption of the amendment(s) is followed by the notification procedure according to Article 35 §§ 3 and 4 of the Convention.

In the case of provisional solutions their adoption is followed by publication of the provisional solutions. The document resulting from the technical assessment may contain such provisional solutions.

A flowchart showing the OTIF process for correcting deficiencies in UTP is attached at Annex.


Proposal for correction
Proposal from EU
no
Inform EC
yes
EU/ERA
Technical assessment required
yes
Technical assessment (opinion)
no
Process
Amendment
Provisional solution
Preceding consultation
CTE adoption
Notification
Preceding consultation
CTE adoption
Publication