

## Amendment Proposal to GCU Appendix 9

### Record of amendments

Amended by	Date	Paragraph	Amendment
Charles-Antoine Alavoine	09/12/2020	Appendix 9, 8.2	First draft
Charles-Antoine Alavoine	20/01/2021	Appendix 9, 8.2	Presentation at WG of January 2021 (point 29: Other business - discussions)
TTI WG decision	23/03/2021	Appendix 9, 8.2	See minutes of TTI WG meeting of March 2021
WU SG decision	23/04/2021	Appendix 9, 8.2	See minutes of WU SG meeting of April 2021
GCU JC decision	14/06/2021	Appendix 9, 8.2	Approved

<b>Title:</b>	Amendment of code 8.2 in Appendix 9, Annex 1, replacement of “force majeure” by “other events”
<b>Proposed amendment made by:</b> <b>RU / keeper / other body</b>	Prepared par SNCF/AFWP Appendix 9 subgroup
<b>Proposed amendment concerns:</b>	<input checked="" type="checkbox"/> Appendix 9 <input type="checkbox"/> Appendix 11
<b>Proposer:</b>	Charles-Antoine Alavoine - SNCF
<b>Location, date:</b>	Tergnier, 09/12/2020
<b>Concise description:</b>	Editorial correction of the term “Force majeure”

## 1. Starting point (current situation):

<b>1.1. Introduction</b>
In the body of Annex 1 of Appendix 9 to the GCU, in point 8.2, replace “Force majeure” with “Other events”.
<b>1.2. Mode of operation</b>
The GCU represents the core basis for contractual relations between keepers and ECMs. The text must be clear so that it can be applied by all parties in a straightforward and unequivocal manner. The concept of force majeure is a specific legal rule based on clear criteria. The GCU should be as clear as possible, without the need to interpret its contents.
<b>1.3. Anomaly / description of problem</b>
In Appendix 9, Annex 1, various types of damage are included under the heading “Force majeure” in point 8.2. While the damage is defined, the heading could lead the reader to believe that the three types of damage are cases of force majeure exonerating the RU from responsibility within the meaning of Article 22 of the GCU. For each incidence of damage, however, the specific situation and analysis of the facts may or may not give rise to a conclusion of force majeure. Thus, there is some ambiguity here.
<b>1.4. Does this concern a recognised code of practice* (e.g. DIN, EN)?</b>
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes (state which):  <small>* “Code of practice: a written set of rules that, when correctly applied, can be used to control one or more specific hazards.” (source: Regulation EC 352/2009, Article 3)  “Technical provisions laid down in writing or conveyed verbally and pertaining to procedures, equipment and modes of operation which are generally agreed by the populations concerned (specialists, users, consumer and public authorities) to be suitable for achieving the objective prescribed by law, and which have either proven their worth in practice or, it is generally agreed, are likely to within a reasonable period of time” (translation/source: BMJ Handbuch der Rechtsförmlichkeit – German Ministry of Justice)</small>

## 2. Target situation

<b>2.1. Elimination of anomaly/problem (goal)</b>
“Force majeure” should be replaced. The benefits offered by this proposal are clarity and precision. The problem would be resolved by replacing the title of point 8.2 with “Other events”.

### 3. Additional text and/or change relates only to proposed amendments to GCU Appendix 9

Amendment colour code:

Black: Current text, for info and remains unchanged

Red: new text

Blue: (if crossed out): text to be deleted

Component	Code	Irregularities/Criteria/Notes	Action to be taken	Irregularity class
<del>Force majeure</del> Other events	8.2			
	8.2.1	Flood and weather damage	Detach	5
	8.2.2	Damage from priming current <ul style="list-style-type: none"> <li>wagon was in contact with catenary under high voltage</li> </ul>	Detach	5
	8.2.3	Fire	Detach	5

### 4. Reason:

The "Force majeure" term is not relevant for wagon anomalies information due to bad weather, power failure or fire. These are infrequent events, which is why, in order to comply with the designation, it is preferable to use "Other events" for point 8.2

### 5. Assess potential positive/negative impacts

*E.g. on operations, costs, administration, interoperability, safety, competitiveness, etc., using a scale of 1 (very low) to 5 (very high).  
Justify observations*

A positive impact (+5):

- on interoperability by improving comprehension (+5)

## 6. Safety appraisal of proposed amendment

Description of actual/target system, and scope of change to be made (see points 1 and 2).

Safety appraisal performed by: not done, since adaptation results from the aforementioned standards.

<b>6.1. Does the change made impact on safety?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
Reason:	
<b>6.2. Is the change significant?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
Reason: see template. Attach the significant change test template	
<b>6.3. Determining and classifying risk:</b>	<input type="checkbox"/> deleted
6.3.1. Effect of change in normal operation: 6.3.2. Effect of change in the event of disruption / deviation from normal operation: 6.3.3. Potential misuse of system: <input type="checkbox"/> No <input type="checkbox"/> Yes (describe possible misuse):	
<b>6.4. Have safety measures been applied?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
For each type of risk, one of the following risk acceptance criteria is to be selected: <ul style="list-style-type: none"> <li>• "Code of practice" (acknowledged technical rules)</li> <li>• Use of reference system</li> <li>• Explicit risk estimate</li> </ul>	
<b>6.5. Has a risk analysis been submitted to the assessment body?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
Assessment body: Attach the verdict reached by the assessment body:	[appendix]