

## WAGON USERS Study Group

### Amendments and additions to the GCU: Proposal sheet

#### Proposed amendment to Appendix 6

<p><b>1 - Present the issue (with examples and, if possible, figures outlining the extent of the issue)</b></p> <ul style="list-style-type: none"> <li>▪ The current Appendix 6 and the coefficients defined therein were agreed in 2006, since when they have not been updated. The coefficients are no longer representative of current loss-of-use scenarios.</li> </ul>	<p><b>2 - Show where and why the GCU is lacking in this respect</b></p> <ul style="list-style-type: none"> <li>▪ The GCU needs to be aligned with the prevailing conditions in the sector today in terms of the costs of compensation for loss of use.</li> </ul>
<p><b>3 - Explain why the issue can only be resolved via the GCU</b></p> <ul style="list-style-type: none"> <li>▪ The GCU is the only agreement dealing with compensation for loss of use.</li> </ul>	<p><b>4. Outline why the issue should be resolved as envisaged by the proposed amendment/addition:</b></p> <ul style="list-style-type: none"> <li>▪ Updating the coefficients and more precisely delimiting the loss-of-use periods will mean the provisions of the GCU more closely mirror the conditions currently prevailing.</li> </ul>
<p><b>5 - Describe how the proposed amendment or addition will help resolve the problem</b></p> <ul style="list-style-type: none"> <li>▪ The proposed new draft of Appendix 6 is clearer and will be easier to apply for all parties to the GCU.</li> </ul>	<p><b>6 - Assess the possible positive and negative effects (operations, costs, administration, interoperability, safety, competition, etc.) on a scale of 1 (very low) to 5 (very high)</b></p> <ul style="list-style-type: none"> <li>▪ No additional costs will arise; any cost increases are neutralised.</li> </ul>

#### 7.- Proposed Modifications (in blue)

## APPENDIX 6

### TO THE GENERAL CONTRACT OF USE FOR WAGONS

#### I. COMPENSATION FOR LOSS OF USE

The compensation payable ~~under the terms on the basis~~ of Articles 13.3 (loss of use due to delay) and 23.2 (loss of sue due to damage) of the GCU ~~shall be is~~ calculated ~~as follows~~ either based on the actual damage sustained or as a flat rate, whichever the keeper decides.

##### 1. ~~Calculation~~ Compensation based on actual damage sustained

The keeper shall claim compensation for loss of use from the responsible RU by means of supporting documents on the basis of the damage sustained.

##### ~~21.1~~ Flat-rate compensation

##### 2.1 Daily rate per wagon (in euros)

To calculate the daily rate (in euros):

Multiply the coefficient for the relevant wagon type by ~~The amount of compensation in Euros payable per calendar day shall be calculated by multiplying the wagon's length over buffers (in metres, unrounded) by~~ the coefficient (in EUR) indicated below for the corresponding wagon type.

<del>Wagon type</del> Code letters of various wagon types	Coefficient
E – Open Wagon	<del>1.0</del> 1.1
F – Open Wagon	<del>1.3</del> 1.5
G – Covered Wagon	<del>1.0</del> 1.1
H – Covered Wagon	<del>1.3</del> 1.5
I – Temperature-controlled wagon	<del>1.3</del> 1.4
K – Two-axle flat wagon	<del>1.0</del> 1.1
L – Flat wagon	<del>1.3</del> 1.5
O – Mixed flat open wagon	<del>1.3</del> 1.4
R – Bogie flat wagon	<del>1.0</del> 1.1
S – Bogie flat wagon <del>†</del>	<del>1.3</del> 1.5
T – Wagon with opening roof	<del>1.3</del> 1.5
U – Special wagon	<del>1.6</del> 1.8
Z – Tank wagon	<del>1.6</del> 1.8

##### ~~1.2~~ Compensation based on written proof

~~Instead of the flat rate compensation referred to in point 1.1, the keeper may claim compensation based on the actual losses sustained.~~

##### 2.2 Flat-rate compensation to be paid for ~~Loss of use arising from the period for~~ when periods for carriage being exceeded for empty ~~and or~~ loaded wagons ~~are exceeded~~

~~If the user~~ The RU is responsible for an empty or a loaded or empty wagon exceeding its period for the carriage period, it shall pay the keeper the a flat rate of compensation calculated in accordance with point

2.1 for each indivisible day of delay (indivisible Sundays and public holidays\* not included), upon presentation by the keeper of an invoice.

For loaded wagons, this payment shall be independent irrespective of any compensation that may be payable as a result for exceeding the delivery period of the loaded goods carried exceeding the transit period.

### **23.3 Flat-rate compensation to be paid for loss of use arising from repair work on the wagon when damage caused by the user RU to the wagon or its component accessories is repaired**

If the user RU is responsible for carrying out repairs to the damaging a wagon or its accessories as per GCU Article 22, it shall pay the keeper a flat rate of compensation upon presentation of an invoice calculated in accordance with point 2.1 for each indivisible (calendar) day (indivisible) it cannot be used, from the day after on which the wagon is withdrawn from service until its return to operation unavailable for use.

This compensation shall be calculated starting from the day following that on which the damage was first recorded (in accordance with GCU Appendix 4, Wagon damage report, "Damage detected on...") and shall end on the day on which the wagon's fitness for service is restored.

The loss-of-use period shall be suspended in the following cases:

- if the wagon is given a K label in the sense of GCU Appendix 9 and then takes more than two days to be taken to the workshop (a flat rate then applies for the time taken to reach the workshop);
- from the day the damage was recorded up to the day the goods are unloaded if the wagon has been given a K label before being forwarded;
- for the time elapsing between the request of spare parts as per Forms H and H<sup>R</sup> and the delivery of these parts (GCU Article 23.2);
- if the wagon is taken for further maintenance work at the keeper's behest;
- if the wagon is given a K label (GCU Appendix 9) and transferred between two workshops and this takes more than two days (a flat rate then applies for the time taken to reach the other workshop).

Time required for the delivery of spare parts by the keeper is excluded from this period, as per point 23.2. Point 3 shall also apply if the repair is carried out by the keeper or a workshop of his choice.

### **2.4 Miscellaneous**

The compensation payments referred to under points 2.2 and 2.3 may not be aggregated.

## **II. COMPENSATION FOR REPROFILING OF WHEELSETS**

The RU responsible for damaging the wheelsets to be reprofiled shall pay the keeper upon presentation of an invoice with supporting documents a flat rate of 350 EUR for the loss of value arising as a result of reprofiling (reduction in the running-circle diameter).

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\* according to the country in which the vehicle is located

## ARTICLE 23

### Article 23: Amount of compensation

- 23.1** In case of loss of the wagon or its accessories, the amount of compensation shall be calculated in accordance with Appendix 5.
- 23.2** In case of damage to the wagon or its accessories, compensation shall be limited to the cost of repairs. Compensation for loss of use shall be granted in accordance with Article 13.3 and compensation for the change in operational value for damaged wheelsets in accordance with Appendix 6, Part II. When a request is sent to the keeper for spare parts to carry out repair work, the period of loss of use shall be suspended between the date of the request and the date on which the parts are received. The total amount of compensation (for loss of use and for reprofiling wheelsets) may not exceed the amount that would be payable for loss of the wagon.