

GCU JOINT COMMITTEE

Statement of the GCU Joint Committee regarding the interpretation of Article 19 GCU in view of mandatory ECM certification requirements

As from 31st May 2013 it will be mandatory for rail freight wagons used in member states of the European Union as well as signatory states of COTIF 1999 to have an entity in charge of maintenance (ECM) assigned that is complying with certification requirements under applicable EU and/or COTIF regulations.¹

Certificates based on the Memorandum of Understanding² (MoU) for their original period of validity until at the latest 31st May 2015 and - only within the EU - certificates for railway undertakings (RUs) and infrastructure managers (IMs) under Directive 2004/49/EC for their original period of validity are recognised as being equivalent. Self-declarations of conformity as from 31st May 2013 are not recognised as being equivalent anymore.

A common principle of all applicable certification requirements is that the ECM, when using contracting partners like workshops for carrying out maintenance work on freight wagons, must have procedures in place to ensure the proper selection of competent contracting partners and the monitoring of the quality of the maintenance work performed.

The GCU is a contract between RUs and keepers of freight wagons; ECMs are not a party to the GCU. Following introduction of the ECM in Directive 2008/110/EC a reference to the ECM was inserted in Article 7.2 GCU in June 2009 clarifying that “for the purposes of this contract and vis-à-vis the other signatories, the keeper is considered to be, and have the responsibilities of, the entity in charge of maintenance for the wagon”.

Article 19 GCU allows that RUs arrange for a damaged wagon to be repaired in certain cases (repairs below a cost level of 850 Euro, the replacement of brake blocks or small repairs outside workshops in accordance with Appendix 13 GCU) without prior information of the keeper (and accordingly, the ECM).

The question was raised and directed to the GCU Joint Committee, whether the application of Article 19 GCU was compliant with mandatory ECM certification requirements.

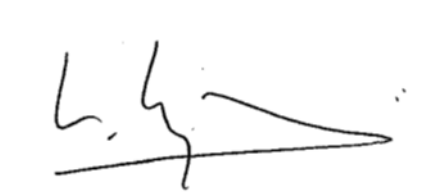
¹ Commission Regulation (EU) No 445/2011 of 10th May 2011 and/or Annex A of ATMF (Appendix G to COTIF 1999) of 1st May 2012

² Memorandum of Understanding establishing the basic principles of a common system of certification of entities in charge of maintenance for freight wagons, signed on 14th May 2009

The GCU Joint Committee, having discussed in detail all aspects of the question raised above, unanimously concluded in its meeting on 27th May 2013 that the application of Article 19 GCU does not violate any mandatory ECM certification requirements, for the reasons listed below:

1. Article 19.5 GCU clearly spells out that "in all cases where the RU carries out - or arranges to have carried out - repair work in application of the provisions of Appendix 10 or Appendix 13, it shall do so with all due care, making use of approved workshops and/or staff and approved materials."
2. "Approved" in the view of the GCU Joint Committee means being in possession of all approvals required under applicable law or the safety management system (SMS) of the acting RU. As long as there is no single uniform mandatory standard for the approval (or certification) of workshops, staff or material, it must be accepted to be sufficient if a RU acts within its own applicable certification standard (without prejudice to additional bilateral agreements between RUs and keepers).
3. The required application of the provisions of Appendix 10 and 13 GCU in carrying out the maintenance work ensures application of a quality and safety standard accepted within the sector.
4. The obligation of the acting RU in accordance with Article 19.5 GCU to "provide detailed information of the work carried out to the keeper" allows the keeper and - via the chain of responsibility established in Article 7.2 GCU - the ECM to monitor and evaluate the process and to initiate any corrective measures that may seem appropriate.

The GCU Joint Committee therefore confirms that Article 19 GCU is fully compliant with applicable EU and COTIF ECM certification requirements. It strongly recommends that all keeper GCU signatories take the above into account for the internal processes being evaluated for ECM certification.



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