



**FORUM OF STAKEHOLDERS IN THE GENERAL FREIGHT TRUCKING
INDUSTRY**

**AWARENESS TOOL
Follow-up to the results of the 2006 investigation**

**ELEVEN WAYS
TO IMPROVE YOUR BUSINESS PRACTICES**

Introduction

In the fall of 2006, the Forum of Stakeholders in the General Freight Trucking Industry conducted a telephone survey of members of the trucking industry that focused on contractual transactions between stakeholders in the transportation chain. The results of this survey pointed to a fairly positive image of contractual relations within the industry.

These results also revealed that it would be helpful for certain contractual practices to be better understood by all stakeholders in the industry, in order to help them to further improve their business relations.

The purpose of this document is to increase awareness among the various stakeholders in the trucking industry with respect to the best ways to conduct business relationships.

This document is presented in the form of a series of Questions followed by the Forum's point of view, supported by highlights taken from the survey. It also contains simple tips and references aimed at helping the various stakeholders in the trucking industry to improve their business practices through concrete actions.

NOTE:

In this document, all references to truckers and to OOHVs are based solely on the definitions that were used in the survey, and not those that are stipulated in the Act respecting Owners, Operators and Drivers of Heavy Vehicles (Bill 430). Therefore:

- ✓ a trucker is defined as the owner-operator of a single (1) truck.
- ✓ an OOHV is defined as an owner-operator of two (2) or more trucks.

SECTION 1

KNOWING YOUR BUSINESS PARTNERS

Did you know that, according to a survey conducted in 2006:

- verbal agreements are the most common way of finalizing business transactions.
- the vast majority of stakeholders in the general freight trucking industry do not verify the identity, financial reliability, or solvency of companies they do business with.
- sooner or later, a little more than one quarter of stakeholders experience problems related to payments owed to them for transport services.
- on average, the total of the unpaid amounts represents a little more than 7% of a company's sales.
- less than 40% of stakeholders are aware of the existence of the Forum of Stakeholders in the General Freight Trucking Industry, and therefore, the tools that are made available to them by the Forum.

1. Why is it so important to have at least a minimum amount of information concerning your business partners?

Forum's point of view: Regardless of which industry you choose, when you start your business, you must have a minimum amount of knowledge in order to survive, and even more importantly, to succeed.

The same applies to the trucking industry. It isn't just a matter of buying a truck and transporting cargo. First, you must know and comply with all of the laws and regulations governing heavy vehicle safety in order to transport cargo in accordance with the law. But that's not all!

You must also learn how to administer and manage your company's affairs. Every time you transport cargo, you are making a business commitment. Every commitment has an impact on your profitability.

Therefore, you must always be aware of the financial capacity of your future financial partners. Once these verifications have been carried out, you can establish business relationships with a certain level of confidence.

After that, you and your partner must clearly establish your respective rights and obligations. If everything is carried out with a view to "cutting corners", and if things are not planned properly, problems of all types will soon arise.

You must act responsibly. By choosing your business partners carefully and clearly establishing the rules, you will increase your chances of success.

Helpful tips and information:

The Forum of Stakeholders in the General Freight Trucking Industry (the Forum) is a non-profit organization that offers several free tools designed to help you to carry out the most effective transactions, including a software application for calculating operating costs, a standard contract that includes a formula for indexing fuel costs, and a website where you can quickly obtain information and useful links.

Forum website: www.forum-cam.qc.ca

Did you know that, according to a survey conducted in 2006:

- on average, only 2 out of 10 companies request a credit analysis.
- companies that finalize agreements verbally do not take any more steps in order to conduct financial verifications of their clients than companies that sign a written contract.
- on average, only 4 out of 10 companies conduct an RIN verification.
- approximately 3 out of 10 companies have experienced problems related to payments over the course of their existence.
- companies that usually conduct credit analyses are the companies that have been faced with collection problems in the past.

2. Why is it helpful to conduct financial verifications on a company before conducting business with it?

Forum's point of view: Before conducting business with a company, it is important to know who you are doing business with.

Prior verifications will allow you to determine whether you can trust the financial health of the company, along with the probability of suffering consequences resulting from the financial fragility of your clients or partners.

Several means can be used to verify a client's credit history or reputation as a *good payer* before accepting a transport assignment.

MEANS OF VERIFICATION

Credit analysis: You can conduct a credit analysis by contacting a specialized company that offers such a service, such as *Equifax, Creditel, Dun and Bradstreet (D&B), etc.*

Calls to financial institutions: You can ask your future partner to sign a letter authorizing your financial institution to acquire information from their financial institution.

Information from associations: Credit verification services are available at a lower cost and in a user-friendly manner through trucking associations that offer this type of service. Find out about these associations or organizations, and evaluate the quality of the services that they offer based on your needs.

Information from other truckers or shippers that you know and trust.

Reputation.

Word of mouth.

Registry Identification Number (RIN) from the Commission des transports du Québec (CTQ): This type of verification will allow you to determine whether the company is registered with the government. The RIN does not give any indication of the company's financial situation, but it assures you of its legal authority to operate a trucking company, and indicates its road safety rating. By conducting this type of verification, you will determine whether this company exists legally and whether it is authorized to provide trucking services.

Useful tips and information:

Get your business off to a good start. Protect yourself from the beginning!

Take the time to verify the financial situation of your future partners

- **Credit analysis:** Available for a fee
 - ☑ Internet/Equifax, telephone: 1-800-465-7166 or 514-493-2314
 - ☑ Creditel, e-mail address: www.graydon.be/public/FR/creditel_main.htm
 - ☑ Dun and Bradstreet (D&B), telephone: 1-800-234-3867
- **Calls to banks:** Administration fees may be charged for this type of information.

Always verify the information that you receive. Your decisions must be based on facts that are accurate, verifiable, and credible.

Did you know that, according to a survey conducted in 2006:

- payment problems are more frequent for companies that work with several clients.
- failure to respect rate clauses based on waiting time and delays are the most frequent problems that arise among companies that work with several clients, such as trucking companies.

3. Did you know that the risks of financial loss that you may experience are proportional to the number of transactions you conduct?

Forum's point of view:

Obviously, it is more difficult to take into consideration a multitude of details when many transactions are carried out, and more often than not, conducted too quickly.

When doing business with several companies, we often neglect or forget several steps or important details in the transactions and in contractual relationships, either due to lack of time or for other reasons.

That is why it is important to take additional precautions. In light of this, orderly administration and thorough business management are a must.

Useful tips and information:

Don't wait for payment problems to teach you a lesson!

Take precautions from the beginning!

- Conduct the necessary financial verifications.
- Keep and file all documentary proof of your transactions (*contracts, faxes, e-mails, etc.*).
- Implement a document filing and archiving system from the beginning – this will help you to effectively manage your various contracts.

SECTION 2

HOW TO CONCLUDE AN AGREEMENT

Did you know that, according to a survey conducted in 2006:

- verbal contracts are the most common method of finalizing contracts in the general freight trucking industry.
- a little more than 6 out of 10 people finalize contracts verbally rather than through any other means.
- following a verbal agreement, 32% of companies request fax confirmation, and 15% request confirmation by e-mail.
- verbal agreements are used most often by companies that work for several clients.
- verbal agreements cause the most problems when it comes to payment.
- verbal agreements that are confirmed by e-mail or by fax are recognized as written contracts. In spite of this, they can also cause problems relating to payment, because they are often incomplete.

4. Are you aware of the different types of agreements that you can enter into?

Forum's point of view:

Agreements can be entered into in one of two ways: in writing or verbally. These two types of agreements are contracts that are recognized by law, but the terms and details of a verbal contract are often more difficult, or even impossible, to prove in case of conflict.

Useful tips and information:

By putting the terms of your agreements in writing, you are getting your business off to a good start.

A written document establishes a relationship of professionalism, trust, and respect.

Standard Contract from the Forum: the Forum of Stakeholders in the General Freight Trucking Industry offers a standard commercial contract that encourages the signing of harmonious agreements. The purpose of this contract is to specify the rights and obligations of the parties. It is designed in such a way as to promote equitable negotiations between the two parties. This sample contract specifies all of the elements that may be essential to a good transaction.

Benefits of the standard contract provided by the Forum

- The model is practical, easy to complete, and drafted using simple language.
- The contract clauses take the form of check boxes, which facilitates and accelerates negotiations between the parties.
- The standard contract is a guide that can be adapted to all situations.

**Available free of charge through the Forum website: www.forum-cam.qc.ca
Also available on CD-Rom or in paper form from the Forum Secretary, who can be contacted by e-mail or by telephone.**

E-mail: forum-cam@mtq.gouv.qc.ca
Telephone: 1-866-646-3216, or 418-644-1611

Did you know that, according to a survey conducted in 2006:

- only 4 out of 10 people sign written contracts.
- those who work exclusively for one client and those who do not own a trailer are more numerous to sign written contracts.
- those who have a written contract encounter fewer payment problems with their clients.

5. Why is it preferable to have a signed contract?

Forum's point of view:

There are several benefits to having a signed contract. First of all, it clearly outlines the rights and obligations of the two parties.

One of the main objectives of the written contract is to anticipate the largest number of possible situations in order to minimize the risk of disagreements by planning for various situations in advance and specifying the liability of each party.

Due to the fact that the rules are set out in writing in advance, the document establishes a clear situation between the parties, and serves as a reference in case of problems with your business partner.

If a disagreement occurs, the written contract will make it easier to prove the existence and the contents of your agreements.

Useful tips and information:

Spoken words are fleeting, but written words endure!

References:

- **Standard contract available from the Forum** (www.forum-cam.qc.ca) for stakeholders in the general freight trucking industry. It may be very helpful to consult a sample contract.
- **The Forum Secretariat** (forum-cam@mtq.gouv.qc.ca) can provide you with certain explanations pertaining to the contents of the standard contract, and can direct you to Forum member organizations that offer various assistance services.

Did you know that, according to a survey conducted in 2006:

- If you do not know your operating costs before you negotiate a trucking contract, you risk:
 - accepting a lower amount than what it costs you to execute the contract that you accepted.
 - putting the survival of your company in peril.
(*Insolvency and bankruptcy*).

6. Why is it so important to evaluate your operating costs before negotiating a contract?

Forum's point of view:

In order to be able to effectively set or negotiate the price of the services that you offer, you must know your operating costs. This will also enable you to know your margin of manoeuvre in terms of negotiations.

Tips and references:

Costing Office

The Forum of Stakeholders in the General Freight Trucking Industry has introduced the Costing Office, which has developed a software application that makes it possible to calculate your operating costs and to use this information to manage your company more efficiently.

The advantages of the Costing Office

- It offers a user-friendly and interactive software application.
- It guarantees confidentiality through access to a website that requires a password.
- It offers on-line or telephone assistance.
- The data used are stored, and always remain available to you for modification.
- It uses a recognized and comprehensive method for calculating operating costs.

The software application is offered free of charge on the Forum website.
It is also available on CD-Rom.

It's up to you to make the most of it!

www.forum-cam.qc.ca

Did you know that, according to a survey conducted in 2006:

- a total of 78% of companies work with a package price agreement that often does not specify all charges and fees involved.
- outside of a package contract, the most commonly used clauses include:
 - rate based on a per-load basis: 50%
 - compensation for the cost-of-fuel increase: 50%
 - fee for waiting time/delays: 42%
 - unloading fee: 35%
 - fee for tie-down and covering: 25%

7. What are the key elements that comprise a sound agreement?

Forum's point of view: key elements for ensuring a sound agreement

- Verify that the package amount is high enough to cover all of the monetary elements of the transport that is being negotiated.
- Have a good overview of the partner's financial situation.
- Know your operating costs so that you can negotiate an adequate price for the transport services that you want to offer.
- Put all of your agreements in writing. The written contract should contain clauses that clearly establish its purpose and the costs, along with the rights and obligations of each party. Re-read it, and most importantly, don't forget to sign it and to have the other party sign it.
- Keep and file all of your contracts and documents related to the transaction, at least until payment is received in full. These will be necessary in case of a lawsuit.
- Clear up any disagreements as soon as they occur, and take the time to discuss and renegotiate with your client. This may make it possible to avoid having the situation degenerate into a real conflict. Remember that dialogue leads to good agreements.

Useful tips and information:

It is important to understand that every clause of a contract must clearly state as many situations as possible in order to avoid disagreements.

**If you require support,
Forum member organizations can help you.**

- ✓ Association du camionnage du Québec (ACQ): 1-800-361-5813
- ✓ Association des intermédiaires en transport du Québec (AITQ): 1-450-624-1514
- ✓ Le Syndicat national du transport routier (SNTR), affiliated with the CSN: 1-877-663-7328
- ✓ Conseil de l'industrie forestière du Québec (CIFQ): 1-418-657-7916
- ✓ Travailleurs Autonomes Québec inc. – Section Camionnage, affiliated with the Syndicat des Métallos and the Fédération des Travailleurs et Travailleuses du Québec (FTQ): 1-514-599-2026 or 1-800-563-1133.

SECTION 3

WHAT TO DO IN CASE OF CONFLICT

Did you know that, according to a survey conducted in 2006:

- a little more than a quarter of the stakeholders in the general freight trucking industry have experienced payment problems at least once during their careers.
- OOHVs, larger companies, and companies that work with several clients are more likely to encounter payment problems.

8. Are you familiar with the most frequent payment problems?

Forum observations: The most frequent payment problems are listed below, *in decreasing order*:

- Total non-payment (66%)
- Partial non-payment (13%)
- Late payment (9%)
- Failure to respect loading clauses (6%)
- Failure to respect clauses related to waiting time/delays (6%)
- Financial guarantees (5%)
- Failure to respect clauses related to unloading (4%)
- Compensation for the cost-of-fuel increase (4%)
- Failure to respect clauses related to tie down/covers (2%)
- Trip cancellation (2%)
- Fines (2%)
- Specialized equipment (2%)
- Security fees (1%)
- Equipment breakage (1%)
- Damaged goods (1%)

Useful tips and information:

A written contract that clearly specifies the rights and obligations of the parties will prevent many conflicts!

Did you know that, according to a survey conducted in 2006:

- people who do not have written contracts encounter payment problems more frequently.
- total non-payment is the problem in two-thirds of the cases.
- the average amount that is unpaid generally represents more than 7% of corporate sales.
- the average frequency of late payments is approximately 17 times out of 100.

9. What are the main factors that cause payment problems?

Forum observations:

Several factors cause problem payments, either alone or in combination:

Closure or bankruptcy of the client (41%)

Financial difficulties encountered by the client (31%)

Late payment without compensation (25%)

Sub-contractor (15%)

Promise to pay not respected (30%)

Failure to respect a negotiated clause (3%)

Lost waybills and invoices (3%)

Fuel surcharge (3%)

(This occurs far less frequently since the industry adopted the fuel-indexing clause.

However, this clause must be negotiated and included in the contract.)

Useful advice and tips:

The two main factors that cause payment problems are the result of the client's financial capacity, which demonstrates the importance of conducting a financial verification of a company before entering into business with it.

Conduct financial verifications before accepting a shipment. If you do not do this, it may be impossible to recover what is owing to you after your services have been rendered.

If you are waiting for payment for a trip that has already been taken, avoid contracting another shipment for this client before being paid, in order to ensure that you are not left with more than one unpaid or delayed transaction. These non-payment situations may occur even if you have had good contractual relationships with this client in the past.

Did you know that, according to a survey conducted in 2006:

- truckers who work exclusively for one client are affected by payment problems less frequently than those who work for several clients.
- truckers who have experienced payment problems in the past now seem to be taking the following measures in order to avoid them:
 - Credit inquiry
 - More frequent follow-up of client credit
 - Verification of the client's reputation through word of mouth
 - Termination of the business relationship
 - Limitation of trips for poor payers
 - Acceptance of work from large companies only
 - Request for payment prior to the trip for new clients
 - Request for a deposit

10. What measures can you take to prevent payment problems?

Forum's point of view:

There are a number of effective measures available in order to prevent payment problems.

Therefore, before committing to an agreement, it is important to conduct a verification of the financial situation of the person with whom you want to do business.

Once this trust relationship has been established, you must negotiate an agreement with your partner, taking care to clearly include all of the essential clauses.

If certain interpretation or application conflicts occur when you carry out the service related to the contract, take the time to discuss it with your client as soon as possible, in order to rectify the problem and make necessary amendments to your contract. Dialogue constitutes a major asset that promotes the maintenance of sound agreements

Useful tips and information:

Take the time to properly manage your affairs and your risks.

Did you know that, according to a survey conducted in 2006:

- Only a little more than half of the people who experience payment problems decide to take action, and most of the time, this action simply involves negotiating directly with the client who is at fault.
- Companies that initially negotiated a resolution to their disagreement generally experienced payment problems relating to:
 - a cost-of-fuel increase
 - equipment breakage
 - damaged goods
 - failure to respect a loading clause

11. What types of steps can you take to resolve your disagreements?

Forum's point of view:

In the event of a disagreement, it is advisable to begin by discussing the situation directly with the client, in order to attempt to resolve the problem in an amicable manner, and to amend the contract accordingly if necessary.

However, if this initial attempt at resolution is ineffective, you must initiate the necessary legal proceedings and request the support of your trucking association, if it provides such a service, or contact a law firm that will launch legal proceedings on your behalf, in order to exercise your rights.

Useful tips and information:

Take the time to exercise your rights. If you are in the habit of storing all of your contracts and documents related to transportation, legal proceedings will be less problematic, and probably less costly.