

## **BULK TRUCKING AGREEMENTS ON THE IMPLEMENTATION OF A NEW FRAMEWORK FOR BULK TRUCKING IN QUÉBEC AS OF JANUARY 1, 2000**

**Did you know that**, on October 14, 1999, the Québec Minister of Transport presided over the signing of two important agreements with truckers' representatives that will affect more than 7000 truckers in the field of bulk trucking?

These agreements make it possible to prepare the bulk trucking industry today in order to minimize the effects of deregulation by the federal government as of January 1, 2000 (coming into force of the provision of the *Agreement on Internal Trade Implementation Act*, section 19 of Bill C-19).

The agreements concern **bulk trucking by dump truck** and **forestry transport**, and are the outcome of sustained negotiations that began last spring. They give concrete form to the Minister of Transport's commitment, in response to truckers' demands, to review the bulk trucking framework by January 1, 2000.

The main aspects of the agreements are as follows:

- Elimination of bulk trucking permits and of regulated tariffs.
- Maintenance of brokerage agencies with regard to public markets, and relaxation of operating rules for those markets.

- Maintenance of preferential hiring by the ministère des Transports du Québec and of minimal tariffs with regard to contracts awarded to subscribers to brokerage services.
- The establishment of a new register for bulk trucking at the Commission des transports du Québec (CTQ), in which all current permit holders will be registered as of January 1, 2000. Current permit holders must subsequently confirm their intention to take advantage of the preferential awarding of the public contracts targeted by registering with a brokerage agency before March 31, 2000.
- Complete opening of protected public markets to non-residents.
- Unrestricted access to all bulk trucking sectors other than the public markets sector for which there is a preferred hiring clause.
- Legal authorization of a standard contract for the transport of unmanufactured timber taken from forests in the public domain.
- Various amending provisions in work legislation and municipal legislation.

The new framework temporarily maintains preferred hiring for certain work on public roads in order to provide bulk trucking firms with a form of stability and to smooth the transition from a completely regulated market to a free market. A large part of the market will be completely deregulated as of January 2000, and it is with a view to the equitable sharing of the economic spin-offs of work on public roads that the government increased the share granted to bulk trucking firms that have had preferred access.

## **Changes in the bulk trucking framework**

### **Current regulation of bulk trucking (before 2000)**

Currently, the bulk trucking industry in Québec is regulated in both the public and the private sectors. The main regulatory provisions are as follows:

- A trucker must hold a bulk trucking permit (VR plate) from the CTQ in order to engage in paid transport of bulk materials. The regulation covers such materials as sand, earth, gravel, asphalt, snow, salt, mineral ore, wood chips and logs.
- The permit is issued for the operation of a given vehicle within one of Québec's ten bulk trucking regions.
- There has been a moratorium on the issuance of VR plates since 1977 because transport supply has exceeded demand.
- In the dump truck transport sector (aggregates), the CTQ sets minimum tariffs for the private and public sectors.
- The CTQ issues brokerage permits to not-for-profit brokerage agencies. A total of 89 brokers in Québec equitably share the work of the truckers who subscribe to brokerage services in the aggregates sector. In addition, certain work sectors are protected in contracts awarded by the ministère de Transports du Québec (MTQ) to truckers belonging to brokerage agencies (Clause 75/25 and addenda on asphalt pavements).
- In the forestry transport sector, the setting of tariffs by the CTQ has been replaced, since April 1, 1992, by a standard contract for the transport, on public roads, of long-cut timber and logs from forests on public domain lands.

**Main elements of the new agreement on bulk trucking by dump trunks (aggregates) coming into force on January 1, 2000**

1. Bulk trucking will be deregulated as of January 1, 2000. However, in order to smooth the way to a free market for bulk trucking firms, certain measures will be in place for a seven-year period beginning on January 1, 2000. As a result, after January 1, 2000, current holders of bulk trucking permits will be able to maintain their access to work that is subject to preferred hiring clauses in contracts awarded through brokerage agencies.
  - In order to preserve their access, truckers who hold bulk trucking permits (VR plates) for materials in Group 1 in the *Regulation respecting bulk trucking* (sand, earth, gravel, etc.) on December 31, 1999 will be registered, on January 1, 2000, in a bulk trucking register at the CTQ. Subsequently, they will have to register with a brokerage agency before March 31, 2000 and maintain their registration. Truckers who have not subscribed to a brokerage agency as of March 31, 2000 will be struck from the CTQ register and will not have access to protection clauses.
  - Throughout the duration of the agreement (seven years), truckers who remain registered in the CTQ register will be able, with CTQ approval, to transfer their bulk trucking privileges in public markets to another firm.

- Since preferred access to public work is reserved for members of brokerage agencies, the current brokerage system will be maintained and adapted to the new framework as of January 1, 2000.
2. Bulk truckers who are registered in the CTQ bulk trucking register and with a brokerage agency will have the benefit of a broadened preferential hiring clause with the MTQ. The MTQ is proposing a clause that:
- Maintains the current provisions of Clause 75/25, which grants truckers who belong to a brokerage agency 75%, in terms of number of trucks, of the transport of materials used above the infrastructure line
  - Maintains the current provisions concerning the addendum on asphalt pavements (25% of each contract and 50% in terms of volume for Québec as a whole), and integrates planed asphalt
  - Grants 25% by volume of transport of aggregates for shoulders and capping layers, as well as maintaining the current provisions concerning these materials
  - Grants truckers 75%, in terms of number of trucks, of Borrow B (type of material) transport to work sites
  - Grants truckers 25%, in terms of number of trucks, of transport of materials **other than Borrow B materials** used under the infrastructure line
  - Provides that the clause does not apply to transport by off-road vehicles of materials used under the infrastructure line other than Borrow B materials (i.e. filling materials in classes 1 and 2)

- Provides that the contractor's excess capacity, except with regard to pavements and aggregates used for shoulders and capping layers, remains under its control and is not automatically granted to the members of a brokerage agency
  - Provides that, prior to the beginning of work, the brokerage agency and the contractor must sign a written agreement on the provision of services stipulating the terms and conditions of transport services rendered as well as general conditions such as the work schedule, the time limit for requisitioning trucks, the type and number of vehicles required, and the terms of payment
3. Transport prices will normally be negotiated between the contractor and the brokerage agency representing the truckers. However, if no agreement has been signed within the time limit specified before work is begun, a tariff scale will apply to the parties covered by the clause. This provision will be included in the MTQ's general specifications and will be in force as of January 1, 2000.
  4. With regard to municipalities, the MTQ took steps leading to the passage of Bill 71 last June, which provides for an enabling power for municipalities that wish to give preference to truckers who subscribe to a brokerage agency, as the MTQ currently does.
  5. In addition, MTQ preference clauses will apply to public road construction contracts financed by nonstatutory subsidies that the MTQ will award to municipalities by protocol of understanding.

With regard to Hydro-Québec, the Société québécoise d'assainissement des eaux (SQAÉ) and the other departments that currently have preferential hiring clauses in their contracts, the MTQ commits itself to taking the steps required with the authorities in those organizations to encourage them to preserve

truckers' acquired privileges insofar as possible given the distinctive characteristics of their organizations.

6. The agreement will be valid for seven years, i.e. until January 1, 2007.
7. The statutory and regulatory provisions for the implementation of the framework will be proposed by the MTQ before the end of 1999. The MTQ's book of specifications (*Cahier des charges et devis généraux*) will be altered and adapted accordingly.
8. **This new framework, applicable only to work (and materials) covered by preferential hiring clauses**, will also result in the deregulation of part of the bulk trucking industry in the following sectors, which is in line with the agreements on the liberalization of markets:
  - Supply of processing plants (e.g., table salt, sand for concrete, mineral ore)
  - Private sector transport (e.g., construction of homes and shopping centres, snow-removal by municipalities that do not have preferential hiring clauses)
  - Transport of forest products (e.g., chips and logs from private woodlots)
  - It must also be understood that the transport of materials for work not covered by the new bulk trucking framework will be deregulated as of January 1, 2000. As a result, the transport of materials such as the following will no longer be regulated: mineral ore, farm, agricultural and fishing products, firewood, coal, cultivated or natural turf, wood chips, planed or unplaned timber that is cross-cut or cut lengthwise, and chemical or organic fertiliser and neutralizing agents.

**Main elements of the agreement on forestry transport coming into force on January 1, 2000**

With regard to forestry transport, on October 14, 1999, the Association des manufacturiers de bois de sciage du Québec (AMBSQ) and ANCAI signed and ratified an agreement in principle on the use of a **new forestry transport contract** as of January 1, 2000 for the transport of long-cut timber and logs **taken from forests in the public domain.**

The agreement between the two associations covers a period of five years and should enable carriers and the forestry industry to smoothly negotiate the shift to deregulated transport on January 1, 2000.

**The main elements of the AMBSQ-ANCAI agreement in principle are as follows:**

1. The agreement comes into force on January 1, 2000 and will be in effect for five years.
2. The agreement is based on a standard contract for heavy vehicle transport of timber taken from forests in the public domain (timber that has undergone no other operation than cross-cutting, limbing and barking)
3. The contract provides that the shipper holds the management rights.
4. The contract provides that the carrier has the right to negotiate monetary clauses and other transport conditions with the shipper. To this end, it stipulates that:
  - The carrier has the right to be represented



- The carrier has a hiring rank determined by its hiring date
  - In the event of contestation of its hiring rank, the carrier has the right to arbitration
  - In the event of any other dispute, the parties are allowed to have recourse to conciliation
  - For the duration of a dispute that occurs when a contract is up for renewal, the carrier cannot provide transport services to another client, on pain of losing its hiring rank, and, conversely, the shipper cannot call upon the services of other carriers.
5. The carrier and the shipper will agree on what they consider to be effective means on complying with the statutes and regulations governing loads on Québec's public road network.
6. The contract will be submitted to the MTQ, which will verify that it complies with legal requirements and render it mandatory for all the shippers and carriers concerned.

The statutory and regulatory provisions governing the use of the new forestry transport contract will be proposed by the MTQ before the end of 1999.

### **Other provisions**

The MTQ is postponing implementation of the provisions on reducing the total loaded mass of single-unit dump trucks, which were to have come into force on January 1, 2000, until January 1, 2002. For more information on this subject, see *Info-camionnage*, No. 03.11.99, dated November 30, 1999.

**If you have any questions about registration in the CTQ bulk trucking register or about the transferability of such registration, contact the Commission des transports du Québec:**

Québec City	Tel.	(418) 643-5694
	Fax	(418) 644-8034
Montréal	Tel.	(514) 873-6424
	Fax.	(514) 873-4720

**For any other information concerning the agreements, call the ministère des Transports du Québec:**

Québec City	Tel.	(418) 643-6864
Montréal	Tel.	(514) 873-2605

This issue of **Info-camionnage** is above all for information purposes. The texts included cannot be used for legal purposes.