

Guidelines on Subcontracting of Chemical Road Transport

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Wherever the Guidelines refer to a specific assessment system, e.g. SQAS, it is understood that Main Hauliers may, even if this is not explicitly mentioned, also choose to rely on equivalent assessment schemes or to set up and monitor individual criteria themselves. Nothing in the Guidelines shall be construed as restricting the Main Haulier’s ability to adopt such assessment criteria when entering into an agreement with its subcontractors or as a limitation to the quality and variety of services offered by them to the shippers. The Guidelines do not contain any restrictions on pricing or terms and conditions.”

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1. Introduction

The chemical transportation industry in Europe is in continuous change, adjusting to the new geographical realities, economic and environmental pressures, and to the changing needs of its customers.

Likewise, chemical shippers have constantly been re-engineering their supply chain over the past 10 years, mostly leading to fewer transport service providers who as Main Hauliers directly interface with the shippers. This is also driven by modern logistics IT-systems with higher automation requiring more simplified supply chain interfaces. In the past, chemical shippers expected their base load to be carried by their selected asset-based Main Hauliers, but today the transported volumes are often too large to be handled by the Main Hauliers with their own equipment and drivers only.

To cope with this shortage, certain transport companies are making use of alliances, outsourcing and mutual subcontracting. Consequently, subcontracting, while it had a derogatory connotation before, has become an inevitable necessity in order to cater to the chemical industry's transport requirements. Also, due to the decentralized chemical industry base - often causing empty legs in chemical transport - this setup helps in finding backhaul opportunities and in optimising economic imbalances between countries.

The Main Hauliers have largely aligned their quality and safety management on the expectations of the shippers and allow the customer to verify and monitor their Safety and Quality performance versus his own requirements. When the Main Hauliers, in the execution of their service agreements with the shippers, require the services of other transport companies, they need to be able to demonstrate to their customer that these subcontractors meet the same standards.

The European chemical transport industry strives for excellence in customer service, increased reliability and a high performance in matters related to **Health, Safety, Security, Environment (HSE) and Quality**. Since 1995, a number of initiatives have been taken to implement Responsible Care in chemical transport operations. Joint Cefic/EPCA/ECTA working groups have produced Best Practice Guidelines for the sector of chemical transport, e.g. Guidelines on Equipment Standardization, Performance Monitoring, Behaviour Based Safety, and Productivity in the Supply Chain, etc., and made these Guidelines freely available¹

With the aim of constructing a safe, efficient and competitive supply chain, it is important to create a uniform and transparent basis of understanding on issues related to subcontracting. For that purpose, a Working Group under the umbrella of ECTA, EPCA and Cefic, consisting of representatives from the chemical and the transport industries, prepared this set of Guidelines on Subcontracting of Chemical Road Transport.

These Guidelines lay down standards for the provision of subcontractor services that are objectively justified by the need for a pro-active management during the transport of chemical goods of environmental, security and safety aspects, as much as by the need for respect for the requirements of the customer who is ordering the transport.

¹ Free downloads of the Best Practice Guidelines are available at www.ecta.be and www.cefic.org

The Guidelines are only indicative. The Main Haulier can offer other standards of service, which do not conform to the Guidelines, as long as the service is in conformity with the applicable legal requirements.

2. Scope

The present Guidelines on Subcontracting of Chemical Road Transport describe Best Practice in the selection of Subcontractors as well as in the process of continuous evaluation and monitoring of the HSE and Quality standards of Subcontractors.

In order to ensure his customer, the chemical shipper, that the services of the Subcontractor meet the same standards as his own, the Main Haulier will find here guidance on management of Subcontractors. Such management is considered to be of critical importance to the high safety and quality standards applicable in the chemical transport industry. The Main Haulier remains free to set additional or different individual standards, corresponding to his own commitments with his shipper.

The standards described in these Guidelines are an objective to be reached via continuous improvements and they are not intended to restrain the prerogative of every individual company to contractual freedom. The current Guidelines are purely indicative in nature, proposing common definitions and offering a compilation of Best Practices in the management of subcontracting to the transport industry in the form of a list of criteria. The Guidelines formulate a list of objectively justified criteria of technical and organisational nature related to the assessment of subcontractors, which the Main Hauliers may opt to use when entering into an agreement with a subcontractor. There is no direct or indirect obligation to use the Guidelines when entering into agreements with subcontractors and deviations do not have to be notified to ECTA or any other body or undertaking. The Main Hauliers remain free to set individual standards and assess the compliance themselves. They can also rely on equivalent assessment systems.

The Guidelines are always subordinate to the contractual relationship defined between the chemical shipper and his hauliers on the topic of subcontracting.

The term “Road” transport in the title of these Guidelines is wider than road transport only and also includes multimodal chemical transport incorporating a road leg. The co-operation between a Main Haulier in multimodal transport and his road transport service partner on the opposite side of the transport leg is considered subcontracting. If multimodal transport is however fully subcontracted, the road transport service partner on the opposite side of the transport leg is not considered a sub-subcontractor. In such a situation, the Main Haulier can request his multimodal subcontractor to apply these guidelines on subcontracting for the road transport at both sides of the multimodal transport.

3. Selection Process of Subcontractors

It is good corporate management practice for the Main Haulier to follow a careful selection process in order to select Subcontractors that are fit for the service and who meet HSE and Quality standards befitting the safe transport of chemicals. A

number of criteria defining Best Practice in this process are described in Chapter 4 of these Guidelines in clear, practical terms. These criteria cover all technical aspects related to HSE and Quality which should preferably be checked before entering into a Subcontractor's agreement and which should be included into the Main Haulier's contract with the Subcontractor.

Business decisions, any aspects related to competition, items of financial and operational nature, which are purely specific to the relationship between the Main Haulier and the Subcontractor and which are part of the commercial agreement, are not covered in these Guidelines. The commercial relationship between the two parties remains solely within their responsibility. Examples of such contractual clauses are pricing, payments, commercial agreements like capacities, etc.

4. Criteria for Subcontracting

The following assessment criteria are merely indicative and Main Hauliers may use different assessment standards. Wherever the Guidelines refer to a specific assessment system, e.g. SQAS, it is understood that Main Hauliers may, even if this is not explicitly mentioned, also choose to rely on equivalent assessment schemes or to set up and monitor individual criteria. Nothing within the Guideline shall be construed as restricting the Main Haulier's ability to adopt such assessment criteria when entering into an agreement with its subcontractors.

4.1. Company Policy

The Main Haulier should have a formal written Subcontracting Policy, which may be part of the general Company Policy, in which he expresses his strategic view on subcontracting and his procedure for applying and monitoring the criteria listed in these Guidelines. (See example of a possible subcontractor selection policy as a decision flow chart in Annex 1).

4.2. Compliance with Regulations

The Subcontractor should be in compliance with all relevant national and international regulations and laws. For chemical transport operations, special attention to compliance by the Subcontractor in the following areas is essential:

1. The company of the Subcontractor should have the required operating licences;
2. Drivers should hold valid licences and certificates, in relation to the carried goods;
3. There should be a strict policy concerning the use of drugs and alcohol by drivers;
4. Restrictions concerning working and driving hours should be respected
5. The Subcontractor and his drivers should comply with relevant regulations on parking and routing, e.g. National Routing and Tunnel Regulations, Parking Restrictions on Dangerous Goods, etc. ;
6. All relevant transport and customs documentation supporting the operation should be carried in the house-to-house chain with the utmost attention and care, e.g. CMR, Railway Bill, Dangerous Goods Declaration, Bill of Lading, custom documents, etc.;

7. Each party in the transport chain should be informed about the risks associated with the carried products prior to accepting the haulage; this may be achieved for example by provision of the Instructions in Writing (Tremcard) and SDS (Safety Data Sheet);
8. The Subcontractor and the Main Haulier shall document the arrangements regarding Emergency Response, including the Emergency Response telephone number to be used.

In addition to the above, specific criteria apply in case of transport of dangerous goods:

9. All the provisions of the applicable international and national regulations for the transport of dangerous goods (ADR,...), concerning the labelling, placarding, documentation, equipment, training, segregation of goods etc. should be implemented;
10. Drivers of the Subcontractor employed for the transportation of dangerous goods should have a valid ADR training certificate and should be provided with the appropriate personal protective equipment;
11. Dangerous Goods Safety Advisor (DGSA): the Main Haulier should check that the Subcontractor's DGSA fulfils the legal requirements, including the preparation of incident reports, an annual report and improvement plans.

4.3. Equipment and operations

1. Equipment:

The equipment of the Subcontractors should at least comply with the legal requirements applicable for the material that will be transported. It should be regularly and effectively maintained and meet both the statutory inspection requirements and the recommendations of the manufacturer. The vehicles used for the transport of dangerous goods should be equipped with all legally required safety equipment and safety features and should be used according to the manufacturer's instructions.

The Main Haulier should review the construction requirements and standards applied for the selection and maintenance of the transport equipment (including hose testing). The Guidelines for Road Transport Equipment Specifications published by ECTA/EPCA/Cefic* can be a useful guidance for such a review.

2. Operations:

The Main Haulier should instruct the Subcontractor on the cleaning requirements of the shipper and the cleaning stations to be used (e.g. SQAS assessed cleaning stations)

The Subcontractor should offer a trustworthy and consistent performance in the loading or unloading process and in all his contacts with the Customer. The Subcontractor should perform his service efficiently, in a professional and timely manner and with the appropriate equipment.

Main Hauliers may enter into agreements with Subcontractors which do not conform with the Guidelines on Equipment Specifications as these are purely indicative. They may accept the use cleaning stations that are not SQAS assessed,

provided they comply with the applicable legal requirements and maintain sufficient safety standards.

4.4. Performance Monitoring and Auditing

The Main Haulier should have an efficient process for the follow-up on the performance of the Subcontractors in the fields of HSE and Quality. Systems for follow-up that are easy to use and specific for the chemical transport sector are described in ECTA/EPCA/Cefic Guidelines*, especially the Guidelines on Standardised Delivery Performance Measurement and Behaviour Based Safety (BBS). The Main Haulier remains free to set up any other equivalent system with his Subcontractors.

Regular meetings between the Main Haulier and the Subcontractor should take place to exchange advice and agree on action plans to improve the cooperation and the performance.

The Main Haulier should either be granted access to audit the Subcontractor on technical aspects and requirements on-site himself or be authorized by the Subcontractor to review his SQAS assessment report or any other third party assessment of his HSE and Quality standards.

Specific requirements and standards that should be expected from the Subcontractors are:

1. Safe working during loading and unloading: the Subcontractor's drivers should observe the same behaviour as the Main Haulier at loading and unloading sites, especially in matters related to, but not limited to: working at height, tank entry procedure, safe sampling procedures, load securing, cleanliness of equipment, etc.
Voluntary guidance in this matter can be found in the ECTA/EPCA/Cefic BBS Guidelines for the safe Loading and Unloading of Road Freight Vehicles*. However, the applicable legal requirements and the instructions provided by the shipper always take precedence.
2. Driver's recruitment and training process: adequate and repeated training of the drivers should be ensured by the Subcontractor, covering at least the following topics : driver manual content, driver pre-start and post-loading checks, defensive driver training, Behaviour Based Safety, wearing of seat-belts, weight limits in different countries, local parking and routing regulations and, where applicable, product segregation and compatibility. The knowledge of appropriate languages by the drivers merits special attention because of its impact on the loading and unloading situations.

4.5. Levels of Subcontracting

In line with best practices in chemical transport, the Subcontractor should not subcontract the services any further to another tier, except if systems are in place to ensure that sub-subcontracting offers equivalent standards in SHE and Quality. (For multimodal transport see Chapter 2 of these Guidelines).

4.6. Insurance Cover

The Main Haulier should review very carefully the insurance cover offered by the Subcontractor and its expiry date.

All legally required insurance cover for the activity offered by the Subcontractor should minimally be met. Specific review of the CMR, the national legislation and the third party liability policies should be carried out.

4.7. Reporting

For Subcontracting, non-conformance and incident reporting are very important. The Subcontractor should at least report to the Main Haulier in a timely manner about: any equipment damage or irregularities during the transport and loading/unloading, unsafe situations, accidents and incidents, cargo damage or discrepancies.

The application of the Standardised Delivery Performance Measurement Guideline* of ECTA/ECPA/Cefic is recommended for complete data collection and processing in a standardised way between all parties involved.

Besides this, a continuous and shared learning process should be set up between the Main Haulier and the Subcontractor.

4.8. Financial Reliability

The Main Haulier should check the financial health and reliability of the possible Subcontractor before entering into a contractual relationship.

4.9. Confidentiality

Due to the confidentiality of operational and commercial data of customers and the execution of orders, the contract with the Subcontractor should reflect this confidential nature by including a confidentiality clause in the contract with the Subcontractor.

4.10. Security

The Main Haulier should ensure that the Subcontractor is complying with the appropriate legal requirements concerning security (such as Chapter 1.10 of ADR) to protect the equipment, the goods and the information. For example, the Subcontractor should ensure that each driver carries identification and photograph at all times during the carriage.

5. Definitions

5.1. Main Haulier

The Main Haulier is the party who has the direct contract with the shipper. The Main Haulier may be using other transport service providers as Subcontractor to execute all or part of the transport. The same company can be the Main Haulier in one instance, and be a Subcontractor in another instance, depending on the customer or the product to be carried.

Generally, Main Hauliers will only subcontract a competing haulier in limited and individual cases which will not lead to any further obligations (e.g. regular meetings, close monitoring/auditing, review of contracts and financial information, continuous and shared learning process, etc., such as set out above in points 4.4, 4.6, 4.7, 4.8 and 5.3) and which do not form part of a wider commercial relationship between the parties. A competing haulier will in general not be a Fully Integrated Subcontractor as defined in point 5.2. In case of a subcontracting agreement which leads to a closer cooperation and / or integration of competing hauliers, the parties to this subcontracting agreement are responsible for compliance with the applicable national and European competition rules.

5.2. Fully Integrated Subcontractors

Transportation companies can provide a transport service to a Main Haulier as Subcontractor and be fully integrated in the Main Haulier's Management System, without however losing their status as independent companies and without limiting their possibility to work for other Main Hauliers or as a Main Haulier themselves.

Examples of such an integration are numerous, for example:

- The equipment of the Subcontractor is integrated in the transport planning system of Main Haulier;
- The drivers training of the Subcontractor is fully integrated with Main Haulier's Drivers training programmes;
- The performance follow-up is identical to the Main Haulier's, etc.

The fully integrated Subcontractor is completely free to set his individual standards and should therefore be carefully selected by the Main Haulier. The above described Criteria for Subcontracting (see Chapter 4) are indicative for Best Practice in this matter. The Agreement signed or reached with the Subcontractor should reflect all the standards agreed between the parties. The performance of the fully integrated Subcontractor should be monitored and regular discussions should follow up on the improvement process. Assessment of his performance should be integrated in the SQAS assessment of the Main Haulier.

5.3. Not Fully Integrated Subcontractors

When the Subcontractor is not fully integrated into the Main Haulier's Management System, the Main Haulier should review the standards of this Subcontractor against the criteria applied by his customer and, as best practice, against all criteria described in these guidelines.

The methods used to assess a potential Subcontractor should be the choice and responsibility of the Main Haulier, but the SQAS scheme can provide useful support.

When the potential Subcontractor is SQAS assessed, the Main Haulier can check the SQAS report of the Subcontractor to assess if the requirements of his customers and his own requirements are met. The SQAS report provides information on key points of HSE and Quality, including the Criteria defined in Chapter 4, to the Main Haulier when he considers contracting with an SQAS assessed Subcontractor.

In the absence of an SQAS report, the Main Haulier should select the criteria and verify and monitor compliance of the criteria himself. The Main Haulier should keep his own records of his Subcontractor's assessments and performances regarding the subcontracting criteria of these guidelines. The Guidelines do not preclude Main Hauliers from entering into agreements with subcontractors that have been assessed with alternative assessment or certification systems, providing that equivalent information on HSE and Quality standards performance is supplied.

5.4. Spot subcontractors

Spot is defined as sudden calls upon subcontractors through some kind of "phone book" directory selection, e.g. Internet, Minitel, yellow pages type selection. Spot selected subcontractors have to be treated like all other subcontractors, i.e. they should conform to the HSE and Quality standards set by the Main Haulier and his shipper.

Annex 1. Example of a Subcontractor Selection Policy at a Main Haulier

This decision flow chart is merely an example. The Main Haulier is free to determine his written policy and related assessment criteria and to choose to select its subcontractors according to other parameters and assessment schemes than shown in this example.



