



# Industry Advisory Committee (IAC) Notes of Discussion

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**Tuesday, October 18<sup>th</sup>, 2016**

**8:30 am to 10:30 am**

**North Delta Recreation Centre  
11415 84<sup>th</sup> Avenue, Delta, BC**

## **In Attendance:**

John Bourbonniere	Harbour Link Container Services
Rex D'Souza	Prudential
Paul Johal	Unifor (Alternate)
Kellie Kopeck	Damco Distribution (arrived at 8:45)
Chris Locher	Locher Evers International (arrived at 8:50)
Greg Rogge	Port Metro Vancouver
Larry Sargeant	Teamsters
Gagan Singh	United Truckers Association (arrived at 8:35)
Duncan MacPhail	OBCCTC; Chair
Michael Crawford	OBCCTC; Vice Chair
Karm Jauhal	OBCCTC

## **Regrets:**

Dave Lucas	Coast 2000 (Western Stevedoring)
Matthew May	Pro West (BST Transportation)
Gavin McGarrigle	Unifor
Robert Meredith	Canadian Tire
Maksim Mihic	DP World
Robert Neild	Loblaw
Mark Thomson	West Fraser Forest Products
Eric Waltz	GCT Terminals

The meeting was called to order at 8:31 am

## **1. Commissioner's Update**

The Commissioner provided a brief update on what the Office of the BC Container Trucking Commissioner (OBCCTC) has been working on since the last meeting:

- a. Interim Tag Policy:
  - The OBCCTC has been working over the summer and continues to consider the options for tag management and will consult on various policy details over the coming months.

- Corinn Bell had put out an Interim Policy that the OBCCTC took down during the licensing period to avoid tag requests interfering with the Licensing process.
- Since the completion of the 2016 Licensing process, the OBCCTC has not been issuing new tags.
- Some businesses have approached the OBCCTC requesting additional tags as their business is growing and need additional tags to service their customers. Therefore, the OBCCTC, as an interim measure, is proposing to issue an Interim Truck Tag Policy.
- First you will notice that it's in large the previous Commissioner's policy.
- If a company needs additional tags, the OBCCTC will require companies to make an application to the Office. The application must articulate why a company needs additional tags.
- Port of Vancouver keeps a scorecard and the OBCCTC use that as a tool in reviewing applications.
- The OBCCTC is conscious of the potential, in issuing additional tags, that the industry might become over saturated thereby reducing the amount of work for existing drivers and decreasing companies' utilization rates.
- In addition to the introduction of an additional tag allotment policy, the OBCCTC will also be enforcing Section 8 (C) of the Sponsorship Agreement which allows the OBCCTC to reallocate tags which have remained vacant for longer than 45 days.
- The OBCCTC will be giving the Licensees a 30 days' notice to fill any vacant tag they have as a grace period before the tags revert back to the OBCCTC.
- A few of the Committee members provided scenarios where the tags would not revert back to the Commissioner's office, therefore, the Commissioner explained the tag management process:
  - If a sponsored I/O is terminated (fired) by a licensee, the tag moves with the I/O and he has 45 days to find a new sponsor/ employment (a new company). If the I/O resigns, the company keeps the tag and the company has 45 days to sponsor a new I/O to fill that vacant tag.
  - The Commissioner advised that all are subject to the OBCCTC discretion.
  - The commissioner reminded the Committee that the OBCCTC doesn't have the capacity to become arbitrators, however, if a unique situation comes up and there is a grievance; the OBCCTC can make a decision accordingly.
  - Reminder that Missing I/O's or trucks that have been involved in accidents are not considered a vacant tag. Tags/trucks can be unused, but still associated with an I/O (sponsorship agreement is still in place). A tag only becomes vacant if the Sponsorship Agreement is severed, or an Employee is no longer employed by a company.
  - If you have a missing I/O, please submit a missing I/O form (on our website) along with the supporting documentation and the OBCCTC will render a decision regarding that I/O.
  - The Commissioner reminded the IAC that the OBCCTC will continue to communicate and be available, but will not be the legal advisors to the Companies or I/O's.
  - All tags expire on May 31 and new tags are issued when the new licence is issued.
  - If additional tags are granted, they will be treated the same way as if there were given at the time of Licensing.
  - If the OBCCTC takes any vacant tags back after the timeframe allotted, there is no mechanism in place to issue refunds for the tag.

- An IAC member pointed out that there are I/O's sitting at home with not enough work for 30-45 days.
  - The Commissioner reminded the IAC that that is not what the vacant tag discussion is about and I/O's can go find companies that have vacant tags and go to work. The truck age matter is not the OBCCTC's jurisdiction. Concerns regarding truck age policy can be discussed with the Port.
  - The Deputy Commissioner reminded IAC members that the OBCCTC can't create work for the industry but understands the challenges that the I/O's and Companies face in this current economic environment.
- b. Brown Bagging
- The previous Deputy Commissioner, Vince Ready spoke at a January IAC meeting regarding "Brown Bagging". I.e. - companies asking for funds back underhandedly. THIS PRACTICE MUST STOP.
  - If a Licensee is doing it, they need to understand that the sanctions imposed by the OBCCTC if caught will be the most severe. These are the views of this commissioner and previous commissioners.
  - The OBCCTC has not turned a blind eye just because there are no decisions on its website.
  - A bulletin on brown bagging was issued on October 11<sup>th</sup>, following continued allegations of cash back schemes in the industry in order to get around the rates. The OBCCTC continues to hear of allegations of more and more attempts to circumvent the rates.
  - A committee member asked if the OBCCTC audits overtime and the Commissioner advised that overtime was an Employment Standards Branch jurisdiction.
  - A Committee member advised that there are people that are reporting on an hourly basis, but paying per trip (pretending that they are paying hourly, but are paying per trip). The Commissioner reminded the IAC that this is a license violation.
  - The Commissioner recapped the definition of brown bagging for the Committee and advised that it can be difficult to investigate and requires that drivers come forward and be prepared to be named; the due process gives the accused to face the accuser.
    - When a driver does come forward, the OBCCTC has to carefully investigate before an allegation can be proven.
- c. Industry Advisory Committee Alternates
- The OBCCTC is formally allowing IAC members to appoint an alternate. Please forward to the Registrar (Karm) the name of the person who will attend meetings when you are not able to.
  - A reminder that the alternate should be prepared to speak for you and be informed on issues in order to participate and contribute in the meetings.

**ACTION ITEM: Industry Advisory Committee members to provide the Registrar with a name and contact information of the Alternate to be appointed to the Committee and attend in the absence of the Primary member.**

## 2. Industry Queries for Discussion

The OBCCTC has had queries regarding the definition of a container in the *Container Trucking Act/Regulations* as well as queries regarding whether an open top container and flat rack is considered a container that would attract the rates. The Commissioner posed this question to the IAC for discussion and requested feedback.

### a. Open Top Containers & Flat Racks

- The definition of a container according to the *Container Trucking Act* is: “a metal box furnished or approved by an ocean carrier for the marine transportation of goods”
- Committee had an open discussion. During the discussion, the following points were put forth:
  - If a chassis can take it, should be defined as a container regardless of if it has a lid or not.
  - Some containers don't always have metal tops, they can have rag tops, but are loaded and unloaded off a ship just like every other container and are weight limited to 30 metric tons
  - Containers that have oversized or cargo sticking out of the top and cannot be loaded on a regular chassis (requires special equipment – is overweight, over height or over width.
  - A Reefer is also a metal box, therefore it that also a container?
  - The Office is bound by the government definition of a container as a “metal box”
  - A lot of TLS Companies do pick up and drop off open top containers.
  - The discussion went on to discuss that there are unlicensed companies that pick up from the port and do not have an Access Agreement in place, but pick up special equipment.
  - Another point was made that if these companies access the port, but don't hold a Container Trucking Services Licence, they cannot be regulated to pay the rate.

## 3. Next Meeting – Date and Time

Next meeting in approximately six weeks' time.

Meeting adjourned at 9:51 am