January 29, 2026

Canadian National Transportation Ltd.
17569 104 Avenue,
Surrey, BC V4N 3M4

Canadian National Transportation Ltd. (CTC Decision No. 01/2026) – Decision Notice

Introduction

1. In Canadian National Transportation Ltd. (CTC Decision No. 01/2026) ("Decision"), I found that Canadian National Transportation Ltd. ("CNTL") violated sections 6.16, 6.17 and 6.22 of its 2024 CTS licence when it moved a total of five regulated containers in the Lower Mainland with untagged trucks and using unsponsored Independent Operators on December 1 and 7, 2025. I proposed an administrative penalty of $7,000.00

2. Consistent with s. 34(2) of the *Act*, CNTL was given seven (7) days to provide a written response setting out why the proposed penalties should not be imposed.

3. On January 21, 2026, CNTL provided a submission in response to the Decision.

4. I have considered CNTL's response to the Decision and provide the following Decision Notice.

CNTL's Response

5. CNTL argues that the Commissioner is without jurisdiction to apply the *Container Trucking Act,* the *Container Trucking Regulation,* and the CTS licence to "domestic transportation services integrated with CN's federally regulated rail operations." CNTL says that the *Act* does not apply to "movements that do not involve access to marine terminals, do not involve ocean carriers, and do not form part of the Lower Mainland drayage system." Furthermore, CNTL argues that the Commissioner's application of the *Act* to the Impugned Containers "interferes with federally regulated operations that support domestic supply chains."

6. CNTL does not appear to dispute that the Impugned Containers are theoretically "ocean-capable" or that they have a "four letter prefix" associated with containers that can and do transit through a marine terminal. It says, however, that these indices do not automatically bring the container within the Commissioner's regulatory oversight. Rather, CNTL argues that the container movement can only be considered "container trucking services" if the container is "actually being used for marine transportation." Since the Impugned Containers arrived at a railyard by train and were transported by truck to and from a customer's location, then back to the rail yard, CNTL argues these movements did not involve any "marine terminals, marine carriers, or any part of the port-drayage system" and therefore are outside the jurisdiction of the Commissioner. It asks that the Commissioner "correct this overreach and reaffirm the separation between domestic rail-based transportation and the marine terminal drayage sector."

7. CNTL argues that the Commissioner's interpretation is inconsistent with the "past regulatory guidance, longstanding industry practice, and the legislative purpose behind the creation of the OBCCTC." Specifically, CNTL argues that the *Act* was designed to "stabilize" the "Lower Mainland drayage system" and not regulate container movements that do not involve access to marine terminals or involve ocean carriers. Furthermore, CNTL argues that the October 30, 2020 letter from Commissioner Crawford "acknowledged the distinction between port-related drayage and domestic freight transportation."

8. Finally, CNTL states it "cannot accept regulatory oversight over operations that clearly fall outside the scope of the *Act*" and asks that I reconsider the Decision and "reaffirm the separation between domestic rail-based transportation and marine terminal drayage sector."

Consideration of Licensee's Response

9. At paragraph 34 of the Decision, I stated that I have extensively addressed the issue the movement of "containers" by trucks owned or retained by licensees within the Lower Mainland between facilities that are not marine ports, such as rail facilities or warehouses. I adopted those analyses in this case.

10. At paragraph 40 of the Decision, I noted that once certain indices of a container are established (e.g. "four-letter prefix," "ownership by an ocean carrier," "similar containers identified as being on an ocean carrier," etc.), they are presumed to be "containers" and the onus lies on the licensee to rebut this presumption.

11. Where it was established the containers moved on the relevant dates are not capable of being transported by an ocean carrier, I found that those containers (e.g. with prefix CNRU, CCBU and EMHU) do not fit the regulatory definition of a container and their movements are not considered "container trucking services" for the reasons set out in paragraphs 50 and 51 of the Decision. Where it was established that the containers can and do travel via an ocean carriers, I found that those containers (e.g. with prefix CDAU, FCIU, CAIU, and OOCU) fit the regulatory definition of a container for the reasons set out in paragraphs 52 to 54 of the Decision Here, and in many prior decisions, where a licensee can establish that a container is never used or will not in future ever be used for the marine transportation of goods, I have generally accepted that they have rebutted the presumption.

12. In this case, I accepted that the containers with prefix CNRU, CCBU and EMHU were not "regulated" containers because there was no record of their being transported on an ocean carrier at any time or of their being owned by or having a registered prefix associated with an ocean carrier. CNTL's explanation that these containers are exclusively used to transports goods within Canada by rail and truck (i.e. only by land) is consistent with my findings that they were not on an ocean carrier or owned by an ocean carrier.

13. However, I am not persuaded that CNTL has demonstrated that the containers with the prefix CDAU, FCIU, CAIU, and OOCU are similarly restricted to movement by land. CNTL asserts, broadly, that these containers circulate continuously on land between Alberta and the Lower Mainland and are not "actually used for marine transport [of goods]" and do not "transit through a marine terminal." However, this is not consistent with my findings that these containers are owned by ocean carriers and, in one case (container FCIU901606) was in fact on a ship on November 1, 2025. At paragraph 52 of the Decision, I explained that, for instance, the expiration of a container's CSC certification suggested that

the container may no longer be "approved" for the marine transportation of goods and therefore may not qualify as a "container." CNTL does not deal specifically with the containers in question. It makes broad and conclusory statements, but does not establish how it determined that these specific containers are not "actually used for marine transport [of goods]" or do not "transit through a marine terminal."

14. Given my findings that the containers with the prefixes CDAU, FCIU, CAIU and OOCU have the indices of "containers" known to transit through marine terminals and are owned by ocean carriers and/or have recently been on a ship, it is reasonable to infer that these containers transit through marine terminals. While the containers may have been used to move goods between Alberta and Abbotsford via CN's rail yard in Surrey BC on December 1 and 7, 2025, I do not accept that this immediate use changes how "container" is defined.

15. At paragraph 70 of the Simard Reconsideration, I found that the indices of a container – not its contents or incidental use – are paramount and determined this was consistent with the rule that an enactment must be construed as always speaking: s. 7(1) of the *Interpretation Act*. At paragraph 21 of KD Truckline Ltd. (CTC Decision No. 16/2025) – Reconsideration, I found that that the broader meaning of "approved" is consistent with section 8 of the *Interpretation Act*, which provides that "every enactment must be construed as being remedial, and must be given a fair, large and liberal construction and interpretation as best ensures the attainment of its objectives." One challenge with CNTL's submission is that, based on the definition of "off-dock trip," no container movement by truck between off-dock facilities in the Lower Mainland transits through a marine terminal. While the regulatory definition of "off-dock trip" includes explicit exemptions (including movements to and from a marine terminal), it does not exempt container movements that are "not port related" or not moved by "marine carriers" (however those are defined). CNTL's submission not only narrows the regulatory definitions of "container," "container trucking services," and "off-dock trip," but imports exclusions from the *Act* that the *Act* does not contemplate.

16. I agree with CNTL that the *Act* was intended to stabilize the "Lower Mainland drayage system," but I do not agree that the "drayage system" is synonymous with the Vancouver marine terminals. To ensure that drivers were fairly compensated (and avoid future labour disruptions), the legislative scheme ensured drivers were paid the regulated rates when they moved any container to or from a marine terminal (i.e. on-dock trips) and when they moved any container that can and do transit through a marine terminal between "non-port" locations in the Lower Mainland (i.e. off-dock trips). This was achieved by limiting the number of companies accessing the marine terminals, in exchange for which licensees are required to pay drivers the regulated on-dock and off-dock rates. Allowing licensees to pay less than the regulated rates or use untagged trucks to move containers that can and do transit through a marine terminal when they are not immediately transiting through a marine terminal would lead to perpetual battles about what constitutes a regulated "container" and a return to the undercutting of rates that destabilized the industry. See Simard Westlink Inc. (CTC Decision No. 04/2024) – Reconsideration.

17. These issues were recently addressed in *Simard Westlink Inc. v. Office of the British Columbia Container Trucking Commissioner*, 2025 BCSC 2178, where the Court dismissed the same arguments CNTL now makes.

18. I am also not persuaded that the Decision interferes with the "federally regulated operations that support domestic supply chains." In fact, CNTL's interpretation would itself cause interference to the domestic supply chain. The *Act* was established to avoid the repeated labour disputes that had arisen in part due to the undercutting of driver rates through an oversupply of trucks. CNTL benefits from its access to the Lower Mainland's marine terminals and its customers no doubt rely on regulated containers (containers that can and do transit through a marine terminal) to meet the needs of the "domestic supply chain." If licensees were permitted to use untagged trucks and pay unregulated rates, another labour disruption would be likely and would certainly interfere with the "domestic supply chain" based on its integration of containers (such as the Impugned Containers) from the trans-ocean supply chain. CNTL's decision to integrate containers from the trans-ocean supply chain (i.e. regulated containers) into the "domestic supply chain" means in CNTL's case that there is no longer a "separation between domestic rail-based transportation and marine terminal drayage sector" (however those terms are defined).

19. CNTL decided that it required access to the Lower Mainland marine terminals to move containers by truck in addition to the access its parent company has to move those same containers by rail. When CNTL applied for and was granted a CTS licence, it was required to adhere to the *Act, Regulation,* and CTS licence. CNTL accepted the quid pro quo of paying the regulated rates and using tagged trucks when performing off-dock container movements. Any so-called "interference" in the "domestic supply chain" is therefore self-imposed. At paragraph 77 of the Decision, I indicated that CNTL could restructure its operations to bring itself into compliance. Based on the limited number of regulated containers moved by CNTL on December 1 and 7, 2025 (5 of 15 total movements), those regulated container movements could probably easily be handled by CNTL's tagged trucks and the untagged trucks could continue to move the unregulated containers (which appear to be a majority of containers that they currently move).

20. I also disagree with CNTL's underlying suggestion that the legislative scheme was intended to create stability at marine terminals only. It must not be forgotten that the 2014 labour disputes extended to local rail yards in addition to the marine terminals.[1] While CNTL may feel that the drivers' dispute was with the Vancouver Fraser Port Authority, the drivers must have felt differently based on their decision to protest at the very rail yards where CNTL's Impugned Containers left from. Based on the inclusion of rates for movements to Canadian National Railway Company and Canadian Pacific Railway (as it was known then) rail yards in the Joint Action Plan[2] that ended the 2014 labour dispute and the subsequent recommendation of Vince Ready and Corrin Bell that guided the creation of the current legislative scheme, it is reasonable to infer that the movements to and from the railway were intended to be captured by the *Act.*

21. Finally, I do not agree that CNTL was provided "guidance" that using untagged trucks and unsponsored IOs to move regulated containers is compliant with the *Act*. In fact, I find that the opposite occurred. Licensees have been reminded repeatedly that container movements to and from rail yards are captured by the *Act* and CNTL was specifically disabused of the idea that "domestic" containers were automatically exempt from the *Act* in my letter of February 7, 2023. This interpretation is not new (see *Simard Westlink Inc. v. Office of the BC Container Trucking Commissioner* 2023 BCSC 2007) and has been the subject of many bulletins and decisions before and after my letter. As I stated at paragraph

[1] Canadian National Railway Company v. United Truckers Association of British Columbia, 2014 BCSC 487
[2] Point 12

33 of the Decision, I am not persuaded that CNTL reasonably relied on the equivocal and situational statements made by the former Commissioner and nothing in CNTL's submission has changed my mind.

Conclusion

22. I am not persuaded to reduce or refrain from imposing the proposed administrative penalty. Having carefully considered CNTL's submission, and for the reasons set out here and in the Commissioner's Decision, I order CNTL to pay an administrative fine of $7,000.00.

23. Section 35(2) of the *Act* requires this fine to be paid within 30 days of the issuance of this Decision Notice. Payment should be made by delivering to the Office of the BC Container Trucking Commissioner a cheque in the amount of $7,000.00 payable to the Minister of Finance.

24. CNTL may request reconsideration by filing a Notice of Reconsideration with the Commissioner not more than 30 days after its receipt of this Decision Notice. A Notice of Reconsideration must be:

    a) made in writing;
    b) identify the decision for which a reconsideration is requested;
    c) state why the decision should be changed;
    d) state the outcome requested;
    e) include the name, an address for delivery, and telephone number of the applicant and, if the applicant is represented by counsel, include the full name, address for delivery and telephone number of the applicant's counsel; and
    f) signed by the applicant or the applicant's counsel.

25. Despite the filing of a Notice of Reconsideration, but subject to section 39(2) of the *Act*, the above orders remain in effect until the reconsideration application is determined.

26. This Decision Notice along with the Commissioner's Decision will be published on the Commissioner's website.

Dated at Vancouver, B.C., this 29th day of January 2026.

Glen MacInnes
Commissioner