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# THE CANADIAN PILOT



## MESSAGE FROM THE PRESIDENT



In our daily lives, most of us spend a considerable amount of time and effort compromising and balancing what we want with what others want. And this makes good sense. It is hard to imagine how the world would work if everyone

always insisted that their point of view was the only acceptable one, and that their way of doing things was the only way to proceed. In fact, in those cases where the “my way or the highway” approach prevails, our tendency is to regard such a situation as a failure, as a breakdown in the normal and necessary process of give and take and of finding middle ground.

Certainly, being accommodating and recognizing the validity of other points of view is often as necessary in the world of pilotage as it is anywhere else. For example, the requirements of shipping lines to move vessels do not always match planned pilot availability and, in those cases, roster schedules are rearranged to ensure that ships move when their owners need them to.

That said, there are times when accommodation and compromise are not the right response. For pilots, this arises when matters of safety are at stake. The central organizing principle behind Canada's pilotage system is to foster and encourage pilots' independent judgment on matters concerning the safe navigation of vessels. When it comes to questions of safety, compromise gives way to prudence. Questions of convenience and cost lose their priority when there is a clear risk to life or the environment.

It is not always and only pilots, however, who must be vigilant concerning matters of navigational safety. For example, one factor that plays a role in the management of safety questions is risk assessments, conducted by objective and qualified third parties, taking into account the views of all interested stakeholders. Proposed changes to regulations affecting such crucial matters as compulsory pilotage areas and pilotage exemptions require careful review and should only be implemented if there is a clear demonstration that safety is not unduly diminished and that any reduction in safety is acceptable to stakeholders.

Pilots support the risk assessment methodology that has been adopted by the Government of Canada to review possible changes to pilotage practices. Pilots are also firm believers that the risk assessments undertaken must be above reproach, meeting the highest standards of objectivity, professionalism and due process. And while there have been examples where the risk assessment process has been found to be flawed, these cases have ultimately been addressed adequately, thereby leaving intact our confidence in the system.

**Simon Pelletier**

# OUR GUEST: JOHN BENNETT

## NATIONAL PROGRAM DIRECTOR OF THE SIERRA CLUB CANADA FOUNDATION

**Editor's Note:** The CMPA is delighted to welcome one of Canada's most respected leaders in energy and environmental issues, John Bennett, National Program Director of the Sierra Club Canada Foundation, as the guest columnist in this issue of *The Canadian Pilot*. Prior to joining the Sierra Club, Mr. Bennett was Communications Director for the Green Party of Canada. He also co-founded the first Greenpeace office east of the Rockies. Mr. Bennett's career reflects a deep belief in improving living standards through responsible resource development and environmental conservation as well as working in a spirit of collaboration with other stakeholders, values that we share.



First of all I want to thank the Canadian Marine Pilots' Association for asking me to contribute a few thoughts. I am very honoured. I think it is very appropriate that a person like me who has devoted his life to preserving our environment should speak to pilots who spend their lives protecting the environment.

We live in challenging times. We are the last generation to know a stable climate. Our children and grandchildren will grow up in a rapidly changing environment. Their challenges will be a testament to our generation's indifference. There is still time to moderate the impacts of climate change and reduce the burden on our children somewhat and I hope we do.

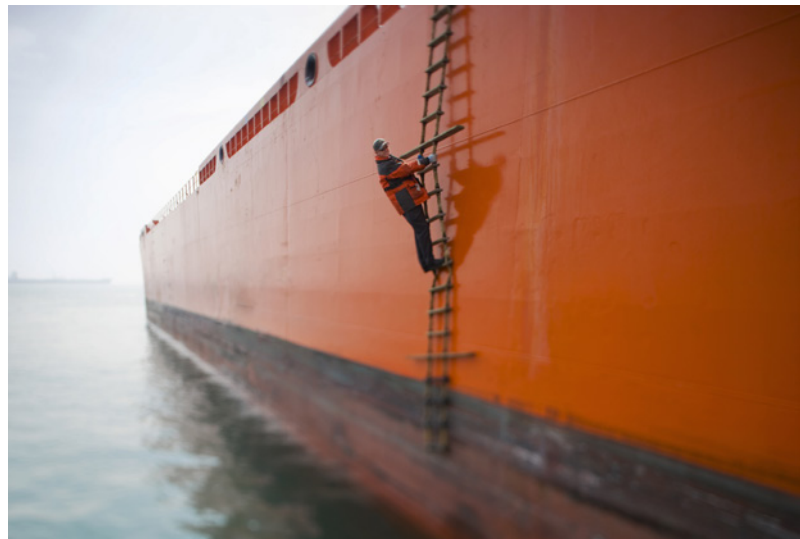
I wanted to talk about climate change here because it is making the job of marine pilots even more important than it already is. The conditions of the oceans are beginning to change. Sea level is rising. Storms are becoming more intense and more frequent.

This is not a time to take even small steps back on the number and training of marine pilots. Rather, we should be looking at the data and concluding that marine navigation safety measures, both human and technical, need to expand to meet the coming challenges.

I was disturbed to read the Commissioner of the Environment's comments on the lack of planning and preparation in the North. Our political and business leaders are speaking of the great opportunities to develop the North. Shipping is increasing rapidly. Yet, there are virtually no plans or preparations underway to ensure the safety of navigation.

Some would say it is short sightedness in both big broad issues like climate change and technical issues like navigation. Others would say it is ideology being imposed on the facts. And, of course, there are less polite ways of putting it. Regardless, an area of vital importance is not being giving the attention it deserves.

The need to maintain and expand marine protection remains, whether or not the authorities recognize it. It is up to you and me to find ways of overcoming short sightedness and do what we have to do to protect our children and grandchildren.



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Please do not hesitate to contact us with your comments and suggestions.

# FROM OUR PAST

## PILOTAGE IN NORTHERN WATERS: AS OLD AS NORTHERN SHIPPING

Canada's only arctic seaport is located on the west coast of Hudson Bay at Churchill, Manitoba. The Port was established in 1931, with the designation of a compulsory pilotage district within the port waters following in 1933.

While the Port is best known as a shipping point for Prairie grain exports, over the years a number of different products have arrived and left Canada from the Port. Among the exports have been honey (!), lumber, livestock, cobalt oxide and nickel slabs. Products imported through the Port have included automobiles, liquor, tractors, transmission towers and sodium nitrate.

The Port has struggled over the years to remain viable, not only because of its limited shipping season, but also due to the difficulty of maintaining transportation links to the south. The rail line connecting the Port of Churchill to its hinterland is built on permafrost; the instability of this terrain restricts the loads that can be carried over the line and increases significantly the cost of maintaining it.

Despite its challenges, the Port has now been operating for over 80 years. While its export business remains predominately grain, there is reason to believe that recent efforts to diversify the Port's business can pay off. Increasing economic activity in the north and changing dynamics in international trade mean that Churchill could be well-positioned to capture new business. When this happens, marine pilots will be there to help.

Initially, pilotage services at the Port were organized locally and it was not until the passage of the *Pilotage Act* in 1972 that responsibility for the provision of pilotage services at Churchill was assigned to the Great Lakes Pilotage Authority. Currently, the Authority maintains a pilot at the Port on a rotational basis throughout the shipping season, which lasts from July to November.



Future growth in northern shipping will certainly not be exclusively, or even largely, focused on the Port of Churchill, as illustrated by the historic transit last year of the *Nordic Orion*, the first bulk carrier to cross the Arctic, travelling from Vancouver to Finland. That said, the experience gained at Churchill will have value not just in Hudson Bay but throughout the Arctic region. Certainly, it has already demonstrated the added value, in terms of safety and efficiency, that pilotage can bring to shipping in the North.

**Editor's Note:** This article continues our series of stories, launched three years ago, highlighting events from the past that have special meaning for marine pilots.

## THE CMPA JOINS GREEN MARINE

The Canadian Marine Pilots' Association joined the *Green Marine* initiative last summer as an Association member and is delighted to serve as an ambassador for the program.

*Green Marine* is an important environmental certification program for the North American marine industry that addresses key environmental issues such as GHG, aquatic invasive species and prevention of spills, through rigorous performance indicators. To receive their certification, participants must benchmark their annual environmental performance through the program's exhaustive self-evaluation guides, have their results verified by an accredited external verifier and agree to publication of their individual results. Originally conceived for the Great Lakes and St. Lawrence corridor but now covering all of North America, *Green Marine* has rapidly gained a reputation for credibility and transparency, and for challenging participating companies to improve their environmental performance beyond regulatory compliance.

"Marine transportation is already one of the most environment-friendly modes of transportation and *Green Marine* brings this a step further" commented CMPA President Capt. Simon Pelletier. "The initiative shows our sector at its very best – as a cohesive group sharing a commitment to advance environmental excellence through continuous improvement. The program is very much aligned with our own reason for being and we are pleased to be part of it."







# FLAGS OF CONVENIENCE

The world's merchant fleet in 2011 consisted of some 80,000 vessels of various types and sizes, all duly registered; registration being the process by which a ship is documented and given nationality of the country that it has been documented to. Registration provides proof of ownership, an essential requirement for any vessel traveling internationally.

Proof of ownership of a given nationality is not always an advantage, if the ownership in question means the imposition of requirements, obligations, or restrictions that the owner of a ship might prefer to avoid. For example, as early as the 16th century, English ships flew the Spanish flag, so as not to be restricted from trade in the Spanish West Indies. Similar tactics were used by English fisherman to avoid restrictions imposed by the French in certain waters off what is now Canada's Atlantic coast.

Once registered, a ship is bound to the law of its flag state and the state exercises regulatory control over it and is required to inspect it regularly, certify the equipment and crew, and issue safety and pollution prevention documents. The laws of the state under which flag the ship flies are the laws used if the ship is involved in a case under admiralty law.

Any given ship registry can be either "national", i.e., available only to ships of its own country, or "open", i.e., open to foreign-owned ships. It follows that some ship owners will choose to use an "open" ship registry of a particular country, if the requirements pertaining to that registry are more favorable than those under the ship owner's national registry. Thus, the term "flag of convenience" to describe the flag a ship flies when its owner uses an open registry of another country.

The practice is so common that today the majority of the world's seagoing tonnage is on ships flying flags of convenience (FOC). There are currently 34 FOC countries, of which a handful control most of that tonnage: Panama (by far the largest), Liberia, the Bahamas, Malta, and Cyprus.

The "convenience" of open registries includes lower, if not minimal, taxes; the ability to employ non-nationals on a ship; and, exemption from a variety of regulations that might be considered too onerous. Registration for FOCs are also almost always less expensive, and annual fees are typically far lower than those in the country of ownership. Moreover, taxes on owners' profits and dividends are low or virtually non-existent.

The modern open registry system became popular starting in the 1920s, following the enactment of American laws intended to strengthen the country's merchant marine and provide safeguards for its mariners. The consequent ship inspections by the Bureau of Shipping, and the need to conform to rules concerning mariner's pay, hours of work and living conditions, added to the incentive for owners to register their vessels elsewhere.

In response to the obvious potential of the open registry system to result in the undue exploitation of mariners or to otherwise avoid legitimate obligations, a new body of international law and regulation has developed and has come into force.

In 1958, the Geneva Convention on the High Seas established the principle of there being a “genuine link” between a ship’s owner and its flag. Article 5 (1) of the Convention requires that “the state must effectively exercise its jurisdiction and control in administrative, technical, and social matters over ships flying its flag.” This principle was embedded as Article 91 of the 1982 United Nations Convention on the Law of the Sea.

It also became necessary to distinguish between the actual shipowner and shell corporations. Thus, the concept of “beneficial owner” or “ultimate owner” was adopted. A beneficial owner is one who enjoys the benefit of a property of which another is the legal owner. It is the ship’s beneficial owner who is ultimately responsible for the ship and its activities, preventing individuals from hiding in law behind shell corporations.

Despite these requirements and safeguards, the flag of convenience system is far from perfect. Flag states often have insufficient regulations, and the regulations they do have are sometimes poorly enforced. In turn, this can lead to an environment conducive to criminal activities, terrorism, poor working conditions for seafarers, and adverse environmental practices.

In some cases, the remedy lies in international pressure. Flags of convenience of certain countries have become so notorious that they have been shut down, owing to protest from the global community. In 1982, Honduras shut down its open



registry operations because it had enabled illegal traffic of all kinds and had given Honduras a bad name. In 2003, the Cambodian Prime Minister Hun Sen closed his country’s registry to foreign ships, following scandals regarding human trafficking and prostitution.

Also, there has been movement toward strengthening the “genuine link” principle and the international instruments that regulate and enforce the FOC system. In 1986, a UN Convention for Registration of Ships was developed which tightens current legal requirements and responds to many of the weaknesses that exist in the current regime. The Convention only comes into force when 40 member states of the International Maritime Organization, with combined tonnage exceeding 25% of the world total, have become signatories to it.

Unfortunately, this has not yet happened and, despite the encouraging development in 2005 of a major open registry nation, Liberia, ratifying the Convention, it may never happen. To date, only 14 countries have become signatories. If that is the case, the nations of the world will need to work collectively to find another approach to address the problems arising from the flags of convenience system; the status quo is just not good enough.



# 4<sup>TH</sup> TRIENNIAL CMPA CONGRESS

The fourth Congress of the Canadian Marine Pilots' Association was held in Niagara Falls from Sept. 9 to 12, 2014. As was the case with previous congresses in Quebec City, Vancouver and Halifax, the event was a successful opportunity for leaders in the maritime sector to discuss important issues of the day and enjoy each other's company.

Joining marine pilots from each of Canada's four pilotage regions, were shipping industry leaders, senior government officials, port and pilotage authority executives, and pilots from a number of U.S., South American and European jurisdictions.

Opening the deliberations of the Congress as keynote speaker was the Right Honourable Joe Clark, former Prime Minister of Canada, who spoke about Canada's role in the world in the 21st century. His remarks fitted nicely into the Congress' theme "Beyond the Horizon: the Future and Pilotage". Like Mr. Clark's remarks, many of the panel discussions at the Congress explored the future in terms of how events and issues were likely to unfold and what the appropriate reaction to those developments might be. The subjects

examined included world trade, global politics, environmental questions, shipping technology and marine navigation.

As always, a highlight of the Congress was the presentation of the CMPA Award for Outstanding Contribution to Marine Safety. The recipient, Maury Sjoquist, past President of the Canadian Merchant Service Guild was honoured for his extraordinary leadership on behalf of seafarers in respect of their status as professionals, their conditions of employment and the safety and security of their work environment.

The Great Lakes pilots played host to the Congress and those attending were unstinting in their praise of the hospitality, accommodation and fine meals, including a wonderful evening at one of the region's leading vineyards.



*The Right Honourable Joe Clark, P.C. and CMPA President, Capt. Simon Pelletier after Mr. Clark's keynote address.*



*Participants in the opening ceremonies: Mr. Nick Cutmore, Secretary-General, International Maritime Pilots' Association, Niagara Falls Mayor, Jim Diodati, CMPA President, Capt. Simon Pelletier, The Honourable Jim Bradley, Chair of Cabinet and Deputy Government House Leader, Government of Ontario, CMPA Vice-President for the Great Lakes Region and Chair of the Host Committee, Capt. Mike Burgess, and Mr. Jeff Watson, Parliamentary Secretary to the Minister of Transport, the Honourable Lisa Raitt, P.C., M.P.*



*Participants in the "Pilotage Around the World" session: Capt. Don Cockrill, Chairman, United Kingdom Maritime Pilots' Association, Capt. Hans-Herman Luckert, President, German Pilots' Association, Capt. Frédéric Moncany, President, Fédération française des pilotes maritimes, Capt. Ricardo Falcao, President, Brazilian Maritime Pilots' Association, Mr. Paul Kirchner, Executive Director and General Counsel, American Pilots' Association, and Capt. Simon Pelletier, President, Canadian Marine Pilots' Association*

# A Look Back...



## Governments of Canada and of New Brunswick Invest in Safety – Support SmartATLANTIC

Funding for the deployment of a state-of-the-art buoy providing real-time meteorological/hydrological data used to produce high-resolution forecasts of weather and sea conditions was announced on August 15th, 2014 in Saint John by the Governments of Canada and of New Brunswick. This project, which is part of the SmartATLANTIC initiative ([www.smartatlantic.ca](http://www.smartatlantic.ca)), is the result of a multi-year effort by the CMPA, in collaboration with the Atlantic Pilotage Authority, the Saint John Port Authority, the Canadian Coast Guard, and the Institute for Ocean Research Enterprises. The SmartATLANTIC buoy will help minimize the potential for incidents and help support the region's ship-based trade in energy products such as liquefied natural gas (LNG) and petroleum products. Rodney Weston, Member of Parliament for Saint John, and the Honourable Trevor Holder, Minister of Tourism, Heritage and Culture, represented the federal and the provincial governments.



## Hockey Night in St. Catharines V!

The fifth edition of what is now a well-established summer tradition in the region – Hockey Night in St. Catharines – was held on August 14th. The event is an initiative of St. Catharines M.P. Rick Dykstra and, once more, proved to be a resounding success. Over half a million dollars has now been raised over the years for the United Way through the initiative. The CMPA (represented by Capt. Brett Walker, CMPA Director and Vice-president of the Corporation of Professional Great Lakes Pilots, here on the left of Rick, and Capt. Mike Burgess, CMPA Vice-president for the Great Lakes region, on the right) is proud to have been a partner of the event again this year and looks forward to next year's edition!



## Pilots' Day in Chile

CMPA and IMPA President, Capt. Simon Pelletier, participated in the Pilots' Day in Chile last August with the country's canal and port pilots. Here, Capt. Pelletier is greeted during a reception in Valparaiso by Vice-Admiral Humberto Ramírez Navarro, Director General of the Maritime Territory and the National Merchant Fleet, the office responsible for the regulation and delivery of pilotage in Chile.



# FROM YOUR VANTAGE POINT

This issue's Vantage Point is courtesy of Capt. Martin Mangan, a pilot in the Upper St. Lawrence pilotage district and was taken in the 1000 Islands sector of the district. Cover photographs are courtesy of Capt. Mangan (on the right and on the left) and Capt. Simon Pelletier (in the middle) from the Lower St. Lawrence pilotage district.

Marine pilots operate around the clock, coast to coast, at times in fair weather and in spectacular surroundings and, at other times, in conditions that are extremely challenging. We welcome all photographs that convey the experience of pilots and highlight the nature of their work.

## CALENDAR OF EVENTS

### DECEMBER

- 05 | Grunt Club 80th Annual Dinner, Montreal

### JANUARY

- 16 | Marine Club 76th Annual Dinner, Toronto  
21-22 | Shipping Federation of Canada, Mariners' Workshop 2015, Vancouver

- 27-29 | e-Navigation Underway, Copenhagen-Oslo-Copenhagen  
28-29 | Cargo Logistics Conference, Vancouver

### FEBRUARY

- 02-06 | 2nd session of IMO's Human Element, Training and Watchkeeping Committee (HTW), London

### MARCH

- 09-13 | 2nd session of IMO's Navigation, Communication and Search and Rescue Sub-Committee (NCSR), London  
25-26 | Annual General Meeting of Members and Annual Meeting of the CMPA Board of Directors, Ottawa