THE PILOT

The magazine of the United Kingdom Maritime Pilots' Association

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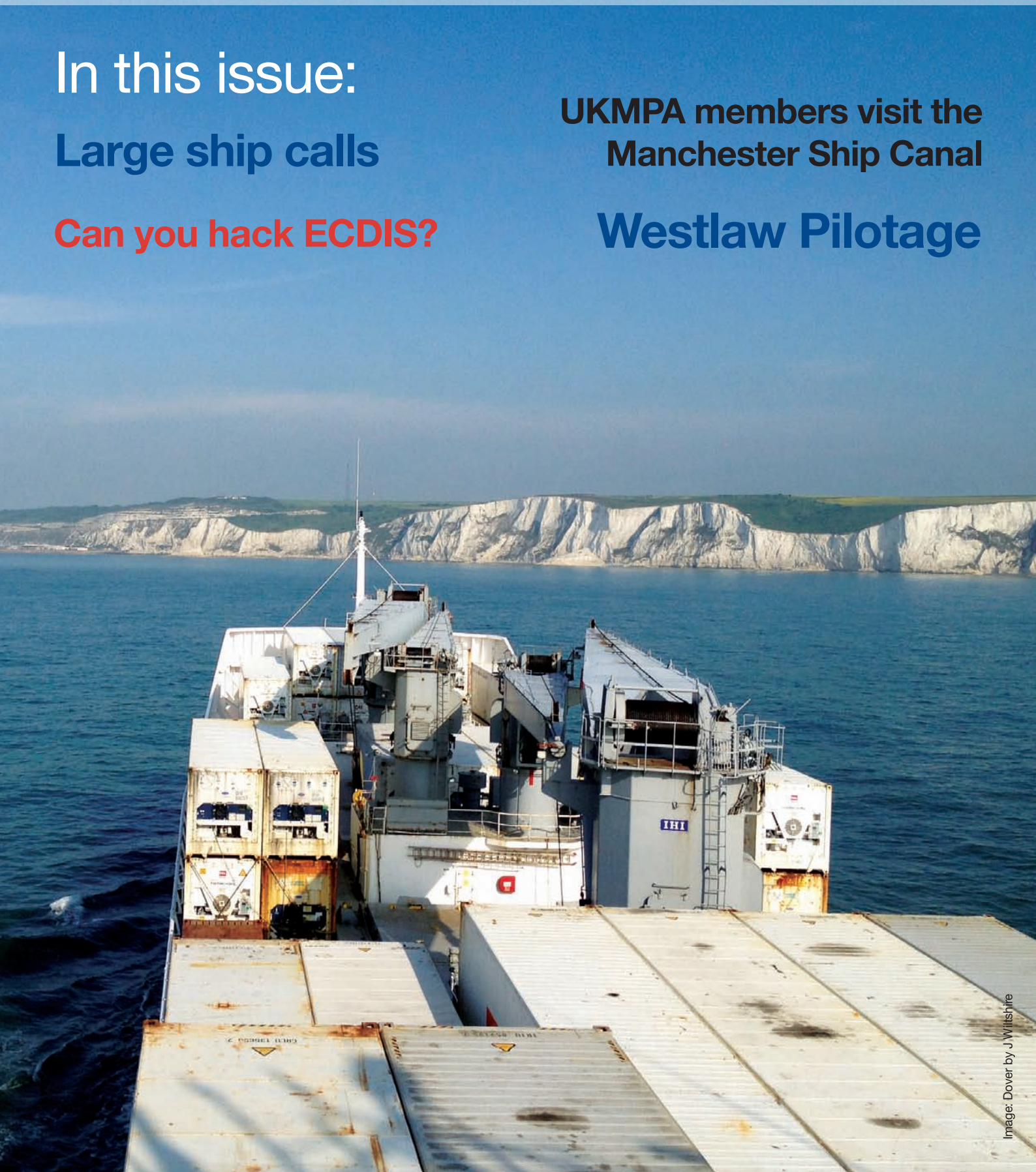


Image: Dover by J Wiltshire

Chairman's Report Don Cockrill

Management policies prioritising financial profitability and commercial expediency above public safety and environmental protection continue to prevail on UK pilotage. There are individuals whose clear ambition is to operate cut price, low quality pilotage services in our ports rather than maintain the obligatory highest possible standards. It is a phenomenon apparent across all types of UK ports, be they privately owned, Trust or Municipal.

Notably in recent months, a UK Trust port administration has steadfastly refused to acknowledge the advice and comments from this and other expert bodies. Its ill-conceived policy, driven by openly admitted financial gain, has resulted in replacing its long-standing, safe and expert pilotage practices (based on a comprehensive 2½ year training regime for the largest ships) with a cut-price, non-A960 (and arguably non-PMSC) compliant training of only a few months, a fast-track simulator based course without oversight by local senior port pilots.

The incumbent pilots, having had quite legitimately their contracts of service terminated, sought to prevent the CHA from pursuing its irresponsible policy by seeking judicial review. This policy is allegedly in contravention of its statutory and common law public safety and environmental protection responsibilities. The pilots settled out of court, following the judge's indication that he would be unlikely to find in their favour, despite matters of pilotage law being explained to him. There were insufficient funds available to the pilots to pursue the action. There is no doubt that whilst no ruling was made under judicial review, the steadfast manner in which the pilots pursued this action is a great service to UK pilotage, ultimately serving to illustrate to those in Government the potential dangers of de-regulated pilotage services.

The DfT maintains that the matter was outside of its jurisdiction and powers of intervention and also beyond those of the Secretary of State. With ports being effectively exempted from the Freedom of Information Act (other than Municipal ports), along with a non-enforceable PMSC, the UK ports industry appears completely unregulated with regard to pilotage.

In stark contrast we witnessed the exemplary professional expertise shown by the Southampton pilot on board Hoegh Osaka and the actions of the port authority there. The incident provided an opportunity to illustrate to the UK's and the world's media the hidden profession that maintains safe and efficient shipping trade through our ports. The pilot, having grounded the ship on the Bramble Bank to prevent further deterioration of the ship's life threatening list, maintained his conduct of the ship and played a major part in the coordination of the crew's rescue by the emergency services. This deft handling of the ship was possible as a result of the extensive high quality training that he and most UK pilots undertake. Their significant local knowledge and experience is irreplaceable; it is gained through years of professional practice, not only in ship handling but in all the other complex aspects of ship operations directly and indirectly related to manoeuvring, navigation and cargo transport.

There is sometimes a misconception that because everything is going right there is no need to operate pilotage services at such high levels of expertise and training. This attitude conveniently overlooks that it is because of proper investment in pilotage operations that daily UK pilots safely conduct thousands of ship movements without high profile incident, dealing with the situational complexities as they arise.

The manner in which the pilot handled the Hoegh Osaka situation is testament to the rewards inevitably reaped from realistic investment in training and operation of port pilotage services and the professionalism and dedication of UK pilots.

The ongoing PSS National Marine Pilotage Certificate project, which the shipping minister promised would be launched at the end of this year, ought to address this issue. Yet we already know that it will not be compulsory either for incumbent or for future pilots. Meanwhile, in other major maritime nations, constructive efforts are successful in ensuring that all pilots are trained and qualified to the highest possible professional, industry and academic standards in recognition of the huge range of skills and expertise maritime pilotage demands.

On reflection, consider what the outcome may have been had the Southampton pilot had the similar poor training background and limited experience of those in the other port described above…

Short climbs, Safe passages and Happy Landings.

UKMPA members visit the Manchester Ship Canal

John Clandillon-Baker & Mike Morris

Reproduced courtesy of the MSC Centenary Souvenir Programme

2014 saw the 120th anniversary of the opening of the Manchester Ship Canal and, with the UKMPA annual conference being held in Chester, the Manchester pilots arranged for delegates to take a trip from Eastham Lock to Runcorn on board two of Carmet's canal tugs on the afternoon before the conference. On a sunny and calm late November day the ***MSC Viceroy*** and ***MSC Victory*** left Eastham for Runcorn. In addition to the delegates, Navicom Dynamics and Transas were also on board and set up demonstrations for their PPU and iSailor units.

History

Although a thriving industrial city, by the beginning of the 19th Century Manchester's lack of transport infrastructure to take advantage of world trade was starting to have a negative impact on the city's economy. Various plans to improve waterborne links were considered, though none came to fruition. By the 1870's the high charges imposed by the railways and the Liverpool Dock Board, who handled 80% of Manchester's trade, threatened to send Manchester into terminal decline.

In 1882 Daniel Adamson, a Manchester manufacturer, organised local civic leaders and businessmen to draw up plans for a deepwater canal that would enable seagoing vessels to access Manchester directly. Naturally, the plans were opposed by the railways and by Liverpool, but in 1885 the necessary legislation was passed and by 1887 the required finance was in place. Digging commenced on 11th November.

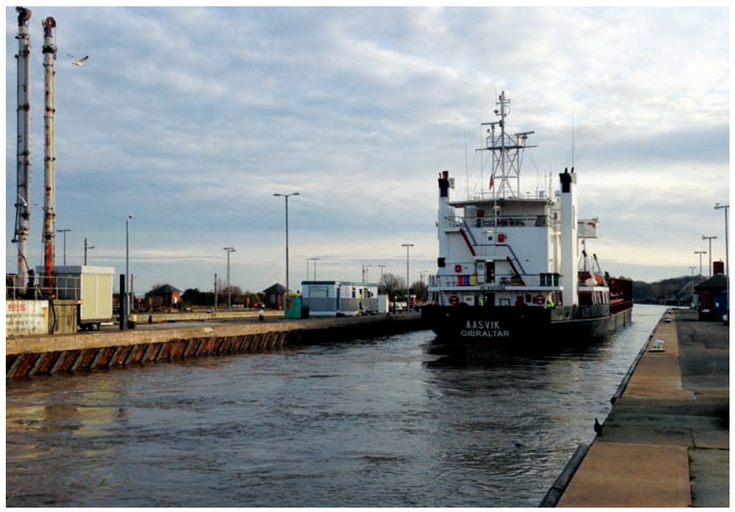
The construction suffered many setbacks, but was eventually completed in December 1893. On New Year's Day 1894 the commercial opening took place. Steam yacht Norseman led a flotilla of 71 ships to Salford. Queen Victoria, aboard the Royal Yacht Entrantress on 21st May, graced the opening ceremony.

Like many other Victorian engineering projects of the time the 36 mile long canal involved complex engineering, including five sets of locks, seven swing bridges, and rail viaducts. One particularly interesting innovation was the swinging aqueduct at Barton. The canal was an immediate success and rapidly transformed Manchester into one of Britain's major ports.

The Canal today

Incredible as it seems the Manchester ship canal is still a thriving port and handles around seven million tons of cargo annually. It is managed by Peel Ports and its 12 commercial berths are integrated with those of Liverpool, also owned by Peel Ports.

Of particular interest currently is the fact that through a planned development of Port Salford the Canal forms part of the EU TenT 'Motorways of the Sea' initiative. This is a £138 million project with planning permission to develop the UK's first tri-modal (served by road, rail and short-sea shipping) inland port facility and distribution park on the Barton industrial site.



Eastham Lock

Pilotage

Last year the 18 MSC pilots undertook 4750 acts of pilotage. Although the old system of a pilot and helmsman serving every vessel ended many years ago, two pilots are still allocated to many vessels, an allocation dependent on a combination of length breadth or draught.

Departing Eastham on the MSC Viceroy with the MSC Victory astern.

The largest ships handled are:
Stanlow: 171m x 23m x 8.8m
Runcorn: 150m x 23 x 8.1m
Above Runcorn the maximum length/beam is 161m x 19m with a draft of 7.3m up to Mode Wheel Lock (Trafford) and 5.48m above. To pass under the non-opening bridges the maximum air draught is 21.56m. Most ships have hydraulic lowering main masts when going to Manchester since the old telescopic top masts have not been seen for many years and funnels are no longer removed. Apart from the seasonal ferry trips up to Salford the current furthest commercial berth is the Cerestar grain berth 33 miles from Eastham. Due to blockage factor and

The Crownbreeze backing down Delamanche Dock (Runcorn) with the Waaldijk alongside.

The Stolt Puffin alongside the Ince Oil Berth

squat effects, the maximum speed is around 8 kts, so with the time taken to transit the locks included this passage takes over 7 hours!

As previously mentioned, Port Salford is a project that could see many more vessels transiting the full length of the Canal, but currently plans are still on the drawing board. Meanwhile Salford Quays has been remarkably transformed. It is the home of the Lowry theatre, War Museum North, BBC and ITV studios and associated hotels, not forgetting the Old Trafford stadium.

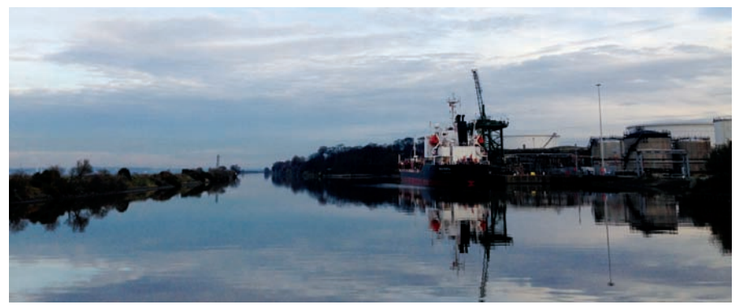
All photos: JCB

CARMET Tugs

Towage services on the Canal are provided by Carmet Tug Company, which was established in 1971 by captains Mike Carrier and Ian Metcalf. Originally undertaking general port and coastal towage services the partnership split up in 1986 and, under Ian Metcalf, the company now concentrates on port services. In 1989 the company gained the contract for the Manchester Ship Canal. Many members of the Metcalf family are involved in providing the towage service. The four tugs are twin-screw conventional tugs with a bollard pull of 16 tons. Although they will be 40 years old this year, the tugs have been beautifully maintained and have an excellent reputation. Two tugs are kept fully manned at all times.

Josh Metcalf at the helm of the MSC Viceroy

For our visit, the crews had gone to considerable trouble to provide us with refreshments. Their hospitality made the cruise enjoyable and informative. Our thanks go especially to Mike Morris and the Manchester pilots for organising such a memorable afternoon.



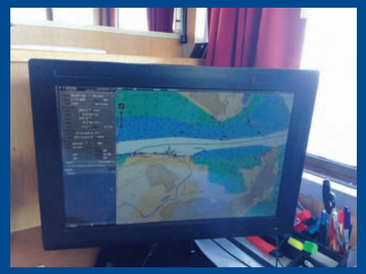
Stanlow

Can you hack ECDIS?

Yevgen Dyryavyy

In an increasingly connected world, cyber security is more important than ever. NCC Group, one of the world's leading cyber security research companies, regularly investigates the susceptibility of non-traditional systems to attack in order to help raise awareness of the risks to these systems.

This article discusses the results of a research project looking at the security risks and weaknesses within Electronic Chart Display and Information Systems (ECDIS), an information technology product used by the maritime industry. ECDIS is a computer-based navigation information system used as an alternative to paper nautical charts. These systems are usually installed on the bridge of the ship and used by navigation officers as an aid to traditional paper chart navigation.

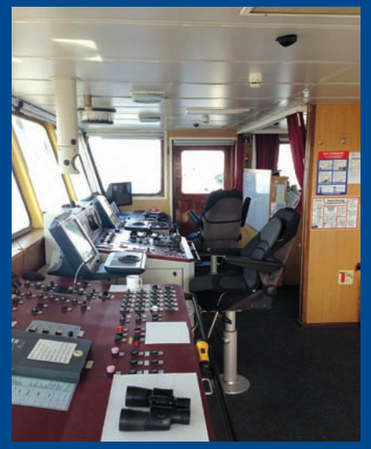


Information technology proliferation within the maritime and shipping industry is usually very slow. There are several contributory factors to this; for example, the adoption of a new software product could take months, if not years, due to diversity and geographic spread of the vessels across the globe. Another factor is that manufacturers, vendors, and software development companies have to comply with a range of regulation frameworks and certification programs, such as the International Convention for the Safety of Life at Sea (SOLAS), the Convention on the International Regulations for Preventing Collisions at Sea (COLREG), the Convention on Facilitation of International Maritime Traffic (FAL), and the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA), among others, all of which take time to achieve. Such compliance programs and frameworks were established decades ago and tend to cover product usability, general safety, and conformance to standards. When compared to the current and future threat landscape, there is very little provision on information security and data privacy within the standards.

Although guidelines and frameworks such as Security Development Lifecycle (SDL) do exist, vendors are not obliged to follow them. Crew members and management companies often install software such as control systems, office based application suites, and email clients on shipboard systems, and these programs can contain vulnerabilities. Typically the following systems are found to be interconnected via shipboard local area networks (LAN):

- SCADA for power plant control and machinery monitoring
- Just-in-time spare part ordering
- CCTV systems
- Bridge Navigation Watch Alarm System (BNWAS)
- Track history and electronic logbook
- Remote monitoring
- Onboard Wi-Fi and Internet access (to be used by crew and guests)
- VoIP Telephony

The cyber security research community has now turned its eye on the maritime industry, and research is being conducted against the software and hardware that forms a crucial part of vessels' systems. The recent exposure of several vulnerabilities found in Automatic Identification Systems (AIS), and methods for attacking them, is an indication that general interest is growing. Such interest will inevitably attract those with malicious intent. These vulnerabilities are of great concern as increasing satellite connectivity, such as the roll out of Ka Band offering high-speed broadband services around the world at speeds of up to 50Mbps at sea, is resulting in ubiquitous, fast, and cheaper connectivity. These stable and fast connections make compromise of vessel systems easier than ever before.



The increasing threat to maritime security and integrity has been recognised by the maritime community, and the United Kingdom Hydrographic Office (UKHO) has released information security standards (S-63) concerning Electronic Navigational Charts (ENC) distribution systems, with which chart distributors now have to comply. These have subsequently been implemented in their ADMIRALTY Vector Chart Service (AVCS).
S-63 is an industry standard cryptographic system which provides hydrographic offices and ECDIS manufacturers with the tools to protect ENCs, and which authenticates the originator of the charts so that end users can be assured of the source of their data.
These are the first steps to address the integrity of one particular aspect of shipboard systems. However, much more needs to be done to improve information and cyber security within the maritime industry.

ENCs form a crucial part of the system that is used by navigation officers to steer and plot the course of vessels. Due to recent regulation changes, all vessels are now required to carry and use ECDIS. Although ECDIS brings many benefits and provides great assistance with navigation, it also represents an increasing attack surface and thus introduces risks that shipping companies, navigation officers, and the maritime community in general should be aware of.

An ECDIS system is, in NCC Group's experience, typically a workstation PC, usually running an operating system, which is installed on the bridge of a vessel. There are sensor feeds connected, typically including radar, Navigational Telex (NAVTEX), Automatic Identification Systems (AIS), Sailing Directions, Position Fixing, Speed Log, Echo Sounder, anemometer, and fathometer. These sensor feeds are often connected to the shipboard LAN (via special serial/NMEA to LAN adaptors), which in turn has a gateway to the Internet. ENCs are loaded in to ECDIS and used by navigation officers to plot the course, navigate, and monitor the voyage progress, speed of the vessel, and many other crucial indicators. These charts are either downloaded on to ECDIS directly via the Internet or loaded from CD/DVD or USB memory disk manually by the personnel. As a result of the connections to external systems and sensors, the ECDIS workstation becomes a highly connected convergence point for navigation. These data sources not only provide valuable information but also are conceivably viable attack vectors.

Ultimately, ECDIS compromise could lead to loss of life, environmental pollution and big financial losses. Connectivity between the critical systems and the office and communication platforms (operating system, email, VoIP and Wi-Fi access), combined with the access to the Internet, could allow attackers to gain unauthorised access. This access could be achieved by various means, such as the introduction of a virus via portable USB disk by a crew member, or the exploitation of an unpatched vulnerability via the Internet. Once such unauthorised access is gained, attackers could be able to interact with the shipboard network and everything to which it is connected. Once access has been achieved, it might be possible to:

- Subvert sensor data and misrepresent it to ECDIS. This could influence the decision-making process of navigation personnel, and possibly lead to collision or the ship running aground
- Steal ENCs.
- Compromise local area network and gain access to other data

NCC Group research into the available ECDIS demo product of one the major ECDIS manufacturers has revealed several serious trivial security shortcomings, weaknesses, and vulnerabilities.

General recommendations for minimising or mitigating the risks highlighted in this paper are:

- ECDIS developers should look to adopt Security Development Lifecycles
- Processes and procedures should be put in place to document, monitor, and patch the ECDIS software and its underlying system on a regular basis. Build reviews should be conducted periodically to establish a secure baseline, and when using any third-party software, processes should include the installation of security patches as they become available from the vendor
- The update process for ECDIS charts should be monitored and logged, especially where manual updates are performed via CD or Flash USB disk. All update files should be scanned using antivirus software at the very minimum
- The internal network infrastructure to which ECDIS is connected

should be reviewed to establish if the ECDIS system could be completely segregated or otherwise firewalled
- Physical access to ECDIS and its underlying components should be limited to the appropriate personnel only

In spite of evidence that steps are being taken to mitigate existing risks in an ever-evolving technological world these steps need to be re-assessed and re-tested on the regular basis. All technology that is currently in use by the industry, be it ENCs distribution system or types of Wi-Fi Access points installed on a vessel, should be assessed and tested for security. In particular, the following areas of research should bring interesting results.

Research into wider network and hardware configurations and deployment of a variety of shipboard networks and interconnectivity with a view to cyber security will include:
- Security assessments of a shipboard networks
- Security assessment of all the associated devices, such as Satellite Routers, Switches and Firewalls, that are connected to ECDIS
- Security review of all other devices, such as Serial-to-Lan adaptors used to feed the sensor data to ECDIS

Further research into the possible development and introduction of certification processes for cyber security in relation to maritime systems will look at:
- Applicability of existing accepted certification processes
- Development of industry-specific standards and certification processes

The security vulnerabilities discovered during this research is not surprising given the little prior research attention. As their major method of risk mitigation manufacturers are currently relying on the restricted access to ECDIS systems on vessels. This reliance is inadvisable, because viable attack entry points exist to the system through, for example, USB memory stick, sensor compromise, or from other systems connected to the vessel's local area network.

In NCC Group's experience it is common for ECDIS to be connected to the internal network while also being connected to the Internet (thus creating a bridge between internal and external systems) in order to download data such as ENCs and other software updates via the satellite link. These methods of connectivity, which introduce significant risks, are preferred by some manufacturers. For example, in the case of a flat LAN other PCs, servers, or Wi-Fi access points could exist on the same network segment with no firewall in place, providing entry points and increasing the attack surface.

It is reasonable to expect that more sophisticated threats will target these systems soon, if indeed they have not already been targeted. Therefore NCC Group recommends that more attention should be drawn to the security of such software products and the systems they are deployed upon.

For the past 10 years Yevgen Dyryavyy has held a number of positions within Information Technology. He has participated in the development of Information Technology Risk assessment software which is being used by blue chip companies.
He is also a committee member at British Standards Institute (BSI), covering technical aspects of Maritime navigation and radiocommunication equipment and systems (IEC EPL/80).
Yevgen is currently working at NCC Group as information security consultant and penetration tester providing services to clients covering threat analysis, source code review, vulnerability assessment, risk management, ISO27001 and PCI-DSS compliance consultancy.

Westlaw Pilotage

Barrie Youde

In strict terms, pilotage and navigation are one and the same thing. By custom in marine terms, pilotage means coastal navigation and includes the skills of ship-handling and manoeuvring at close quarters as might be necessary.

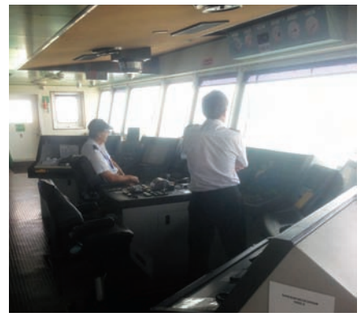
Overview of Topic

1.Statute Law: The Pilotage Act 1987 by sections makes provision for:
1. The creation of governing bodies (Competent Harbour Authorities) at local level.
2. The determination of services which need to be provided in the public interest.
3. The examination and qualification of pilots by authorisation and the revocation thereof.
4. The employment or self-employment of pilots.
5. (No longer effective).
6. Pilot Boats.
7. Pilotage Directions.
8. Pilotage Exemption.
9. Non-discrimination.
10. Pilotage charges.
11. Delegation of powers.
12. Information as to joint arrangements.
13. Resolution of disputes between harbour authorities.
14. Accounts.
15. Compulsory pilotage.
16. Liability of ships under compulsory pilotage.
17. Right of authorised pilot to supersede unauthorised pilot.
18. Declaration as to draught of ship.
19. Prohibition against over-carriage.
20. Facilities for boarding or leaving ships
21. Misconduct by pilot.
22. Limit of liability of pilot.
23. Deep Sea pilotage certificates.

24-29. No longer effective.

30. Orders and regulations.
31. Interpretation.
32. Transitional and consequential provisions and repeals.

2. Origins:
Pilotage is amongst the oldest of public professions, having records known to exist in pre-Christian times. The 13th-century Code of Oleron contains numerous significant provisions as to pilotage and is today readily accessible on the internet. Subsequent records, if not quite so readily accessible, are preserved in large quantity. In 1541, compulsory pilotage (of which, more below) was introduced in the approaches to the Humber Estuary by Royal Ordnance of King Henry VIII, who had been an eye-witness to a shipping casualty thereat. In modern times, Halsbury's Laws of England (4th Ed.) states that pilotage is regulated almost entirely by statute. The governing statute today is the Pilotage Act of 1987.



3. Local Government:
The purpose of all of the foregoing is and always has been the preservation of life and property around the coast of the jurisdiction and in the ports and harbours thereof. In that regard, the public examination and qualification of pilots is older than most if not all other categories of mariner. Today, the examination and qualification of pilots is entrusted to local bodies, each one of which is designated by the Secretary of State as a Competent Harbour Authority (or CHA).

4. Legal Status of a Pilot:
The statutory definition of a pilot is "A person not belonging to a ship who has the conduct thereof - and 'pilot' and 'pilotage' shall be construed accordingly" (s.31(1) 1987 Act). When the conduct in question is seen to be imposed upon the ship by compulsion as a matter of public law, the importance of due qualification becomes self-evident. In 1877, in the case of Holman v Irvine Harbour Trustees (1877) 4 R. 406, the Court found that a pilot qualified by statute is a public servant "similar to a Notary Public or a Messenger-at-Arms". This description was expanded upon in 1989 in Esso Petroleum Co Ltd v Hall Russell & Co Ltd (The Esso Bernicia) (1989) A.C. 643 where the House of Lords found that a pilot is an independent professional who, when serving a ship, acts as a principal and not as the servant or agent of anybody else. This point was of high significance in absolving a harbour authority (as both examiner and general employer of the pilot) from liability for the consequences of the negligence of an otherwise competent pilot.

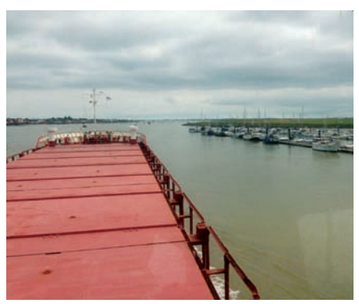
5. Limit of Harbour Authority Liability:
The point was further underlined in 1993 in the Admiralty Court in Oceangas (Gibraltar) v Port of London Authority (The Cavendish) (1993) 2 Lloyd's Rep. 292 when a challenge was made following the repeal of the Pilotage Act of 1913 (under which the case of The Esso Bernicia had been considered) and the introduction of the Pilotage Act of 1987. Mr Justice Anthony Clarke (as he then was) found that the introduction of the new

Act had not altered the pre-existing law. The key point upon which a harbour authority remains able to escape liability for the negligence of a competent pilot is s.16 of the Act of 1987 (largely repeating a provision in the 1913 Act), which provides that: "The fact that a ship is being navigated in an area and in circumstances in which pilotage is compulsory for it shall not affect any liability of the owner or master of the ship for any loss or damage caused by the ship or by the manner in which it is navigated."
Clarke J. cited the biblical principle that no man can serve two masters when identifying the fact that s.16 "makes a pilot the servant of the shipowner for all purposes connected with navigation"; and also confirmed that, because the civil liabilities of any ship remain unaltered when under compulsory pilotage, the liabilities of a harbour authority in those circumstances are satisfied at the moment when a competent pilot is provided to the ship.

6. Standards where Pilotage is Compulsory:
Given that pilotage is compulsory in many areas and that the need for due qualification amongst pilots is self-evident, the common-law view as to standards of qualification amongst pilots becomes of high significance. Following the The Sea Empress disaster at Milford Haven in 1996, Cardiff Crown Court found that (i) because the pilot is trusted to take the conduct of the ship, (ii) because the shipmaster (in all probability meeting his pilot for the first time) is obliged to take the pilot's qualifications at face value and (iii) because in the same breath the harbour authority escapes liability for the pilot's actions by virtue of s.16 of the Act of 1987, the "highest possible standards" are required of the port authorities and those who administer pilotage in compulsory pilotage areas. The significance of the judgment is all the greater in that (although it was a criminal case and heard in the Crown Court) it was delivered by the Presiding Judge of the Admiralty Court (Mr Justice David Steel). Moreover, the defendant harbour authority (having pleaded guilty to the criminal charge arising from environmental pollution) then appealed against sentence. In the Court of Criminal Appeal, in allowing a reduction in sentence, the Lord Chief Justice Lord Bingham found that one reason (amongst others) for doing so was that, subsequent to the disaster, the harbour authority had taken proper steps to address the principle that the highest possible standards are required.

7. International Law:
Thus it is that the common law follows the overall pattern of development and improvement in pilotage law throughout all history. A similar view is taken in international law by Resolution A960 (2003) of the International Maritime Organisation under the aegis of the United Nations Organisation, which provides that developed standards in pilotage should be maintained.

8. Exemption from Compulsory Pilotage:
The power which is given to the Competent Harbour Authorities extends beyond the mere examination and qualification of pilots and includes the power (and the duty) to determine the limits of the geographical areas in which pilotage ought to be compulsory; within, of course, the limits of the overall jurisdiction of the CHA. Where a CHA has determined that pilotage ought to be compulsory in the interests of public safety in a particular area, the CHA is also granted the power to issue a Pilotage Exemption Certificate, upon application, to certain navigating officers who are able to satisfy the CHA by examination that they are able to conduct the pilotage of a particular ship or ships. As far as can be ascertained, the issue



of a Pilotage Exemption Certificate (or PEC) was introduced under the Pilotage Act of 1840, upon not only the development of the steamship but also the substantial increase in maritime coastal traffic. From the introduction of the PEC in 1840, the certificate was available only to the bona fide Master or Mate of the ship for which exemption was sought. By the Act of 1987, the scope of the availability of the PEC was even more strictly determined as that of "bona fide Master or First Mate". It was surprising, therefore, when the Marine Navigation Act 2013 relaxed the required standard of "bona fide Master or First Mate" by reducing it to "any deck officer". The reduction in standard for qualification is not merely obvious but is in head-on conflict with the principles of common law and international law that the highest possible standards need to be maintained in compulsory pilotage areas. Quite how the conflict will be resolved remains to be seen.

9. An Important Difference Between an Authorised Pilot and the Holder of a PEC:
The difference between an authorised pilot and the holder of a PEC is of significance, not least because the statute provides in express terms that the examination required of a PEC-holder "must not be unduly onerous" and, further "must not be more onerous" than that required for qualification as an authorised pilot. A further significance arising is that it is a statutory impossibility for anybody to be both a shipmaster and an authorised pilot at one and the same time. The point arose in 2002 in the unusual case of the Anna Merryl in Grimsby Magistrates' Court (unreported). An authorised Humber pilot of some years' standing had taken leave of the pilotage service and had taken employment as Master of the vessel Anna Merryl. Upon informing the Humber port authority (as he was obliged to do) that he intended to proceed outward-bound to sea, he received a direction that he must take an authorised pilot on board. Insisting that he was in any event an authorised pilot for the

Humber, the Master refused to comply and proceeded to sea. The port authority then brought a prosecution at which the Master pleaded guilty, having by then been advised that because any Master by definition "belongs" to his ship and because a pilot by definition is "a person not belonging to a ship", no man can be both a shipmaster and a pilot simultaneously.

10. The General Employment, or Otherwise, of Pilots:
Until the advent of the Pilotage Act 1987 most, if not all, pilots were self-employed. In the case of the Esso Bernicia (above) the position of the pilot as an employee of the harbour authority was unusual. The Pilotage Act 1983, however, provided that a harbour authority should be deemed to have the power (and always to have had the power) to employ pilots. The Act of 1983 was a consolidating Act and was effectively a prelude to the Act of 1987 which provides at s.4 that a CHA "shall offer to employ under a contract of employment any person it authorises" to act as a pilot. Under the 1987 Act offers of employment were accepted in some cases and rejected in others where, under s.4(2)(b) of the Act, "a majority of the relevant authorised pilots have agreed" that terms of employment need not be offered. In simple terms, a pilot may serve either under a contract of employment with the CHA or may remain self-employed, subject only to the agreement of the majority of the relevant authorised pilots (which in more simple terms means the majority of the pilots of the port). Where in days gone by the legal right of a pilot to serve on terms of self-employment was absolute (and largely unquestioned), today that right is subject to the agreement of the majority of the pilots of the port.

11.
A further unusual feature of the Act of 1987 is that a CHA is given the power under s.4(4) "to refuse to authorise any person who is not willing to provide his services in accordance with the arrangements made". The anomaly is that by s.2 of the Act the CHA is obliged to "keep under consideration" and "shall provide" the services which it deems necessary. It follows that if a CHA might seek to impose terms of employment which are unacceptable; and if it might then refuse to authorise any person unwilling to provide services in accordance with the arrangements made; the CHA might well find itself in default of its own superior duty to provide pilotage services. In consequence, in order that pilotage

services may be provided anywhere, due agreement between pilots and the CHA is a sine qua non.

12. Legal Protection of Pilots:
At the High Court in Belfast in 2011, Mr Justice McCloskey accepted a submission from Leading Counsel that "We are an island nation. We need a proper pilotage service and the pilots need the protection of the law". As long ago as the 18th century, pilots enjoyed a statutory right of appeal to a county court or to a magistrates' court against any authority which might seek to disqualify or otherwise to penalise him improperly. This right continued under the Pilotage Act of 1913 until its repeal under the 1987 Act, upon its enactment in 1988. In consequence, the legal protection of the authorisation of any pilot now lies solely by way of Judicial Review. In recent years the Courts have become notoriously overloaded by applications for Judicial Review (although happily not from pilots) and a real consequence is that the statutory pilots of the jurisdiction have been deprived of a most useful and economical protection which once was theirs by statutory right. Precisely what purpose was served by the removal of that right in the Act of 1987 is difficult to see.

Key Acts
Pilotage Act 1987
Merchant Shipping Act 1995
Marine Navigation Act 2013

Key Subordinate Legislation
Pilotage Directions as published by Competent Harbour Authorities.

Key Quasi-legislation
Port Marine Safety Code

Key European Union Legislation
None

Key Cases
Holman v Irvine Harbour Trustees (1877) 4 R. 406

Fowles v Eastern & Australian Steamship Co Ltd (1916) 2 A.C. 556

Esso Petroleum Co Ltd v Hall Russell & Co Ltd (The Esso Bernicia) (1989) A.C. 643

Oceangas (Gibraltar) v Port of London Authority (The Cavendish) (1993) 2 Lloyd's Rep. 292

Environment Agency v Milford Haven Port Authority (The Sea Empress) (1999) 1 Lloyd's Rep. 673

The Anna Merryl (2002) Unreported

Key Texts
None

Further Reading
Apart from the statutes, the cases and Halsbury's Laws of England, very little has been written on the subject of pilotage law. Possibly this is because those who are concerned with the subject recognise its significance, which is largely unquestioned.

The Pilot is grateful for the kind permission by Sweet and Maxwell to reproduce the Westlaw UK Insight article on Pilotage, written by Barrie Youde. Barrie is a former Liverpool Pilot and now a solicitor with RA Wilkinson & Co.

Large ship calls Mike Robarts

Last year saw the introduction of more Ultra large container vessels which now regularly call at UK major ports such as Felixstowe, Southampton and London. These ULCVs present new challenges to UK pilots who have more than demonstrated competence in the safe docking of this size of ships. Using new techniques developed from trials researched at modern simulators and working groups, coupled with the many years of experience pilots have, these vessels are being piloted safely in and out of our ports.

Felixstowe has been regularly handling ULCVs for a number of years and saw the first call of a Maersk EEE class, piloted by Ian Love and Richard Graham. Another contender for being the world's largest ship into Felixstowe was the CSCL Globe, piloted by Mark Murrison, who gained fame by being interviewed by the BBC One Show about the pilotage of such a large vessel. Mark then piloted the next contender for the world's largest ship the MSC Oscar which called at Felixstowe in March 2015.

The port of Southampton also handles ULCV calls, and the 16,000 TEU CMA CGM Marco Polo was featured in a documentary, in which two Southampton pilots demonstrated their competence and skill to a countrywide audience on television.

Press release articles by the Port of Felixstowe:

CSCL Globe:
http://bit.ly/1CA5WGb

MSC Oscar:
http://bit.ly/1F9b8kA

Majestic Maersk, courtesy of the Port of Felixstowe

CSCL Globe, courtesy of the Port of Felixstowe

MSC Oscar, courtesy of the Port of Felixstowe

Section Committee meeting Mike Robarts

Executives of the Section Committee met at Kings Lynn on 23rd February for an evening meal and were joined by the pilot representatives from the local ports of Kings Lynn, Wisbech and Boston. It was good to hear about the small coastal ports members' views and issues and the demographic of shipping in the region.

Attending from the coastal ports were Barry Knight from Wisbech, Mike Trafford from Boston and Richard Crawford from Kings Lynn.

The Executives of the Section Committee met the next day along with the representatives to hold one of the committee meetings required by the rules of the Association.

Obituary: George 'Inglis' Oliver

George 'Inglis' Oliver sadly passed away on 8th January 2015. After a seagoing career he accepted an invitation to join the Thames North Channel Pilots. After 1987 on transfer he became a Harwich Haven Authority Pilot until his retirement.

Inglis was a popular character and family man and will be greatly missed by all who knew him. His funeral was at Weeley Crematorium on 21st January 2015; it was attended by family, friends and colleagues.

A quick note about... IMPA & EMPA

It is often forgotten that all UKMPA members are also members of IMPA & EMPA and with so many issues currently common to pilots around the World, membership of both these associations is of great importance.

MPA: **www.impahq.org**
EMPA: **www.empa-pilots.org**

UK Maritime Pilots' Counselling and Support Service

The UK Maritime Pilots' Counselling and Support Service offers either telephone support that may be a one-off phone call or one-to-one counselling with a BACP (British Association of Counselling and Psychotherapy) registered counsellor in your locality.

07580 556102

AT LEAST 6 SESSIONS FREE OF CHARGE

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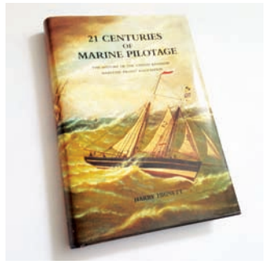

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EMPA sticker: £1.00
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IMPA sticker: £1.00
(or free with any order)

UKMPA Office details

UKMPA
128 Theobald's Road
London
WC1X 8TN
Tel: 020 7611 2613

Members Details

If any of your personal details such as address, email or telephone number have changed, please inform us at the earliest opportunity, so that we can update our membership records. New details should be sent to **membership@ukmpa.org**

Email: **office@ukmpa.org**
Web: **www.ukmpa.org**

Secretarial support provided by **Donna Reeve**

Editor's Details

Mike Robarts, Editor of The Pilot, can be contacted via email at **editor@ukmpa.org**

REMEMBER...

If you are involved in any incident (no matter how trivial it may seem at the time) it is imperative that you complete an incident report and forward it to the insurance company.

THE INCIDENT REPORT FORM WITH INSTRUCTIONS CAN BE DOWNLOADED FROM THE UKMPA WEBSITE.

UKPMA Executive

POSITION	CONTACT	TELEPHONE	EMAIL/WEB
Chairman	Don Cockrill	(H) 01795 537310 (M) 07966 709403	chairman@ukmpa.org
Vice-Chairman & IMPA VP	John Pearn	(H) 01646 601556 (M) 07960 617536	vice.chairman@ukmpa.org
Vice-Chairman & EMPA VP	Mike Morris	(M) 07890 260915	vice.chairman2@ukmpa.org
Treasurer (Region 4)	Bob Watt	(M) 07917 443273	treasurer@ukmpa.org
Secretary (Region 3)	Peter Lightfoot	(M) 07786 153063	secretary@ukmpa.org
Membership (Region 2)	Jason Wiltshire	(M) 07793 534547	membership@ukmpa.org region2@ukmpa.org
Region 1	Hywel Pugh	(M) 07970 041657	region1@ukmpa.org
Region 5	Martin James	(M) 07850 902560	region5@ukmpa.org
Region 6	Martin Chatterton	(M) 07940 568373	region6@ukmpa.org
Chairman, Technical & Training Committee	Nick Lee	(M) 07929 053944	technical@ukmpa.org
Insurance	Ken Pound Besso Insurance Group Ltd. 8-11 Crescent, City of London Greater London EC3N 2LY	0207 480 1159	ken.pound@besso.co.uk
Insurance	Drew Smith Circle Insurance 71 Berkeley Street Glasgow G3 7DX	0141 242 4844	drew.smith@circleinsurance.co.uk

UKPMA Regions

REGION NO.	AREA COVERED	PORTS
1	London, South of England and Southampton including the Isle of Wight	London, Medway, Dover, Littlehampton, Portsmouth, Southampton, Cowes
2	All ports including Crouch as far as Cromer	Crouch, Harwich Haven, Gt. Yarmouth
3	All ports on the East Coast of England between Cromer and Berwick Upon Tweed	Kings Lynn, Wisbech, Boston, Seaham, Tees Bay
4	Scotland	Forth, Perth, Dundee, Aberdeen, Peterhead, Inverness, Cromarty, Lerwick, Orkney, Stornaway, Clyde
5	Northern Ireland, North West England, North Wales including Anglesey and Deep Sea Pilots	Londonderry, Belfast, Barrow, Heysham, Liverpool, Manchester
6	South Wales and South West England, Westward of the Isle of Wight	Europilots, Milford Haven, SW Wales, SE Wales, Gloucester, Bristol, Falmouth, Scilly Isles, Fowey, Dartmouth, Teignmouth, Poole

If you require local secretary's details, please contact the UKMPA secretary: **secretary@ukmpa.org**

Incident procedures and legal rights

All active members should have received a card detailing the procedures to be taken following an incident. If you haven't received such a card please contact the insurers.

If you are involved in any incident (no matter how trivial it may seem at the time) it is imperative that you complete an incident report and forward it to the insurance company.

The incident form with instructions can be downloaded from the UKMPA website.

Minor incident: Forward the incident report as directed. During normal office hours you can also speak to Drew Smith at Circle insurance: **0141 242 4822**

Major incident: During office hours as above, outside office hours call **07790 069306**

For full details, please refer to UKMPA Circular: 1 of 2015

Social Networking

UKMPA members are all encouraged to participate in the forum debates on Linkedin. To join the group, sign up for a Linkedin account and type "UKMPA" into the group search box which will take you to the relevant registration page.

Follow @UKPILOTS for pilot safety and other industry information.

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